**Any interested party may attend the City Commission meeting in person or submit comments on agenda items in writing to the City Clerk no later than noon on the day of the meeting. All meetings are broadcast live on Comcast Cable TV Channel 27 or streamed live online at www.cityoffortpierce.com.**

**Comments on agenda items should be submitted via email to cityclerk@cityoffortpierce.com; comments must include your name and address to be read into the record. The City Clerk will read all comments on agenda items submitted by the deadline. Please note that the decorum policy applies to both written and oral comments and all comments shall be limited to 3 minutes as read by the City Clerk.**

# C I T Y O F F O R T P I E R C E
## CITY COMMISSION AGENDA

Regular Meeting - Monday, July 20, 2020 - 6:30 p.m.
City Hall - City Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**

2. **OPENING PRAYER -** Reverend George Welch, White City Methodist Church

3. **PLEDGE OF ALLEGIANCE**

4. **ROLL CALL**

5. **APPROVAL OF MINUTES**

   a. Approval of Minutes from July 06, 2020 Regular Meeting.

6. **PROCLAMATIONS**

7. **LETTERS TO COMMISSION**

   a. Email from Mike Oyler, CMI President, in support of Police Chief Diane Hobley-Burney and in appreciation of the assignment of two outstanding officers, John Fasenello and Damian Spotts, to their Colonnades COP program and Crime Watch program.

   b. Email from Allie Comer thanking Mayor Hudson and the City of Fort Pierce for supporting the downtown merchants by providing parklet spaces.

   c. Letter from Julie Oyler expressing great pride in the Fort Pierce Police Department and thanking Officer John Fasenello and Officer Damian Spotts for their contribution to the monthly Colonnades Crime Watch Program.

   d. Email from Joe Craft complimenting Police Chief Diane Hobley-Burney for her professionalism at the press conference regarding the recent incident at a mental health facility and for her swift action and transparency.

e. Voice message from Veronica Fountain in appreciation of Tanya White, Executive Assistant, Public Works Department, excellent customer service.

f. Letter from Rebecca and Eric Ascoli commending Officer Damian Spotts and Officer Caleb Gillette for their conduct and demeanor as well as for their concem for the citizens of Fort Pierce at the recent Town Hall Meeting at Renaissance on the River Condominium Association.

8. **COMMENTS FROM THE PUBLIC ON AGENDA ITEMS NOT REQUIRING PUBLIC HEARINGS**

Any person who wishes to comment on an agenda item which is not under Public Hearings on the Agenda may be heard at this time and must sign up to speak in advance. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

9. **ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA**

10. **MISCELLANEOUS REPORTS**

a. Monthly Financial Report for the Month Ending May 31, 2020

11. **CONSENT AGENDA**

a. Approval of purchase of office furniture for interior office space build out of third floor of Sunrise Center piggybacked via the State of Florida Contract Extension Contract number 425-001-12-1 valid March 2, 2012 through September 1, 2020 in an amount not to exceed $75,038.26.

b. Approve request to reduce the Building Department lien in the amount of $23,340.00 against 1005 Ohio Avenue., Fort Pierce, FL 34950 - Parcel ID Number: 2415-703-0102-000-3 owned by Lisa M. Chase Pacheco, of the same address, to $672.74 payable in 60 days.

12. **PUBLIC HEARINGS**

Any Public Comment on these items, if not being offered in person, should be submitted by noon on the day of the meeting using the Sworn Public Comment Form which is available on the city's website at: http://www.cityoffortpierce.com/DocumentCenter/View/8741/Sworn-Public-Comment-for-Public-Hearings

a. Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Dreamchaser Preschool, LLC, to operate a 7,126 square foot preschool at 505 N. 7th Street. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2410-601-0134-000-8.

b. Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wood, a Vacation Rental at 1123 Hernando Street, Apt. B, offering lodging for less than six (6) months. The minimum rental period is identified as one (1) day. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-811-0018-000-6.

c. Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wright-Ofeimu, a Vacation Rental at 715 S. Ocean Drive, Unit E, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-504-0001-000.

d. Quasi-Judicial Hearing for a Conditional Use Approval with no new construction for a Vacation Rental located at 1014 S. 7th Street submitted by the applicant, Michelle Longarzo, for the property owner, Michael Robbins.

e. Legislative Hearing - Ordinance 20-014 adopting new Code of Ordinances. SECOND READING

f. Legislative Hearing - Ordinance 20-015 - extending the territorial limits of the City of Fort Pierce, Florida, to include 4114 Poinsetta Avenue in Fort Pierce, Florida. FIRST READING

13. **CITY COMMISSION**

a. Discussion of the South Beach Western Peninsula Charrette Report at the request of Commissioner Alexander.

b. Resolution 20-R33 establishing Building Department fees.

c. Resolution 20-R34 establishing Planning Department fees.

d. Resolution 20-R35 appointing members to the Civil Service Appeals Board following a vote.

e. Resolution 20-R36 modifying the meeting times of City Commission meetings and establishing a 3rd meeting to accommodate any unfinished business continued from a meeting earlier in the month.

14. **COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

15. **COMMENTS FROM THE CITY MANAGER**

16. **COMMENTS FROM THE COMMISSION**

17. **ADJOURNMENT**

Immediately following adjournment, please move toward the doors and exit the chambers. This allows for the safe and courteous exit of all persons, and those on the dais. Conversations after the meeting should be held outside of chambers, in the foyer or elsewhere, but not in the commission chambers where lights will be out as soon as the chambers are empty.

Pursuant to Sec. 2-49, Fort Pierce Code of Ordinances, persons desiring to place an item on the agenda may make written request to the city manager no later than 5:00 p.m. fifteen (15) days preceding the regular city commission meeting. Such request must state the subject matter of the individual's appearance and should include any background materials pertinent to the issue. The city manager shall review the request to determine if the item might be handled administratively or whether the subject matter is an item of city business. If appropriate, the city manager shall submit the item for placement on the agenda to the city clerk no later than 5:00 p.m. ten (10) days preceding the regular city commission meeting. The mayor may impose a time limitation of five (5) minutes, or allow such additional time he or she determines necessary and appropriate for such person to make presentation. All reports, communications, ordinances, resolutions, contracts, documents or other materials to be submitted to the commission shall, no later than 12:00 noon on Wednesday prior to each meeting, be delivered to the city clerk and furnish each member thereof with a copy of the same prior to the regular meeting.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises you that if you or another person decide to appeal any decision made by the City Commission with respect to any matter considered at its meeting or hearing, that you or said person will need a record of the proceedings, and that for such purpose, affected persons may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk’s Office at (772) 467-3065 at least 48 hours prior to the meeting.

**City Commission Regular Meeting** **5. a.**

**Meeting Date:** 07/20/2020

**Re:**

**SUBJECT:**

Approval of Minutes from July 06, 2020 Regular Meeting.

## Attachments

Minutes 07.06.2020

## Form Review

Form Started By: Maura Stokes Started On: 07/14/2020 02:04 PM

Final Approval Date: 07/14/2020

MINUTES OF A REGULAR MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 6:30 P.M. ON MONDAY, **JULY 06, 2020.**

**1. CALL TO ORDER**

Mayor Hudson called the July 06, 2020 Regular Meeting of the City Commission to order at 6:30 PM.

**2. OPENING PRAYER -** Pastor Wayne Hewlett, Fort Pierce Macedonia SDA Church

**3. PLEDGE OF ALLEGIANCE**

**4. ROLL CALL**

Present: Mayor Linda Hudson; Commissioner Rufus Alexander; Commissioner Jeremiah Johnson; Commissioner Thomas Perona; Commissioner Reginald Sessions

Staff Present: City Clerk Linda Cox
City Manager Nicholas Mimms
City Attorney Peter Sweeney

Commissioner Alexander was present via telephone conference call.

**5. APPROVAL OF MINUTES**

a. Approval of Minutes from June 15, 2020 Regular Meeting.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Reginald Sessions to approve the minutes from the June 15, 2020 Regular Meeting.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

6. **PROCLAMATIONS**

a. Treasure Coast Waterway Cleanup Week Proclamation being received by Robert Mac Keen & Justin Beard.

7. **LETTERS TO COMMISSION**

a. Email from Diane Shaw thanking the City of Fort Pierce for providing the opportunity for free antibody tests for COVID-19 at Ilous Ellis Park.

b. Letter from Cathie Mouring, Executive Director, GraceWay Village thanking the City of Fort Pierce for the generous gift and ongoing support through a supportive partnership.

8. **COMMENTS FROM THE PUBLIC ON AGENDA ITEMS NOT REQUIRING PUBLIC HEARINGS**

Any person who wishes to comment on an agenda item which is not under Public Hearings on the Agenda may be heard at this time and must sign up to speak in advance. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

Octavious Robinson, Items 11a, 11b, 11c, 11d, 11e
Barbara Copeland, Items 11a, 11b, 11c, 11d, 11e
Luck Rossknecat, Item 11f
Steve Tarr, Item 13a – Submitted in writing and read by City Clerk into the record.

9. **ADDITIONS OR DELETIONS TO AGENDA AND APPROVAL OF AGENDA**

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve and set the Agenda.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

**10. MISCELLANEOUS REPORTS**

**11. CONSENT AGENDA**

a. Approval of request to reduce lot clearing fees in the amount of $3,510.66 against 302 N 14th St. (301 N 13th St.), Fort Pierce, FL, Parcel ID Number 2409-507-0016-000-2 owned by Liberty Truth & Deliverance Tabernacle of God, Inc., 105 N 15th St., Fort Pierce, FL 34950. In accordance with previously established policy, staff recommends the approval to waive the costs for interest, penalties, and fees leaving a balance due of $718.85 payable in 60 days. However, applicant is requesting a waiver of all charges including the hard costs totaling $3,510.66, which requires a direct vote by the Commission.

b. Approval of request to reduce lot clearing fees in the amount of $1,968.24 against 302 N 14th St. (301 N 13th St.), Fort Pierce, FL, Parcel ID Number 2409-507-0016-000-2 owned by Liberty Truth & Deliverance Tabernacle of God, Inc., 105 N 15th St., Fort Pierce, FL 34950. In accordance with previously established policy, staff recommends the approval to waive the costs for interest, penalties, and fees leaving a balance due of $745.65 payable in 6 months. However, applicant is requesting a waiver of all charges including the lot clearing costs totaling $1,968.24, which requires a direct vote by the Commission.

c. Approval of request to reduce lot clearing fees in the amount of $13,060.24 against 301 N 13th St., Fort Pierce, FL, Parcel ID Number 2409-507-0016-000-2 owned by Liberty Truth & Deliverance Tabernacle of God, Inc., 105 N 15th St., Fort Pierce, FL 34950. In accordance with previously established policy, staff recommends the approval to waive the costs for interest, penalties, and fees leaving a balance due of $2,900.98 payable in 12 months. However, applicant is requesting a waiver of all charges including the lot clearing costs totaling $13,060.24, which requires a direct vote by the Commission.

d. Approval of request to reduce demolition fees in the amount of $17,087.28 against 302 N 14th St. (301 N 13th St.), Fort Pierce, FL, Parcel ID Number 2409-507-0016-000-2 owned by Liberty Truth & Deliverance Tabernacle of God, Inc., 105 N 15th St., Fort Pierce, FL 34950. In accordance with previously established policy, staff recommends the approval to waive the costs for interest, penalties, and fees leaving a balance due of $7,094.80 payable in 24 months. However, applicant is requesting a waiver of all charges including the hard costs totaling $17,087.28, which requires a direct vote by the Commission.

e. Approval of request to reduce demolition fees in the amount of $27,964.75 against 301 N 13th St., Fort Pierce, FL, Parcel ID Number 2409-507-0016-000-2 owned by Liberty Truth & Deliverance Tabernacle of God, Inc., 105 N 15th St., Fort Pierce, FL 34950. In accordance with previously established policy, staff recommends the approval to waive the costs for interest, penalties, and fees leaving a balance due of $12,958.95 payable in 36 months. However, applicant is requesting a waiver of all charges including the hard costs totaling $27,964.75, which requires a direct vote by the Commission.

f. Approve request to reduce code enforcement lien in the amount of $15,790.00 against 529 N 11th Street, Ft. Pierce, FL 34950 - Parcel ID Number 2409-501-0118-0009 previously owned by Donnie A. Parker, 529 N 11th Street, Ft. Pierce, FL 34950 and currently owned by Qamar U. Wahaj, 233 SW Whitmore Drive, Port St. Lucie, FL 34984 to $1,850.00 payable in 60 days.

g. Approval of Communitywide Council Recommendations for the program year 2019-2020 Public Service Grant Awards to 15 entities in the total amount of $49,090.00.

h. Approval of letter to the Department of Economic Opportunity from the City of Fort Pierce supporting the Florida General Planning Support Grant for the St. Lucie Regional Resiliency Plan.

Commissioner Perona has pulled Items 11a, 11b, 11c, 11d, and 11e for discussion.

Motion was made by Commissioner Rufus Alexander, seconded by Commissioner Reginald Sessions to approve Items 11f, 11g, and 11h.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

Regarding items 11a, 11b, 11c, 11d, and 11e, Commissioner Perona inquired about the liens for which a reduction is sought.

Code Compliance Manager, Peggy Arriaz explained that the church had obtained the adjacent lots without knowing that there were existing liens for demolition and lot clearing. The total amount of all liens is a little over $88,000.00. Staff has recommended waiving $63,600.00 which represents interest, penalties, and administration charges. The remaining approximate balance of $24,400.00 is the actual hard costs expended. Staff and the property owner have worked out a re-payment plan to be phased in over three (3) years.

Commissioner Sessions would like to see the hard costs reduced further to assist with the owner's plan to develop a Cultural Center. Commissioner Johnson mentioned that the City of Fort Pierce can offer better assistance when the actual development begins through the CRA. Commissioner Sessions would like the City Commission to consider offering assistance on the front end through the reduction of the hard costs. He feels that this proposed development of a Cultural Center would be a great benefit to our community. Mayor Hudson agrees that this church is a remarkable asset to Fort Pierce and would like to offer whatever assistance if feasible; however, the City of Fort Pierce always holds the line on hard costs. Mayor Hudson would favor a longer time frame to work this out.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve Items 11a, 11b, 11c, 11d and 11e with a re-payment term to be over thirty-six months in the amount of $24,419.23.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

**12. PUBLIC HEARINGS** Any Public Comment on these items, if not being offered in person, should be submitted by noon on the day of the meeting using the Sworn Public Comment Form which is available on the city's website at:
http://www.cityoffortpierce.com/DocumentCenter/View/8741/Sworn-Public-Comment-for-Public-Hearings

a. Quasi-Judicial Hearing - Application for Conditional Use with New Construction submitted by property owner Hyer Management LLC, and representative William P. Stoddard to construct a single family home seaward of the Coastal Construction Control Line (CCCL) at 324 South Ocean Drive, Fort Pierce, FL. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-501-0026-000-3.

City Clerk Linda Cox introduced the application for conditional use with new construction, to construct a single-family home seaward of the Coastal Construction Control Line (CCCL) at 324 South Ocean Drive, Fort Pierce, FL.

Mayor Linda Hudson asked all present to listen carefully to what City Attorney, Peter Sweeney, would read regarding Quasi-Judicial Hearings as they apply to all subsequent Quasi-Judicial Hearings tonight.

Before commencing this Quasi-Judicial Hearing, Peter Sweeney, City Attorney, reminded the City Commission that they serve in both a legislative and quasi-judicial role. When acting as a legislative body, the commission engages in law-making activity by passing laws and establishing policies. When acting as a quasi-judicial body, the commission applies those laws and policies and is held to stricter procedural requirements.

Quasi-judicial proceedings are less formal than proceedings before a circuit court but are more formal than the normal commission meeting. Quasi-judicial proceedings must follow basic standards of notice and due process; and, decisions must be made based on competent substantial evidence.

Therefore, Commissioners have a duty to conduct the quasi-judicial proceedings more like judges than legislators. That is why the commission has established the uniform procedures for quasi-judicial hearings that will be followed this evening.

Mayor Linda Hudson called the proceeding to order.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - yes.
Commissioner Johnson - yes.
Commissioner Perona - yes.
Commissioner Sessions - yes.
Mayor Hudson – yes.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

<u>Staff Presentation</u>
Brandon Creagan, Planner, provided an overview of the proposed application for conditional use with new construction submitted by property owner Hyer Management LLC, and representative William P. Stoddard to construct a single-family home seaward of the Coastal Construction Control Line (CCCL) at 324 South Ocean Drive, Fort Pierce, FL. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-501-0026-000-3. Mr. Creagan provided a site map, zoning map, height reduction exhibit, and design review plan.

This application is consistent with the City Code & the Comprehensive Plan; does not adversely affect the public health, safety, convenience, and general welfare of the public; and will not cause an adverse effect to the dune system. Planning Board voted 6-0 to recommend approval with four (4) conditions.

Staff recommends approval with the following four (4) conditions:
1. The relocation and mitigation of the Royal Palm that will need to be removed as part of the project shall be coordinated with the City of Fort Pierce Public Works Department before construction activity can commence.

2. Erosion and sedimentation control will be required to ensure no drainage issues to the drainage system during construction will occur. This shall be coordinated and approved by the City of Fort Pierce Engineering department before construction activities can commence.
3. Obtain the approval of the Florida Department of Environmental Protection for construction activities seaward of the Coastal Construction Control Line before construction activities can commence.
4. The Landscape Plan that is provided as part of the Building Permit shall be signed and sealed by a Florida registered Landscape Architect.

Sixty-seven (67) notifications were mailed to adjacent property owners, five (5) were returned in favor, and two (2) in opposition.

Commission questions for Staff:
Commissioner Johnson inquired about features in the architecture regarding the changing elevations or floor plan. Mr. Creagan explained that there was a change in the ceiling height from the original plan which was submitted in 2017. Mr. Creagan will defer to the applicant for further explanation.

Applicant questions for Staff: None

Applicant presentation:
William Stoddard, Applicant Representative, sworn, explained that the design was modified by the new owner to eliminate the flat roof and the overall roof height was reduced. The FDEP has approved moving the fill material to the seaward end of the frontal dune. The plan, as approved by FDEP, includes a temporary retaining wall that will be constructed approximately five feet seaward of the residence to stabilize and minimize impact to the dune system.

Commission questions for Applicant:
Commissioner Perona commented that the plan has improved since the original application in 2017 and he appreciates the reduction in height. The architectural embellishment of the roofline is much better than before.

Public comment:
Bill Winch, sworn, opposed to the application.
Steve Tarr, submitted a sworn statement which was read into the record by City Clerk, supports the application.
Charles Hyek, submitted a sworn statement which was read into the record by City Clerk, supports the application.

Mayor Hudson, seeing no one else, closed the public hearing.

Comments by the City Commission:
Commissioner Johnson commented that the applicant and architect have done a good job addressing the issues that surrounding neighbors had.
Commissioner Perona commented that based upon the presentation, there is no competent substantial evidence to deny this application. This plan is an improvement over the prior application.
Commissioner Sessions commented that the applicant has done an exceptional job in addressing the concerns of the neighbors.
Commissioner Alexander commented that it is a beautiful structure being added to the City of Fort Pierce and welcomes the new owner.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve the application for conditional use with new construction as submitted by property owner Hyer Management LLC, and representative William P. Stoddard to construct a single-family home seaward of the Coastal Construction Control Line (CCCL) at 324 South Ocean Drive, subject to four (4) conditions as recommended by staff:

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

b. Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Ann F. Harris, to establish a Dwelling Rental, offering lodging for less than six (6) months, with a minimum rental period of 31 days at 722 Granada Street, Unit A, Fort Pierce, FL.The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-503-0094-000-6.

City Clerk Linda Cox introduced the application for conditional use with no new construction submitted by property owner and applicant, Ann F. Harris, to establish a dwelling rental, offering lodging for less than six (6) months, with a minimum rental period of 31 days at 722 Granada Street, Unit A, Fort Pierce, FL.

Mayor Hudson called the public hearing to order and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeney has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - none.
Commissioner Johnson - none.
Commissioner Perona - none.
Commissioner Sessions - none.
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath, to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation
Vennis Gilmore, Planner, provided an overview of the review and approval of an application for conditional use with no new construction submitted by property owner and applicant, Ann F. Harris, to establish a Dwelling Rental, offering lodging for less than six (6) months, with a minimum rental period of 31 days at 722 Granada Street, Unit A, Fort Pierce, FL. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-503-0094-000-6. Mr. Gilmore provided aerial and zoning maps of the subject premises. One hundred eighty-two (182) notifications were sent to adjacent property owners with seven (7) returns in favor and thirteen returns in opposition of the application.

Staff recommends approval with eight (8) conditions:

1. The property manager for the dwelling rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.
2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources to minimize conflicts.
3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of Conditional Use approval.
4. There shall be a limitation of no more than no two (2) vehicles at the site.
5. The City of Fort Pierce Business Tax License number shall be included in all advertising.
6. The maximum occupancy of the home shall ensure compliance with City Code Section 8.5-43. - Required space in dwelling units, based upon the size of each unit.
7. Pave the required parking spaces per City Code Section 22-60(c)(6) Surface Material:
   a. Required parking spaces, access drives, and loading areas must be paved and maintained with concrete, asphalt, or similar material of enough thickness and consistency to support anticipated traffic volumes and weights.
   b. Alternative paving materials or parking surfaces (including pervious surfaces) may be approved by the city engineer if such materials or surfaces are demonstrated to exhibit equivalent wear resistance and load-bearing characteristics as concrete or asphalt.
8. Install a sidewalk along Granada Street or submit payment in-lieu to the City of Fort Pierce within ninety (90) days of conditional use approval. Pursuant to City Code Section 11-62(b)(4) Sidewalks. In order to provide continual access for pedestrians, sidewalks and sidewalk linkages shall be required to be provided by the property owner or permit applicant, when plans are submitted for conditional use application or pay a payment to the city sidewalk fund pursuant to City Code Section 22-62(g).

Commission questions for Staff: None

Applicant questions for Staff: None

Applicant presentation: None

Commission questions for Applicant: None

Public comment: None

Mayor Hudson, seeing no one else, closed the public hearing.

Comments by the City Commission:
Commissioner Johnson commented that all the conditions are consistent with applications similar to this one.
Commissioner Perona commented that the owners of this property live out of state and have hired a local property manager. Commissioner Perona inquired about the process for the short term rental conditional use. Jennifer Hofmeister, Planning Director outlined the application process which takes approximately four (4) months. The vacation and dwelling rentals fall under the City Code's for conditional use and procedures are followed per code requirement.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve the application for conditional use with no new construction submitted by property owner and applicant, Ann F. Harris, to establish a dwelling rental, offering lodging for less than six (6) months, with a minimum rental period of 31 days at 722 Granada Street, Unit A, Fort Pierce, FL subject to the eight (8) conditions recommended by staff.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

c. Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with new construction submitted by property owner and applicant, Palmieri Design Planning LLC, to construct and establish a 59,362 square foot Assisted Living Facility with 56-units at 1600 N Lawnwood Circle, Fort Pierce, FL.The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2416-504-0211-000-2.

City Clerk Linda Cox introduced the application for conditional use with new construction submitted by property owner and applicant, Palmieri Design Planning LLC, to construct and establish a 59,362 square foot Assisted Living Facility with 56-units at 1600 N. Lawnwood Circle, Fort Pierce, FL

Mayor Hudson called the public hearing to order and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeney has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - none.
Commissioner Johnson - none.
Commissioner Perona - none.
Commissioner Sessions - none.
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath, to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation
Vennis Gilmore, Planner provided an overview of the proposed application for conditional use with new construction submitted by property owner and applicant, Palmieri Design Planning LLC, to construct and establish a two (2)-story 59,362 square foot Assisted Living Facility with 56-units located at 1600 N. Lawnwood Circle, Fort Pierce, FL. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2416-504-0211-000-2. Mr. Gilmore provided an aerial map, zoning map, proposed site plan, design review plan. The applicant is requesting to construct a two (2)-story 59,362 square foot assisted living facility with a memory care program. The approximately 2.21 acres property is located just north of North Lawnwood Circle and south of Jersey Avenue and South 17th Circle. The subject site is surrounded by multi-family housing to the north and south, an assisted living facility to the east, and a medical rehabilitation center to the west. The subject site is located within the Lawnwood Regional Medical Center medical-centric neighborhood enclave. The property has a Future Land Use of Medium Density Residential (RM) and is zoned Medium Density Residential Zone (R-4). The subject assisted living facility is specifically dedicated to senior military veterans, first responders, patriots, and their spouses who need assistance with daily activities. The project's floor plan will consist of 56 living units with 96 beds in total. Staffing will be provided 24 hours daily.

Thirty-seven (37) notifications were sent to adjacent property owners with six (6) returned in favor and three (3) returned opposed.

Staff recommends approval with the following five (5) conditions:

1. Provide a separate gated entrance to the refuse collection area for employee access.
2. Per City Code Section 22-62. – Sidewalks (d)(1) Sidewalks and sidewalk linkages shall be installed in public or private right-of-way the full length of any and all streets abutting a parcel of property and parallel to the street.
3. Provide an additional pedestrian sidewalk linkage near the western portion of the property or centrally locate the provided sidewalk linkage.
4. Submit a Landscape Bond prior to Certificate of Occupancy.
5. Per City Code Section 22-60. – Off-Street Parking and Loading. (j) Lighting. Adhere to the lighting plan to ensure the minimum requirement of two (2) foot candles.

Commission questions for Staff:
Commissioner Johnson inquired if coordination with community transit services has been done and if there are any outdoor amenities being provided. Mr. Gilmore will defer these items to the applicant for a response. Jennifer Hofmeister, Director of Planning advised the City Commission that the application was distributed to the TRC and the Transit Planner for the County.

Applicant questions for Staff: None

Applicant presentation: None.

Commission questions for Applicant: Wesley Mills of Mills, Short & Associates, Applicant Representative, sworn, was available to answer any questions. The proposed facility will offer a van shuttle service for its residents. Commissioner Johnson wanted to make the applicant aware that St. Lucie County as a partner of the City of Fort Pierce offers a Veteran's Program through its Community Services which includes transportation. Commission Johnson inquired about the patio area on the plan. Mr. Mills explained the patio area at the northeast rear of the property has a fence around it and has a covered patio which will be a garden area. Mr. Mills added that this will be an assisted living facility with memory care.

Public comment:
David Earle, sworn, discussed stormwater and drainage concerns related to the Lawnwood Community Drainage System.

Mayor Hudson, seeing no one else, closed the public hearing.

Closing Comments by Applicant: Mr. Mills gave a brief history of the development. In 2006 the site received permits from South Florida Water Management and from the City of Fort Pierce and that's when development started. The infrastructure was in the ground and drainage pipes were tied into the road system. Prior to that, in 1982, 96 acres were part of the Lawnwood development which also included this site. The stormwater system for this site was included in the original development permit. Sewer and water are already in the ground. The applicant will work with Mayfair and neighbors to ensure amicable agreements are in place regarding stormwater.

Comments by the City Commission:
Commissioner Johnson commented that the plan looks good and perhaps further input from the City Engineering Department on conditions may be warranted, but that will happen during the permit process.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Reginald Sessions to approve the application for conditional use with new construction submitted by property owner and applicant, Palmieri Design Planning LLC, to construct and establish a 59,362 square foot Assisted Living Facility with 56-units at 1600 N Lawnwood Circle, Fort Pierce, FL subject to the five (5) staff conditions and adding one (1) additional condition:

1. Provide a separate gated entrance to the refuse collection area for employee access.
2. Per City Code Section 22-62. – Sidewalks (d)(1) Sidewalks and sidewalk linkages shall be installed in public or private right-of-way the full length of any and all streets abutting a parcel of property and parallel to the street.
3. Provide an additional pedestrian sidewalk linkage near the western portion of the property or centrally locate the provided sidewalk linkage.
4. Submit a Landscape Bond prior to Certificate of Occupancy.
5. Per City Code Section 22-60. – Off-Street Parking and Loading. (j) Lighting. Adhere to the lighting plan to ensure the minimum requirement of two (2) foot candles.
6. The applicant will work with the existing property owners' association on a stormwater maintenance agreement if applicable based on the previous stormwater design.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

d. Quasi-Judicial Hearing - Culverhouse Replat (Thumbpoint Subdivision Replat) Block 1, Portion of Lot 28 and all of Lots 29 and 30 generally located at or near 1635 Thumb Point Drive

City Clerk Linda Cox introduced the Culverhouse Replat (Thumbpoint Subdivision Replat) Block 1, Portion of Lot 28, and all of Lots 29 and 30 generally located at or near 1635 Thumb Point Drive.

Mayor Hudson called the public hearing to order and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeney has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - none.
Commissioner Johnson - none.
Commissioner Perona - none.
Commissioner Sessions - yes.
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and

administered an oath, to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation
Rebeca Guerra, Assistant Planning Director provided an overview of the proposed Culverhouse Replat (Thumbpoint Subdivision Replat) located at or near 1635 Thumb Point Drive. Ms. Guerra provided a future land use map, zoning map, overall plat, proposed lot 1, proposed lot 2, and proposed lot 3 maps. The subject properties have a Future Land Use designation of Low-Density Residential (RL), which is intended for parcels that are best suited for lower density residential uses. The subject properties have a compatible zoning classification of Single-Family Low-Density Residential Zone (R-1). The surrounding properties are all designated with a Future Land Use of RL and are zoned Single-Family Low-Density Residential Zone (R-1), with the exception of the parcels to the north which are zoned Single-Family Intermediate Density (R-2). The surrounding properties are occupied by single-family homes.

The applicant is proposing to reconfigure two platted lots (Lots 29 and 30) and half of another platted lot (Lot 28) into three (3) distinct lots. Each lot will meet the minimum lot width, depth, and area requirements specified by City Code for the RL Zoning District. Additionally, staff has reviewed the application in accordance with Chapter 18 - Subdivisions of the City Code. The Planning Board has recommended approval subject to one (1) condition:

Staff recommends approval subject to the one condition.
1. The applicant will supply two (2) Mylars for appropriate signatures and then the plat is recorded with St. Lucie County Clerk of Court in accordance with Florida State Statute 177.111.

Commission questions for Staff: None.

Applicant questions for Staff: None

Applicant presentation:
William Stoddard, Applicant Representative, sworn, stated the applicant has worked with staff and it meets all the minimum standards in the land development code.

Attorney Frank Fee, Applicant Representative, sworn, stated that all issues previous regarding this property have been resolved. Attorney Fee is available to answer any questions.

Commission questions for Applicant:
Commissioner Perona inquired of Attorney Fee if the proposed lot sizes are sufficient to develop for this area. Attorney Fee stated that all lots exceed the minimum 12,000 square foot requirement.

Public comment: None.

Mayor Hudson, seeing no one, closed the public hearing.

Comments by the City Commission: None.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve the Culverhouse Replat (Thumbpoint Subdivision Replat) Block 1, Portion of Lot 28 and all of Lots 29 and 30 generally located at or near 1635 Thumb Point Drive subject to one (1) condition as recommended by staff.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

e. Quasi-Judicial Hearing - Replat of Granada Street Cottages a Portion of Block 7 and 8, Revised Plat of Palm Haven Subdivision Plat Book 8, Page 44 of the Public Records of St. Lucie County, Florida Lying in Section 1, Township 35 South, Range 40 generally located at or near the southeast corner of Porpoise Avenue and Granada Street

City Clerk Linda Cox introduced the Replat of Granada Street Cottages, a Portion of Block 7 and 8, Revised Plat of Palm Haven Subdivision Plat Book 8, Page 44 of the Public Records of St. Lucie County, Florida Lying in Section 1, Township 35 South, Range 40 generally located at or near the southeast corner of Porpoise Avenue and Granada Street

Mayor Hudson called the public hearing to order and reminded the Commission and Public that this proceeding is a Quasi-Judicial Hearing and that City Attorney Peter Sweeney has read the legal requirements into the record.

City Clerk, Linda Cox, confirmed the City complied with advertisement and notice requirements.

Mayor Linda Hudson inquired with the Commission regarding ex-parte communications and asked City Clerk to call the roll:

Commissioner Alexander - none.
Commissioner Johnson - none.
Commissioner Perona - none.

Commissioner Sessions - none.
Mayor Hudson – none.

Mayor Linda Hudson opened the public hearing.

City Clerk, Linda Cox, was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath, to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation
Rebeca Guerra, Assistant Planning Director provided an overview of the proposed replat of Granada Street Cottages, a portion of block 7 and 8, revised plat of Palm Haven Subdivision Plat Book 8, page 44 of the public records of St. Lucie County, Florida lying in section 1, township 35 south, range 40 which is generally located at or near the southeast corner of Porpoise Avenue and Granada Street. Ms. Guerra provided future land use, zoning, and overall plat maps.

The subject properties have a Future Land Use of Hutchinson Island Residential (HIR) which was established due to Hutchinson Island being a sensitive barrier island that presents development considerations which are either unique to the area or are of added concern, such as environmental fragility, beach erosion, and hurricane evacuation. The subdivision comprises a total of one parcel with 1.9 acres and will be subdivided into a total of 10 separate lots. Each lot will meet the minimum lot width, depth, and area requirements specified by the City Code. Staff has reviewed the application in accordance with Chapter 18 - Subdivisions of the City Code. The applicant, Granada Street Properties, LLC (Henry Louden) received an abandonment approval by the City Commission on August 5, 2019, for a portion of the subject properties.

The proposed project is consistent with the Comprehensive Plan. The Planning Board recommended approval subject to one (1) condition.

Staff recommends approval subject to one (1) condition:

1. The applicant will supply two (2) Mylars for appropriate signatures and then the plat is recorded with St. Lucie County Clerk of Courts in accordance with Florida State Statute 177.111.

Commission questions for Staff:
Commissioner Perona inquired if the road is paved. Ms. Guerra stated that it is not a paved road; however, it is in the engineering plan for improvement. Staff is reviewing the timing for improvement for this project. Code requires any new development fronting on a right-of-way must be improved with paving and sidewalks.

Applicant questions for Staff: None

Applicant presentation: None.

Commission questions for Applicant: None.

Public comment: None.

Mayor Hudson, seeing no one, closed the public hearing.

Comments by the City Commission: None.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve for the Replat of Granada Street Cottages, a Portion of Block 7 and 8, Revised Plat of Palm Haven Subdivision Plat Book 8, Page 44 of the Public Records of St. Lucie County, Florida Lying in Section 1, Township 35 South, Range 40 generally located at or near the southeast corner of Porpoise Avenue and Granada Street subject to one (1) condition as recommended by staff.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

f. Legislative Hearing - Ordinance No. 20-004 **-** An ordinance amending the Future Land Use of four parcels at or near 2152 S Jenkins Road from Medium Density Residential (RM) to High Density Residential (RH). SECOND READING

City Clerk Linda Cox introduced the ordinance, read by title only, into the record.

ORDINANCE NO. 20-004
AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN TO CHANGE THE DESIGNATION OF FOUR (4) PARCELS GENERALLY LOCATED AT OR NEAR 2152 SOUTH JENKINS ROAD FROM CITY OF FORT PIERCE MEDIUM DENSITY RESIDENTIAL (RM) TO CITY OF FORT PIERCE HIGH DENSITY RESIDENTIAL (RH); PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR

AN EFFECTIVE DATE. (SECOND READING)

Mayor Hudson opened the Public Hearing.

Applicant Comment:
Dennis Murphy of Culpepper & Terpening as Applicant Representative, sworn, was present and available to answer questions.

Mayor Hudson closed the Public Hearing.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Reginald Sessions to approve Ordinance 20-004.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

g. Legislative Hearing - Ordinance No. 20-005 - An ordinance rezoning four (4) properties generally located at or near 2152 S Jenkins Road from Medium Density Residential (R-4) to High Density Residential (R-5). SECOND READING

City Clerk Linda Cox introduced the ordinance, read by title only, into the record.

ORDINANCE NO. 20-005
AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; REZONING FOUR (4) PARCELS GENERALLY LOCATED AT OR NEAR 2152 SOUTH JENKINS ROAD FROM CITY OF FORT PIERCE MEDIUM DENSITY RESIDENTIAL, R-4 TO CITY OF FORT PIERCE HIGH-DENSITY RESIDENTIAL, R-5; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE. (SECOND READING)

Mayor Hudson opened the Public Hearing.

Applicant Comment:
Dennis Murphy of Culpepper & Terpening as Applicant Representative, sworn, was present and available to answer questions.

Mayor Hudson closed the Public Hearing.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Rufus Alexander to approve Ordinance 20-005.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

h. Legislative Hearing - Ordinance 20-013 reducing Business Tax Receipt fees by 5% for the next two years. SECOND READING

City Clerk Linda Cox introduced the ordinance, read by title only, into the record.

ORDINANCE NO. 20-013
AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AMENDING CHAPTER 9, ARTICLE II, BUSINESS TAX, SECTION 9-30, FEES, TO PROVIDE FOR A 5% DECREASE IN BUSINESS TAX FEES FOR BUSINESSES, PROFESSIONS, OR OCCUPATIONS; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE. (SECOND READING)

Mayor Hudson opened the Public Hearing. Seeing no one, Mayor Hudson closed the Public Hearing.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Rufus Alexander to approve Ordinance 20-013.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

i. Legislative Hearing - Ordinance 20-014 adopting new Code of Ordinances. FIRST READING

City Clerk Linda Cox introduced the ordinance, read by title only, into the record.

ORDINANCE NO. 20-014
AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF FORT PIERCE, FLORIDA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE. (FIRST READING)

City Attorney, Peter Sweeney, provided a brief overview of the proposed ordinance. Attorney Sweeney demonstrated that the new code has a little over 1,100 pages. The Code has been organized and repaginated into three sections: City Charter, ordinances related to the operation of city government, and ordinances related to land development. In conjunction with Senior Code Attorney, Roger Merriam at Municode, ordinances that have been superseded by Florida or Federal law have been removed. Historically inaccurate ordinances have been removed. Fees have been removed so they can be addressed by resolution. Penalties have been standardized to create uniformity for infractions of the code of ordinances. Definitions have been reviewed, cross-referenced, and edited to match Florida statutes. Several sections of the City Charter have been edited due to the application of Florida statute section 166.021. This statute identifies provisions of municipal charters that are limitations on home rule power and decrees that they should be stricken from the municipal charter. Several sections of the City Charter have been corrected because they included language that was not properly approved by referendum.

Mayor Hudson opened the Public Hearing. Seeing no one, Mayor Hudson closed the Public Hearing.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Thomas Perona to approve Ordinance 20-014.

AYE: Mayor Linda Hudson, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

NAY: Commissioner Rufus Alexander

Passed

**13. CITY COMMISSION**

a. Discussion at the request of Commissioner Alexander of the public requirement for face masks in Fort Pierce

Face Coverings Commissioner Alexander is opposed to the St. Lucie County Board of County Commissioners' decision to not mandate the requirement to wear a face-covering or face mask in public for all citizens.

Commissioner Sessions agrees that this pandemic now at critical exposure in our community. Every precaution needs to be done to ensure social distancing and the wearing of facial masks for all while in public. Commissioner Sessions distributed a copy of Florida Statute 252 to the City Commission which allows the City of Fort Pierce as a municipality to implement and put in place a resolution for the requirement to wear a face mask in public. Commissioner Sessions expressed the urgency for something to be done to reduce the number of exposures and ultimate deaths.

Mayor Hudson commented that the ordinance passed by the County was a compromise of conflicting opinions regarding the mandate to wear face masks. The ordinance which goes into effect July 07, 2020, requires business and employees to wear face masks and recommends that customers do so as well. Penalties will be civil and not criminal.

Commissioner Johnson inquired as to who will be issuing the civil citations for violation of the ordinance. If first responders have to respond to a call for a violation, not only are they being subjected to potential exposure, but they are being pulled away from true emergencies. Commissioner Johnson reviewed recent COVID-10 numbers for our community. Many people who initially resisted wearing a mask, are now wearing them voluntarily.

Commissioner Perona is concerned with what impact will be a result of a mandate or ordinance and what resources it will take to enforce this requirement. Commissioner Perona would like to continue to follow the County’s lead on this but does realize that the City of Fort Pierce may have to make its own resolution or ordinance in the future.

Commissioner Sessions agrees that it is personal responsibility, but if a mandate were in place, citizens would be less likely to forget to have a mask. At least two other municipalities already have this mandate in place.

b. Update on the demolition of 2607 Avenue D - Continued from February 18, 2020 as Resolution No. 20-R12

Peggy Arriaz, Code Compliance Manager provided a brief update on the status of 2607 Avenue D. Ms. Arriaz has had several discussions with the property owner. The owner has been working toward her goal of getting this project going but was delayed due to COVID-19. Ms. Arraiz has spoken with her contractor and as of today, the engineered drawings are completed. Things are progressing. The owner is in constant communication with Code Enforcement.

Motion was made by Commissioner Rufus Alexander, seconded by Commissioner Jeremiah Johnson to extend the time allowed on this project for a period of ninety (90) days.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

c. Resolution 20-R28 determining that the structure located at 604 N 25th Street is unsafe and should be condemned and demolished. A hearing to determine this matter is scheduled before the City Commission on August 3, 2020.

City Clerk Linda Cox introduced the Resolution, read by title only, into the record.

RESOLUTION NO. 20-R28
A RESOLUTION DETERMINING THAT A CERTAIN BUILDING OR STRUCTURE LOCATED AT 604 N 25TH ST IN FORT PIERCE, FLORIDA, 34950 IS UNSAFE AND A NUISANCE THAT CONSTITUTES A MENACE TO THE BUSINESS, HEALTH AND SAFETY OF THE COMMUNITY; AND THAT ALL PARTIES OF INTEREST MUST SHOW CAUSE WHY THE STRUCTURE SHOULD NOT BE CONDEMNED AND DEMOLISHED IN ACCORDANCE WITH THE CHARTER OF THE CITY OF FORT PIERCE, AND NOTIFYING ALL PARTIES OF POTENTIAL ACTION BY THE CITY OF FORT PIERCE FOR FAILURE TO ACT; AND THAT A PUBLIC HEARING BE HELD AT THE REGULARLY SCHEDULED CITY COMMISSION MEETING ON AUGUST 3, 2020 AT 6:30 PM, IN THE CITY COMMISSION CHAMBERS LOCATED AT 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA; AND PROVIDING FOR NOTICE TO ALL PARTIES.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve Resolution 20-R28.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

d. Resolution 20-R30 reclassifying George Johansen and Anthony Westbury from alternate members to regular members of the Historic Preservation Board

City Clerk Linda Cox introduced the Resolution, read by title only, into the record.

RESOLUTION NO. 20-R30
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, CERTIFYING THE APPOINTMENT OF ALTERNATE MEMBERS AS REGULAR MEMBERS TO THE HISTORIC PRESERVATION BOARD; PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Thomas Perona, seconded by Commissioner Jeremiah Johnson to approve Resolution 20-R30 reclassifying George Johansen and Anthony Westbury from alternate members to regular members of the Historic Preservation Board.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

Commissioner Alexander has requested an advertisement for alternates for the Historic Preservation Board.

e. Resolution 20-R31 Establishing BTR fees and other fees collected by City Clerk by resolution.

City Clerk Linda Cox introduced the Resolution, read by title only, into the record.

RESOLUTION NO. 20-R31
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; ESTABLISHING BY RESOLUTION THE BUSINESS TAX FEES FOR BUSINESSES, PROFESSIONS, OR OCCUPATIONS; ESTABLISHING OTHER FEES COLLECTED BY THE CITY CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Reginald Sessions to approve Resolution 20-R31 establishing Business Tax Receipt fees and other fees collected by City Clerk.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

f. Resolution 20-R32 Establishing Polling Places for the Primary Election to be held on August 18, 2020.

City Clerk Linda Cox introduced the Resolution, read by title only, into the record.

RESOLUTION NO. 20-R32
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, PROVIDING FOR PUBLICATION OF THE DESIGNATED PRECINCT POLLING PLACES IN THE CITY OF FORT PIERCE FOR THE PRIMARY ELECTION TO BE HELD ON AUGUST 18, 2020, PROVIDING FOR AN EFFECTIVE DATE.

Motion was made by Commissioner Jeremiah Johnson, seconded by Commissioner Rufus Alexander to approve Resolution 20-R32 establishing polling locations for the Primary Election to be held on August 18, 2020.

AYE: Mayor Linda Hudson, Commissioner Rufus Alexander, Commissioner Jeremiah Johnson, Commissioner Thomas Perona, Commissioner Reginald Sessions

Passed

g. Submittal of applications to serve on the Civil Service Appeals Board.

Applications to serve on the Civil Service Appeals Board have been received from:

Amandro, Frank
Gaines, J
Gillette, Ellen
Mancini, Ellen
Meely, Dee
Williams, Harry

One regular member and one alternate member's term will expire on July 31, 2020. This item will come back to the City Commission for a vote at the next regular meeting.

## 14. COMMENTS FROM THE PUBLIC

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Mayor, as this section of the Agenda is limited to thirty minutes. The City Commission will not be able to take any official actions under Comments from the Public. Speakers will address the Mayor, Commissioners, and the Public with respect. Inappropriate language will not be tolerated.

Paul Schall
Xavier Brown
Frederic Jackson
Ovenor Eliassaint
Henry Duhart
Sean McDemott
Harold Albury, III
Charles Gannon
Curtis Johnson, Jr.
Abigail Pemberton
George Collins

## 15. COMMENTS FROM THE CITY MANAGER

Nick Mimms, City Manager, would like to commend the new leadership group in Fort Pierce who came out this evening to express their concerns and opinions during the public comment. Mr. Mimms has submitted to the City Commission three reports: Purchasing Report, City Manager's Report, and COVID-19 Report.

At the request of Commissioner Alexander, Mr. Mimms provided a brief overview of the reports.

<u>COVID-19 Report</u>
The COVID-19 Grant Relief program continues. The mortgage and lease assistance program has had 34 applications approved in the total amount of $60,682.80. The small business relief program has had 34 applications approved in the total amount of $102,000.00. COVID-19 testing has been completed. The food distribution program with our community partners has been very successful. Mr. Mimms feels this is the most rewarding and fulfilling service offered to our residents. Everybody needs a little help right now regardless of color or creed. It has been challenging finding the staples to provide but together with our partners, we were able to service over 600 families at the last distribution held at Percy Peek Gym.

Commissioner Alexander asked if future testing will be done. Mr. Mimms explained that the City of Fort Pierce has exhausted the Cares Act Funding which paid for the testing. The City will be working with the Department of Health and St. Lucie County to bring pop-up testing or another testing location to northern St. Lucie County to provide free testing services. They have concentrated their efforts in the southern part of the county but will also now bring that testing to the northern part of the County. Commissioner Alexander would like the City of Fort Pierce to provide more testing. Commissioner Sessions feels it is an injustice that services are not made available in our area as it is in the southern areas of the county.

Mr. Mimms reported that the City of Fort Pierce and its partners have distributed over 100,000 meals to our community for which he is very proud.

City Facility Access
Public access to city facilities is constantly changing. For City Hall, we have concentrated one point of entry which is controlled by temperature readings. We are following CDC guidance with a 100.4 degree reading as being classified as a fever. We are doing this to protect our employees and visitors. City Hall department access remains open but by appointment only.

Communications
The See-Click-Fix program has had 89 requests. The average response time is approximately two days.

Employee Status
Thirteen (13) employees have reported and exhibited symptoms of the COVID-19. We have five (5) confirmed positive test results. Co-workers through contact tracing were immediately notified of the potential exposure. We have intensified sanitization throughout facilities.

Budget
The budget process is complete. A balanced budget will be presented to the City Commission that should meet and exceed expectations. The number one directive to make sure the police department had adequate funding has been achieved. The balanced budget to be presented addresses our strategic goals and initiatives without having any layoffs or furloughs.

City Attorney, Peter Sweeney has no comments.

a. Reports

**16. COMMENTS FROM THE COMMISSION**

Commissioner Alexander
A reminder to our community that St. Lucie County has stated that school will resume in August. Commissioner Alexander appreciates comments from the public this evening and supports the decriminalization of marijuana and will encourage the City Manager to place this item on the agenda at a future meeting.

Commissioner Perona
A reminder about the importance of the Census. Churches, health organizations, and public assistance has been a great communicator of the importance to complete the Census. We need to continue to get the word out there so funding can be made available to our community. Commissioner Perona would like to express thanks to the Code Enforcement and Police Department for keeping control over the Fourth of July holiday weekend. Commissioner Perona would like to learn more about the decriminalization of marijuana. The representatives who came forward this evening were energized, organized, articulate, and well-prepared with their presentations. Commissioner Perona would like the Commission to learn more about the topic. Regarding COVID-19 testing, result times are taking from six to 10 days which causes great stress and anguish waiting for the results.

Commissioner Sessions
Please be cautious about how you move around in your day-to-day activities. Practice social distancing and wear a face mask. Commissioner Sessions would like the group who presented this evening to be encouraged and advised that the platform to work on is with state legislation. Commissioner Sessions remains open to discussion on this issue. He does not agree with having a police record for small amounts of marijuana. He truly appreciates their presentation to city officials. Regarding the Census, the regional director is going to continue to work on hiring Hispanic and Black representatives to engage the people in the community. Again, please wear masks and take this pandemic seriously.

Commissioner Johnson
Applauds each of the members of the group that presented this evening who were speaking from the heart. Commissioner Johnson is all about getting the facts and parameters to make an informed decision. Commissioner Johnson would like an update on annexations. American Red Cross sent a mailer regarding the 2020 hurricane season. Commissioner Johnson would like an update on any grant opportunities for sheltering or the emergency operation center, as well as an update on the parklet program. July 01, 2020, the animal shelter became operational.

Mayor Hudson
Thanked the group that presented this evening. Mayor Hudson is very interested in the points raised and will reach out to the Roundtable Committee for a Drug-Free St. Lucie. Mayor Hudson is interested in learning more from the Police Department regarding the issues raised this evening. Don’t forget about the Census! FPUA has mailed an insert with their statements that explains the Census and hurricane preparations.

**17. ADJOURNMENT**

Immediately following adjournment, please move toward the doors and exit the chambers. This allows for the safe and courteous exit of all persons, and those on the dais. Conversations after the meeting should be held outside of chambers, in the foyer or elsewhere, but not in the commission chambers where lights will be out as soon as the chambers are empty.

Mayor Linda Hudson adjourned the meeting at **11:02 PM.**

ATTEST:

_____ _____

CITY CLERK MAYOR COMMISSIONER

**City Commission Regular Meeting** **7. a.**

**Meeting Date:** 07/20/2020

**Re:** Email from Mike Oyler

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Email from Mike Oyler, CMI President, in support of Police Chief Diane Hobley-Burney and in appreciation of the assignment of two outstanding officers, John Fasenello and Damian Spotts, to their Colonnades COP program and Crime Watch program.

## Attachments

Email from Mike Oyler

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/09/2020 02:44 PM |
| City Manager | Nick Mimms | 07/09/2020 02:44 PM |

Form Started By: Jennifer Robinson Started On: 07/07/2020 08:29 AM

Final Approval Date: 07/09/2020

**From:** mike oyler <mdoyler1@outlook.com>
**Sent:** Monday, July 6, 2020 5:35:45 PM
**To:** Linda Hudson <LHudson@cityoffortpierce.com>; Rufus Alexander <ralexander@cityoffortpierce.com>; Jeremiah Johnson <jjohnson@cityoffortpierce.com>; Tom Perona <tperona@cityoffortpierce.com>; Reginald Sessions <rsessions@cityoffortpierce.com>
**Subject:** 3 of Fort Pierce's Finest

SECURITY WARNING: This email originated outside of the City of Fort Pierce systems. Please use caution when clicking links or opening attachments. For questions or concerns please contact IT immediately. .

>> My wife Pat and I would like to thank you for the support of our great chief of police Diane Hobbley-Burney,!
>> She has been instrumental in supporting our Colonnades COP program and our Crime Watch program. She has assigned 2 of the most outstanding officers (and human beings) to meet with our community monthly. Officers John Fasenello and Damian Spotts.
>> They answer all questions and concerns of our community, provide tips on how to stay safe and even help us connect with departments and individuals (that are not police) within the city to address our community needs. These 3 individuals are truly examples of Fort Pierce's Finest.
>> Thanks,
>> Mike Oyler
>> CMI President
>> Patricia Oyler
>> Cell/Off 772-828-0820
>> 1133 Bayshore Dr #101
>> Fort Pierce, FL 34949
>> Mdoyler1@outlook.com

Thanks,

Mike Oyler
CMI President
Cell/Off 772-828-0820
1133 Bayshore Dr #101
Fort Pierce, FL 34949
Mdoyler1@outlook.com

**City Commission Regular Meeting** **7. b.**

**Meeting Date:** 07/20/2020

**Re:** Email from Allie Comer

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Email from Allie Comer thanking Mayor Hudson and the City of Fort Pierce for supporting the downtown merchants by providing parklet spaces.

## Attachments

Email from Allie Comer

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/09/2020 02:46 PM |
| City Manager | Nick Mimms | 07/09/2020 02:46 PM |

Form Started By: Jennifer Robinson Started On: 07/07/2020 10:11 AM

Final Approval Date: 07/09/2020

**From:** Allie Comer <alliezcomer@gmail.com>
**Sent:** Thursday, July 2, 2020 1:08:36 PM
**To:** Linda Hudson <LHudson@cityoffortpierce.com>
**Subject:** Thank you!

SECURITY WARNING: This email originated outside of the City of Fort Pierce systems. Please use caution when clicking links or opening attachments. For questions or concerns please contact IT immediately. .

Just wanted to take a minute to thank you and the City for looking out for us downtown merchants by providing parklet space to increase our customer capacities during this trying time. Much appreciated.
Allie Comer and all of us at Seriously Mixed Media Art

Sent from my iPhone

**City Commission Regular Meeting** **7. c.**

**Meeting Date:** 07/20/2020

**Re:** Letter from Julie Oyler

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Letter from Julie Oyler expressing great pride in the Fort Pierce Police Department and thanking Officer John Fasenello and Officer Damian Spotts for their contribution to the monthly Colonnades Crime Watch Program.

## Attachments

Letter from Julie Oyler

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/09/2020 02:46 PM |
| City Manager | Nick Mimms | 07/09/2020 02:46 PM |

Form Started By: Jennifer Robinson Started On: 07/07/2020 09:55 AM

Final Approval Date: 07/09/2020

Julie Oyler
1145 Bayshore Dr.
Unit 103
Ft. Pierce, FL. 34949

I feel great pride for our Ft. Pierce Police Department. I attend our monthly Colonnades Crime Watch Program, which is outstanding. Officers Fasenello and Spots provide timely and appropriate information and arrange for guest speakers.
They are: articulate, knowledgeable, and dedicated.
open to questions, discussion, and suggestions.
positive and have a great sense of humor.

Our community is blessed and protected by our Ft. Pierce Police Department.
As a Senior Citizen, I feel safe.
Thank you, Julie Oyler.

**City Commission Regular Meeting** **7. d.**

**Meeting Date:** 07/20/2020

**Re:** Email from Joe Craft

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Email from Joe Craft complimenting Police Chief Diane Hobley-Burney for her professionalism at the press conference regarding the recent incident at a mental health facility and for her swift action and transparency.

## Attachments

Email from Joe Craft

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/09/2020 02:45 PM |
| City Manager | Nick Mimms | 07/09/2020 02:45 PM |

Form Started By: Jennifer Robinson Started On: 07/07/2020 09:47 AM

Final Approval Date: 07/09/2020

**From:** Joe Craft <jc7131988@gmail.com>
**Sent:** Sunday, July 5, 2020 9:52:09 AM
**To:** Linda Hudson <LHudson@cityoffortpierce.com>
**Subject:** Thank you for having a Great Police Chief!

SECURITY WARNING: This email originated outside of the City of Fort Pierce systems. Please use caution when clicking links or opening attachments. For questions or concerns please contact IT immediately. .

Dear Mayor, I came across a YouTube video of the Police Chief Diane Hobley-Burney regarding the recent issue at a mental health facility there. I want to applaude the Chief for her handling of the issue, all be it a sad situation. Watching this, Chief Burney handled the issue in the press conference very well and professionally. It must have been hard for her to do this since it happened under her watch, but one cannot control everything.

Its unfortunate that this happened but Chief Burney was swift to take action and came forward quickly to the public to detail her and the departments action regarding.

Please let Chief Burney know she is "Top Notch" and the city is lucky to have her at the helm of the police department.

Joe Craft

**City Commission Regular Meeting** **7. e.**

**Meeting Date:** 07/20/2020

**Re:** Voice Message from Veronica Fountain

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Voice message from Veronica Fountain in appreciation of Tanya White, Executive Assistant, Public Works Department, excellent customer service.

## Attachments

Tanya White transcript

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/09/2020 02:45 PM |
| City Manager | Nick Mimms | 07/09/2020 02:45 PM |

Form Started By: Jennifer Robinson Started On: 07/07/2020 09:28 AM

Final Approval Date: 07/09/2020

>> GOOD AFTERNOON. MY NAME IS VERONICA FOUNTAIN. I LIVE AT 607 NORTH 24th STREET. I JUST WANT TO COMPLIMENT ON YOU TO ONE OF YOUR EMPLOYEES. HER NAME IS TONYA SHE REALLY TOOK CARE OF ME AND STUFF. IF THERE IS ANYTHING YOU CAN DO FOR HER, PLEASE DO IT. YOU CAN JUST BUY HER A COKE OR WHATEVER SHE WANTS. BUT SHE DID A FABULOUS JOB FOR ME. THANK YOU. HAVE A GREAT DAY. BYE.

**City Commission Regular Meeting** **7. f.**

**Meeting Date:** 07/20/2020

**Re:** Letter from Rebecca & Eric Ascoli

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Letter from Rebecca and Eric Ascoli commending Officer Damian Spotts and Officer Caleb Gillette for their conduct and demeanor as well as for their concem for the citizens of Fort Pierce at the recent Town Hall Meeting at Renaissance on the River Condominium Association.

## Attachments

Letter from Rebecca & Eric Ascol

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/09/2020 02:47 PM |
| City Manager | Linda Cox | 07/15/2020 04:44 PM |

Form Started By: Jennifer Robinson Started On: 07/08/2020 05:41 PM

Final Approval Date: 07/15/2020

Received
JUL 0 2 2020
City of Fort Pierce
City Manager's Office

Rebecca & Eric Ascoli
20 Orange Avenue
Fort Pierce, FL 34950
June 29, 2020

Fort Pierce Police Department
920 US-1 N
Fort Pierce, FL 34950
Attn: Chief Diane Hobley-Burney

RE: Town Hall Meeting at Renaissance on the River Condominium Association

Ladies and Gentlemen:

On Wednesday June 24th Officer Damian Spotts and Officer Caleb Gillette from the Fort Pierce Police Department spoke to the condominium board and other interested residents.

We attended the meeting and were very impressed with the preparations that both officers had made for the presentation. They had inspected the security in our building with a board member and their discussion revealed a thorough understanding of it.

However, more impressive was their conduct during the meeting. They fielded a wide-ranging Q&A session with humor while deftly answering possibly inflammatory comments. Both officers showed their concern for the citizens of Fort Pierce, whether residents in our building or the homeless people who shelter in this area. We learned a lot and left the session with our previous high regard for the Fort Pierce Police Department amply reconfirmed.

Sincerely,

Rebecca Ascoli

Ascoli

Cc: Mr. Nick Mimms, City Manager

**City Commission Regular Meeting** **10. a.**

**Meeting Date:** 07/20/2020

**Re:** Monthly Financial Report for the Month Ending May 31, 2020

**Submitted For:** Johnna Morris, Finance Director, Finance Department

**SUBJECT:**

Monthly Financial Report for the Month Ending May 31, 2020

**SUMMARY:**

The Finance Director prepares and presents to the City Commission and Citizens a monthly report on the financial status of the different funds of the City. The financial report for the month ending May 31, 2020, encompasses General, Marina, Solid Waste, Golf Course, Sunrise Theatre, Building & Code, and Fort Pierce Redevelopment Agency Funds.

**RECOMMENDATION:**

The Finance Department welcomes any suggestions and/or changes to the format.

**ALTERNATIVES:**

The report can be enhanced or changed.

**RESPONSIBLE STAFF:**

Finance Director.

**COORDINATED WITH:**

Finance Department & City Manager.

## Fiscal Impact

**Budgeted Y/N:** Y

**Fiscal Year:** 2020

**OTHER INFORMATION:**

Monthly Report on budgeted Revenue and Expenditures.

## Attachments

May 2020 Financial Report

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| Finance Department | Johnna Morris | 07/09/2020 09:26 AM |
| City Manager | Nick Mimms | 07/15/2020 11:05 AM |
| Form Started By: Queen Thompkins | | Started On: 07/07/2020 10:55 AM |
| Final Approval Date: 07/15/2020 | | |

**CITY OF FORT PIERCE, FLORIDA**
**FUND EVALUATION REPORT**
**FOR THE MONTH ENDING**
**May 31, 2020**

| Evaluation Criteria | General Fund | Marina Fund | Solid Waste | Golf Course | Sunrise Theatre | Building & Code |
|---|---|---|---|---|---|---|
| The revenue projections for the fund are on target. | Yes | Yes | Yes | Yes | Yes | Yes |
| The expense budget is on target. | Yes | Yes | Yes | Yes | Yes | Yes |
| Positive Net Operating Income | Yes | No | Yes | No | Yes | No |
| The fund cash balance is positive. | Yes | Yes | Yes | No | Yes | Yes |
| The fund current financial position is stable. | Yes | Yes | Yes | No | No | Yes |

| Yes | FPRA Operating | 103 CDBG | 105 SHIP | 106 HHR | 403 Stormwater |
|---|---|---|---|---|---|
| The revenue projections for the fund are on target. | Yes | Yes | Yes | Yes | Yes |
| The expense budget is on target. | Yes | Yes | Yes | Yes | Yes |
| The fund cash balance is positive. | Yes | Yes | Yes | Yes | Yes |
| The fund current financial position is stable. | Yes | Yes | Yes | Yes | Yes |

City of Fort Pierce
Monthly Financial Report
**For the Month Ending May 31, 2020**
(67% Year Lapse)

| General Fund | | | | |
|---|---|---|---|---|
| **Revenue** | **Budget** | **Adjusted Budget** | **FYTD** | **%** |
| **Beginning Available Resources** | | | **$ 8,740,349** | |
| **Revenue:** | | | | |
| Taxes | $ 23,079,865 | $ 23,079,865 | $ 20,317,909 | 88.03% |
| Licenses & Permits | 395,000 | 395,000 | 380,094 | 96.23% |
| Intergovernmental | 5,295,000 | 5,295,000 | 4,207,270 | 79.46% |
| Charges for Services | 369,300 | 369,300 | 198,837 | 53.84% |
| Fines & Forfeitures | 294,500 | 294,500 | 223,435 | 75.87% |
| Miscellaneous Revenue | 2,251,200 | 2,251,200 | 1,783,401 | 79.22% |
| Interfund Transfers | 3,471,056 | 3,471,056 | 2,771,374 | 79.84% |
| Contribution from Enterprise | 7,411,101 | 7,411,101 | 6,885,233 | 92.90% |
| Appropriated Fund Balance | 462,950 | 462,950 | 0 | 0.00% |
| Restricted Revenue | (600,000) | (600,000) | 0 | 0.00% |
| **Total Revenue** | **$ 42,429,972** | **$ 42,429,972** | **$ 36,767,552** | **86.65%** |

| **Expenditures:** | **Budget** | **Adjusted Budget** | **FYTD** | **%** |
|---|---|---|---|---|
| City Commission | $ 265,584 | $ 259,388 | $ 164,822 | 63.54% |
| City Manager | 900,102 | 877,599 | 557,105 | 63.48% |
| City Attorney | 693,149 | 593,149 | 330,332 | 55.69% |
| City Clerk | 350,315 | 341,265 | 241,042 | 70.63% |
| Human Resources | 443,578 | 432,489 | 308,969 | 71.44% |
| Finance | 911,107 | 892,607 | 597,094 | 66.89% |
| IT | 1,255,193 | 1,223,813 | 207,372 | 16.94% |
| Purchasing | 315,418 | 307,533 | 810,442 | 263.53% |
| Planning | 610,772 | 595,503 | 399,905 | 67.15% |
| Code Enforcement | 1,079,651 | 1,052,660 | 815,190 | 77.44% |
| Police | 14,765,692 | 14,396,550 | 10,259,368 | 71.26% |
| Public Works/Director | 92,459 | 92,459 | 91,234 | 98.67% |
| Public Works/Fleet Maint. | 708,661 | 681,891 | 415,831 | 60.98% |
| Public Works/Facilities Maint. | 1,029,921 | 1,008,921 | 703,424 | 69.72% |
| Public Works/Parks & Grounds | 2,159,610 | 2,116,610 | 1,483,260 | 70.08% |
| Public Works/Streets | 1,815,593 | 1,761,823 | 1,303,331 | 73.98% |
| Engineering | 1,301,415 | 1,268,880 | 725,934 | 57.21% |
| Riverwalk | 371,116 | 361,116 | 189,288 | 52.42% |
| Administrative | 13,360,636 | 14,165,716 | 11,548,636 | 81.53% |
| **Total Expenditures** | **$ 42,429,972** | **$ 42,429,972** | **$ 31,152,579** | **73.42%** |

| | |
|---|---|
| **Net Resources** | **$ 5,614,973** |
| **Total Available Resources** | **$ 14,355,322** |
| **Less:** | |
| 10% Budget Reserve | (4,242,997) |
| Reserve | (600,000) |
| **Unrestricted Resources** | **$ 9,512,325** |

# Special Revenue Funds

| FPRA | Budget | FYTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 815,161** | |
| **Beginning Available Resources** | | | |
| Taxes | 6,700,934 | 6,824,121 | 101.84% |
| Licenses & Permits | 0 | 94 | 0.00% |
| Intergovernmental | 4,000 | 7,560 | 189.00% |
| Miscellaneous Revenue | 200,100 | 606,595 | 303.15% |
| Transfers | 0 | 0 | 0.00% |
| **Total Revenue** | **6,905,034** | **7,438,371** | **107.72%** |
| **Expenses:** | | | |
| Operating | 501,338 | 358,758 | 71.56% |
| Capital Outlay | 0 | 0 | 0.00% |
| Other Programs & Projects | 370,000 | 44 | 0.01% |
| Transfers | 0 | 5,633,696 | 0.00% |
| **Total Expenses** | **871,338** | **5,992,498** | **687.74%** |
| **Net Resources** | | **1,445,872** | |
| **Unrestricted Resources** | | **$ 2,261,033** | |

| CDBG | Budget | FYTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 779,489** | |
| **Revenue:** | | | |
| Intergovernmental Revenue | 958,272 | 302,201 | 31.54% |
| Misc. Revenue | 0 | 20,033 | 0.00% |
| Transfers | 84,205 | 0 | 0.00% |
| **Total Revenue** | **1,042,477** | **322,234** | **30.91%** |
| **Expenses:** | | | |
| Administrative | 250,528 | 182,408 | 72.81% |
| Rehabilitation Department | 40,000 | 499 | 1.25% |
| Capital Outlay | 0 | 0 | 0.00% |
| Economic Development | 309,780 | 168,050 | 54.25% |
| Public Service | 80,000 | 128,269 | 160.34% |
| Unencumbered | 0 | 0 | 0.00% |
| Roll Over Expenditures | 362,169 | 0 | 0.00% |
| **Total Expenses** | **1,042,477** | **479,226** | **45.97%** |
| **Net Resources** | | **(156,993)** | |
| **Unrestricted Resources** | | **$ 622,496** | |

| Grant Administration | Budget | FYTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 321,468** | |
| **Revenue:** | | | |
| Program Income | 0 | 40,848 | 0.00% |
| Misc. Revenue | 242,500 | 39,657 | 16.35% |
| Interfund Transfers | 27,000 | 0 | 0.00% |
| **Total Revenue** | **269,500** | **80,505** | **29.87%** |
| **Expenses:** | | | |
| Personnel Services | 0 | 0 | 0.00% |
| Operating | 243,025 | 0 | 0.00% |
| Transfers | 26,475 | 0 | 0.00% |
| **Total Expenses** | **269,500** | **0** | **0.00%** |
| **Net Resources** | | **80,505** | |
| **Unrestricted Resources** | | **$ 401,973** | |

| SHIP | Budget | FYTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 339,382** | |
| **Revenue:** | | | |
| SHIP | 77,300 | 85,666 | 110.82% |
| Program Income | 5,000 | 248 | 0.00% |
| Misc. Revenue | 500 | 10,265 | 2052.96% |
| Carry Over Funding | 295,000 | 0 | 0.00% |
| **Total Revenue** | **377,800** | **96,179** | **25.46%** |
| **Expenses:** | | | |
| Operating | 25,000 | 203 | 0.81% |
| Grants/Programs & Projects | 352,800 | 20,734 | 5.88% |
| **Total Expenses** | **377,800** | **20,937** | **5.54%** |
| **Net Resources** | | **75,242** | |
| **Unrestricted Resources** | | **$ 414,624** | |

# Enterprise Funds

| Marina | Budget | YTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 2,656,364** | |
| **Revenue:** | | | |
| Grants | 86,583 | 0 | 0.00% |
| Charges for Services | 1,500,000 | 1,156,968 | 77.13% |
| Misc. Revenue | 1,390,000 | 619,256 | 44.55% |
| Debt Proceeds | 0 | 0 | 0.00% |
| Approp Retained Earnings | 845,579 | 0 | 0.00% |
| **Total Revenue** | **3,822,162** | **1,776,223** | **46.47%** |
| **Expenses:** | | | |
| Personnel Services | 494,327 | 248,439 | 50.26% |
| Operating | 3,143,110 | 1,636,231 | 52.06% |
| Capital | 316,500 | 1,606,094 | 507.45% |
| Debt Service | 581,013 | 273,034 | 46.99% |
| Non Operating | 404,830 | 125,000 | 30.88% |
| **Total Expenses** | **4,939,780** | **3,888,798** | **78.72%** |
| **Plus Depreciation** | | **750,730** | |
| **Net Resources** | | **(1,361,845)** | |
| **Unrestricted Resources Available** | | **$ 1,294,519** | |

| Solid Waste | Budget | YTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 1,373,971** | |
| **Revenue:** | | | |
| Charges for Services | 7,828,000 | 5,065,147 | 64.71% |
| Misc. Revenue | 4,000 | 27,177 | 679.44% |
| Approp Retained Earnings | (534,132) | 0 | 0.00% |
| **Total Revenue** | **7,297,868** | **5,092,325** | **69.78%** |
| **Expenses:** | | | |
| Personnel Services | 2,420,296 | 1,479,310 | 61.12% |
| Operating | 3,924,125 | 3,125,277 | 79.64% |
| Capital | 150,000 | 296,968 | 197.98% |
| Non Operating | 1,291,072 | 478,572 | 37.07% |
| **Total Expenses** | **7,785,493** | **5,380,126** | **69.10%** |
| **Plus Depreciation** | | **339,288** | |
| **Net Resources** | | **51,487** | |
| **Unrestricted Resources Available** | | **$ 1,425,458** | |

| Golf Course | Budget | YTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ (667,334)** | |
| **Revenue:** | | | |
| Charges for Services | 1,155,000 | 858,505 | 74.33% |
| Misc. Revenue | 264,964 | 134,324 | 50.70% |
| Approp Retained Earnings | 0 | 0 | 0.00% |
| **Total Revenue** | **1,419,964** | **992,829** | **69.92%** |
| **Expenses:** | | | |
| Personnel Services | 219,723 | 151,789 | 69.08% |
| Operating | 1,298,947 | 927,808 | 71.43% |
| Capital | 4,000 | 8,500 | 212.50% |
| Non Operating | 32,641 | 0 | 0.00% |
| **Total Expenses** | **1,555,311** | **1,088,097** | **69.96%** |
| **Plus Depreciation** | | **93,662** | |
| **Net Resources** | | **(1,606)** | |
| **Unrestricted Resources Available** | | **$ (668,940)** | |

| Sunrise Theatre | Budget | YTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ (1,168,570)** | |
| **Revenue:** | | | |
| Grants | 42,000 | 42,185 | 100.44% |
| Charges for Services | 2,565,000 | 1,783,019 | 69.51% |
| Misc. Revenue | 348,900 | 117,791 | 33.76% |
| Approp Retained Earnings | (90,800) | 0 | 0.00% |
| Transfers | 450,000 | 471,000 | 104.67% |
| **Total Revenue** | **3,315,100** | **2,413,994** | **72.82%** |
| **Expenses:** | | | |
| Personnel Services | 621,676 | 251,682 | 40.48% |
| Operating | 3,239,623 | 2,337,042 | 72.14% |
| Capital | 0 | 21,000 | 0.00% |
| Non Operating | 0 | 0 | 0.00% |
| **Total Expenses** | **3,861,299** | **2,609,724** | **67.59%** |
| **Plus Depreciation** | | **364,324** | |
| **Net Resources** | | **168,595** | |
| **Unrestricted Resources Available** | | **$ (999,975)** | |

| Building | Budget | YTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ 2,059,389** | |
| **Revenue:** | | | |
| Licenses & Permits | 2,572,500 | 1,705,078 | 66.28% |
| Charges for Services | 52,000 | 54,237 | 104.30% |
| Fine & Forfeits | 35,000 | 8,447 | 24.13% |
| Misc. Revenue | 47,500 | 80,431 | 169.33% |
| Transfers | 0 | 0 | 0.00% |
| Approp Retained Earnings | (154,694) | 0 | 0.00% |
| **Total Revenue** | **2,552,306** | **1,848,194** | **72.41%** |
| **Expenses:** | | | |
| Personnel Services | 1,204,562 | 879,512 | 73.02% |
| Operating | 554,350 | 399,425 | 72.05% |
| Capital | 925,000 | 667,938 | 72.21% |
| Non Operating | 5,394 | 5,394 | 100.00% |
| **Total Expenses** | **2,689,306** | **1,952,269** | **72.59%** |
| **Plus Depreciation** | | **45,858** | |
| **Net Resources** | | **(58,217)** | |
| **Unrestricted Resources Available** | | **$ 2,001,172** | |

| Stormwater | Budget | YTD | % |
|---|---|---|---|
| **Begnning Available Resources** | | **$ (493,959)** | |
| **Revenue:** | | | |
| Federal Grants | 0 | 0 | 0.00% |
| State Grants | 0 | 0 | 0.00% |
| Charges for Services | 2,676,067 | 3,214,869 | 120.13% |
| Misc. Revenue | 10,000 | 45,597 | 455.97% |
| Transfers | 0 | 0 | 0.00% |
| Approp Retained Earnings | 46,000 | 0 | 0.00% |
| **Total Revenue** | **2,732,067** | **3,260,466** | **119.34%** |
| **Expenses:** | | | |
| Personnel Services | 0 | 0 | 0.00% |
| Operating | 2,705,937 | 2,053,712 | 75.90% |
| Capital | 5,000 | 110,596 | 2211.93% |
| Non Operating | 1,206,130 | 148,480 | 12.31% |
| **Total Expenses** | **3,917,067** | **2,312,788** | **59.04%** |
| **Plus Depreciation** | | **807,237** | |
| **Net Resources** | | **1,754,915** | |
| **Unrestricted Resources Available** | | **$ 1,260,956** | |

**City Commission Regular Meeting** **11. a.**

**Meeting Date:** 07/20/2020

**Re:** Bid No. 2019-019 - Interior Build Out of Office Space - Sunrise Center - Office Furniture

**Submitted For:** Paul Thomas, Building Official, Building

**SUBJECT:**

Approval of purchase of office furniture for interior office space build out of third floor of Sunrise Center piggybacked via the State of Florida Contract Extension Contract number 425-001-12-1 valid March 2, 2012 through September 1, 2020 in an amount not to exceed $75,038.26.

**SUMMARY:**

The Building Department requests approval for purchase of office furniture for the interior office build out of the third floor of the Sunrise Center as a piggyback in compliance with the State of Florida Contract Extension Contract, number 425-001-12-1 valid through September 1, 2020 in the amount of $75,038.26 in accordance with the attached quote. Quote includes purchase, assembly, and installation of all office furniture to furnish the third floor of the Sunrise Center.

The interior office build out construction was previously approved by the City Commission on October 7, 2019, as Bid 2019-019. The Purchasing Division has reviewed and investigated the procurement process for the furniture, and found all terms and conditions meet the requirements of the City of Fort Pierce.

**RECOMMENDATION:**

Staff recommends approval of purchase of office furniture for interior office space build out of third floor of Sunrise Center, piggybacked via the State of Florida Contract Extension Contract number 425-001-12-1 valid March 2, 2012 through September 1, 2020 in an amount not to exceed $75,038.26.

**ALTERNATIVES:**

Do not approve the purchase at this time.

**RESPONSIBLE STAFF:**

Paul Thomas, CBO, CFM, Building Official

**COORDINATED WITH:**

Gelencia Carter, Purchasing Manager

**Fiscal Impact**

**Budgeted Y/N:** y

**Fiscal Year:** 2020

**Account:** 420.2902.524.64.20

**Amount:** 75,038.26

**FISCAL IMPACT:**

Upon approval, funds for this purchase will be available in the Building Department Equipment & Machinery/Furnishings and Furniture account #420.2902.524.64.20 from department reserve fund. The quote for the furnishings was obtained in accordance with State Contract 425-001-12-1.

---

## Attachments

quote.furnishings 3rd Fl. Sunrise Ctr.

sprdsht.furnishings 3rd Fl. Sunrise Ctr.

State Contract 425-001-12-1

---

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| Building | Paul Thomas | 07/07/2020 03:19 PM |
| Building | Paul Thomas | 07/08/2020 09:12 AM |
| Building | Paul Thomas | 07/08/2020 12:59 PM |
| Finance Department | Johnna Morris | 07/09/2020 09:27 AM |
| City Manager | Nick Mimms | 07/15/2020 09:25 AM |
| Form Started By: Karen Murphy | | Started On: 07/01/2020 10:17 AM |
| Final Approval Date: 07/15/2020 | | |

David T. Tillman Interior Designer
Americas Office Source
3803 Crossroads Parkway
Ft. Pierce FL 34945
772-464-0450

# FLORIDA STATE CONTRACT QUOTE



City of Ft. Pierce
100 N US1
Ft. Pierce

City of Ft. Pierce
100 N US1
Ft. Pierce

Quote Number

6/29/2020
9:38:45PM

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| 305-Lobby | | 305-Lobby | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Ocassional Cylinder Table 20"Dia X 20"H | $641.00 | $1,282.00 |
| 1 | 2 | H80170 | | $224.67 | $449.34 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Mocha | | | |
| | | | Florida State Contract Discount | 53.66 | |
| | | | | | |
| | | | Shuttle - Four Leg Guest Chair, Armless, All Plastic Back and Seat | $317.20 | $2,854.80 |
| 2 | 9 | 1210-GT-A00-AP | | $147.00 | $1,323.00 |
| | | P01 Black Swan | | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Black Frame | | |
| | | | Standard Poly Dome Glides | | |
| | | | GC1 Ganging Clips Armless-to-Armless (2 per Set) | | |
| | | | No Cal TB 133 (standard upholstery) | | |
| | | | No Book Rack | | |
| 309-Permitting | | 309-Permitting | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Height Adjustable Base - electric 3 Stage, 2 Leg | $1,120.00 | $1,120.00 |
| 3 | 1 | HHAB3S2L | | $392.56 | $392.56 |
| | | | Nickel | | |

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | Straight Connector Kit | $19.00 | $57.00 |
| 4 | 3 | HSCKTPS | | $4.84 | $14.52 |
| | | No Option | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Worksurface Bracket Kit | $46.00 | $230.00 |
| 5 | 5 | HWSB2 | | $11.71 | $58.55 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Top Cap 30"W | $44.00 | $88.00 |
| 6 | 2 | HETC30 | | $11.20 | $22.40 |
| | | P1 Paint Opts | | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | L Connector 35H | $106.00 | $212.00 |
| 7 | 2 | HEC35PL | | $26.98 | $53.96 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Finished End Covers 35H | $49.00 | $147.00 |
| 8 | 3 | HEFEC35P | | $12.47 | $37.41 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
|  | | | | | |
| | | | T Connector 35H | $106.00 | $106.00 |
| 9 | 1 | HEC35PT | | $26.98 | $26.98 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 71.55 | |
| | | | | | |
| | | | 60"W x 14"H Laminate Floating Modesty Panel | $250.00 | $250.00 |
| 10 | 1 | HLSL6014L | | $71.13 | $71.13 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Pinnacle | | | |
| | | Color: Black | | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

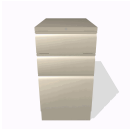
Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | 72W x 27-7/8H Modesty / Back Panel | $285.00 | $285.00 |
| 11 | 1 | HNLMP7228 | | $99.89 | $99.89 |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Frameless Glass 15H x 24W | $450.00 | $900.00 |
| 12 | 2 | HEFG1524 | | $114.53 | $229.06 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Glass: Frosted | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | | | |
| | | | Frameless Glass 15H x 66W | $855.00 | $1,710.00 |
| 13 | 2 | HEFG1566 | | $217.60 | $435.20 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Glass: Frosted | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | | | |
| | | | Flagship Pedestal "A" Pull Freestanding B/B/F | $719.00 | $1,438.00 |
| 14 | 2 | H19723A | | $182.99 | $365.98 |
| | | | Standard Random Key Lock | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 71.55 | |
| | | | Storage Cabinet 18D x 36W x 42H | $840.00 | $840.00 |
| 15 | 1 | HSC1842 | | $238.98 | $238.98 |
| | | | Standard Random Key Lock | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Systems Rectangular Worksurface Edgeband 24D x 66W | $512.00 | $1,024.00 |
| 16 | 2 | HWR2466P | | $130.30 | $260.60 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | EDGE: Pinnacle | | |
| | | | Grommet: Platinum | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 72W x 30D Rectangle Worksurface | $616.00 | $616.00 |
| 17 | 1 | HHAW3072P | | $156.77 | $156.77 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Edge: Pinnacle | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grommet: Platinum | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Tackable Panel w/o TC 35H x 24W | $284.00 | $568.00 |
| 18 | 2 | HETP3524FP | | $72.28 | $144.56 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

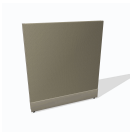
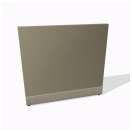
City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
|  | | | Florida State Contract Discount | 74.55 | |
| | | | Tackable Panel w/o TC 35H x 30W | $298.00 | $1,192.00 |
| 19 | 4 | HETP3530FP | | $75.84 | $303.36 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
|  | | | Florida State Contract Discount | 74.55 | |
| | | | Tackable Panel w/o TC 35H x 36W | $320.00 | $640.00 |
| 20 | 2 | HETP3536FP | | $81.44 | $162.88 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 64.95 | |
|  | | | 72W x 24D Rectangle Worksurface | $366.00 | $366.00 |
| 21 | 1 | HNLRC2472 | | $128.28 | $128.28 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Color: Platinum | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | $714.00 | $1,428.00 |
| 22 | 2 | HNL231628PBBF | | $250.26 | $500.52 |
| | | | Cylinder/Satin | | |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 30x14-1/4x65 Bookcase 5-shelf | $840.00 | $840.00 |
| 23 | 1 | HNL1530BK5 | | $294.42 | $294.42 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Guest Chair Four Leg Frame Arms | $459.00 | $459.00 |
| 24 | 1 | HIGCL | | $160.88 | $160.88 |
| | | | Glide: Glide | | |
| | | | Back: Upholstered | | |
| | | | Gr 1 UPH | | |
| | | | Centurion | | |
| | | | COLOR: Black | | |
| | | | Textured Black | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $837.00 | $2,511.00 |
| 25 | 3 | HIWM3 | | $293.37 | $880.11 |

Arm: Height and Width Adj

CASTER: Hard (Standard)

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

FRAME: Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Base: Standard Base | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 36x24x29-1/2 Lateral File two drawer | $1,167.00 | $1,167.00 |
| 26 | 1 | HNL2436LD2 | | $409.03 | $409.03 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Cylinder/Satin | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 71.55 | |
| | | | Contain 22Hx60Wx18D LH Open/Box/File Footed MtlFrnts | $1,889.00 | $1,889.00 |
| 27 | 1 | HSCF226018LBFOM | | $537.42 | $537.42 |
| | | | Contain Foot | | |
| | | | Platinum Metallic | | |
| | | | Arch | | |
| | | | Anodized Silver | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | P1 Paint Opts | | |
| | | | Match Case | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Standard Random Key Lock | | |
| | | | Florida State Contract Discount | 71.55 | |
| | | | Contain 22Hx60Wx18D Box/File/RH Open Footed MtlFrnts | $1,889.00 | $1,889.00 |
| 28 | 1 | HSCF226018RBFOM | | $537.42 | $537.42 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Contain Foot | | |
| | | | Platinum Metallic | | |
| | | | Arch | | |
| | | | Anodized Silver | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | P1 Paint Opts | | |
| | | | Match Case | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Standard Random Key Lock | | |
| 310-Plan Techs | | 310 Plan-Techs | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $837.00 | $3,348.00 |
| 29 | 4 | HIWM3 | | $293.37 | $1,173.48 |
| | | | Arm: Height and Width Adj | | |
| | | | CASTER: Hard (Standard) | | |
| | | | Back: Upholstered | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Gr 1 UPH | | |
| | | | Centurion | | |
| | | | COLOR: Black | | |
| | | | FRAME: Black | | |
| | | | Base: Standard Base | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Base In-Feed Cable Base 3-1 & 2-2 Systems | $227.00 | $227.00 |
| 30 | 1 | HH879072 | | $57.77 | $57.77 |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | Electrical Power Harness 24W 3-1 & 2-2 Systems | $204.00 | $816.00 |
| 31 | 4 | HH871224 | | $51.92 | $207.68 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | Electrical Pass-Thru Cable 30W 3-1 & 2-2 Systems | $128.00 | $256.00 |
| 32 | 2 | HH871130 | | $32.58 | $65.16 |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Electrical Power Harness 30W 3-1 & 2-2 Systems | $204.00 | $408.00 |
| 33 | 2 | HH871230 | | $51.92 | $103.84 |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Electrical Pass-Thru Cable 48W 3-1 & 2-2 Systems | $134.00 | $268.00 |
| 34 | 2 | HH871148 | | $34.10 | $68.20 |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Straight Connector Kit | $19.00 | $171.00 |
| 35 | 9 | HSCKTPS | | $4.84 | $43.56 |
| | | No Option | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Duplex Receptacle Circuit 1 3-1 & 2-2 Systems | $43.00 | $172.00 |
| 36 | 4 | HH871501 | | $10.94 | $43.76 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | PAINT: Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| 37 | 4 | HH871502 | Duplex Receptacle Circuit 2 3-1 & 2-2 Systems | $43.00<br>$10.94 | $172.00<br>$43.76 |
| | | | PAINT: Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| 38 | 4 | HH871503 | Duplex Receptacle Circuit 3 3-1 System Only | $43.00<br>$10.94 | $172.00<br>$43.76 |
| | | | PAINT: Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| 39 | 4 | HH871504 | Duplex Receptacle Circuit 4 3-1 & 2-2 Systems | $43.00<br>$10.94 | $172.00<br>$43.76 |
| | | | PAINT: Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | 24D Cantilever One Pair | $84.00 | $336.00 |
| 40 | 4 | HCTL242 | | $21.38 | $85.52 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 18D Cantilever One Pair | $65.00 | $260.00 |
| 41 | 4 | HCTL182 | | $16.54 | $66.16 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Left-hand Cantilever 18"D | $35.00 | $140.00 |
| 42 | 4 | HCTL181L | | $8.91 | $35.64 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Select P1 Paint | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 29.5"H Desk-to-Panel Attchmnt Kits for Abode | $97.00 | $194.00 |
| 43 | 2 | HSDDPA29R | | $24.69 | $49.38 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 29.5"H Desk-to-Panel Attchmnt Kits for Abode | $97.00 | $194.00 |
| 44 | 2 | HSDDPA29L | | $24.69 | $49.38 |
| | | | P1 Paint Opts | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 30"D End-Panel Supports: Freestanding | $216.00 | $432.00 |
| 45 | 2 | HSDEP3029F | | $54.97 | $109.94 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 30"D End-Panel Supports: Freestanding | $216.00 | $432.00 |
| 46 | 2 | HSDEP3029F | | $54.97 | $109.94 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | Half Hgt 14Hx66W Mod Pnl | $194.00 | $776.00 |
| 47 | 4 | HSDMP664 | | $49.37 | $197.48 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
|  | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Top Cap 30"W | $44.00 | $528.00 |
| 48 | 12 | HETC30 | | $11.20 | $134.40 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
|  | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Top Cap 36"W | $56.00 | $224.00 |
| 49 | 4 | HETC36 | | $14.25 | $57.00 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Top Cap 48"W | $66.00 | $132.00 |
| 50 | 2 | HETC48 | | $16.80 | $33.60 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | L Connector 50H | $141.00 | $564.00 |
| 51 | 4 | HEC50PL | | $35.88 | $143.52 |
| | | P1 Paint Opts | | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | T Connector 50H | $141.00 | $282.00 |
| 52 | 2 | HEC50PT | | $35.88 | $71.76 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Finished End Covers 50H | $56.00 | $224.00 |
| 53 | 4 | HEFEC50P | | $14.25 | $57.00 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | Accelerate Base cover 3 knockout 36"W | $72.00 | $360.00 |
| 54 | 5 | HEBPLATE336 | | $18.32 | $91.60 |
| | | Select P1 Paint | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Systems Rectangular Wksfc Edgeband 30D x 66W No Grom | $555.00 | $2,220.00 |
| 55 | 4 | HWR3066PN | | $141.25 | $565.00 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Pinnacle | | | |
| | | EDGE: Pinnacle | | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | Flagship Pedestal "R" Pull Freestanding B/B/F | $773.00 | $3,092.00 |
| 56 | 4 | H19730R | | $196.73 | $786.92 |
| | | | Standard Random Key Lock | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Flagship Series Pedestal "R" Pull Freestanding F/F | $712.00 | $2,848.00 |
| 57 | 4 | H19823R | | $181.20 | $724.80 |
| | | | Standard Random Key Lock | | |
| | | | P1 Paint Opts | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

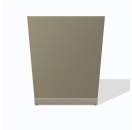
Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Systems Rectangular Worksurface<br>Edgeband 30D x 66W | $555.00 | $2,220.00 |
| 58 | 4 | HWR3066P | | $141.25 | $565.00 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | EDGE: Pinnacle | | |
| | | | Grommet: Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Systems Rectangular Worksurface<br>Edgeband 24D x 48W | $404.00 | $1,616.00 |
| 59 | 4 | HWR2448P | | $102.82 | $411.28 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | EDGE: Pinnacle | | |
| | | | Grommet: Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Tackable Panel w/o TC 50H x 30W | $356.00 | $4,272.00 |
| 60 | 12 | HETP5030FP | | $90.60 | $1,087.20 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | Tackable Panel w/o TC 50H x 36W | $366.00 | $1,464.00 |
| 61 | 4 | HETP5036FP | | $93.15 | $372.60 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

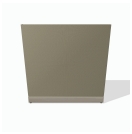
City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
|  | | | Tackable Panel w/o TC 50H x 48W | $434.00 | $868.00 |
| 62 | 2 | HETP5048FP | | $110.45 | $220.90 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

311-Conference

311-Conference

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Preside Flip Top Port-Ellora | $579.00 | $1,158.00 |
| 63 | 2 | HTPWRGROM2 | | $202.94 | $405.88 |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Preside Laminate Cube Base For 168" W Table Tops | $2,406.00 | $2,406.00 |
| 64 | 1 | HTLCUBE168 | | $843.30 | $843.30 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Mocha | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Preside 168W x 54D Rectangular Shaped Laminate Top | $1,983.00 | $1,983.00 |
| 65 | 1 | HTLC54168 | | $695.04 | $695.04 |
| | | | 2MM/Flat | | |
| | | | Edge: Mocha | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Cut out for Flip Top Port | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Mocha | | |
| | | | Florida State Contract Discount | 60.95 | |
| | | | Merit Leather Executive Conference Chair | $950.00 | $11,400.00 |
| 66 | 12 | HME3 | | $370.98 | $4,451.76 |
| | | | Weight Activated | | |
| | | | Arm: Fixed Polished Aluminum | | |
| | | | Hard Caster | | |
| | | | Leather: Black | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Base: Polished Aluminum | | |
| 313-CRS | | 313-CRS | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Ignition Guest Chair Four Leg Frame Arms | $459.00 | $918.00 |
| 67 | 2 | HIGCL | | $160.88 | $321.76 |
| | | | Glide: Glide | | |
| | | | Back: Upholstered | | |
| | | | Gr 1 UPH | | |
| | | | Centurion | | |
| | | | COLOR: Black | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | Textured Black | | | |
| 314-Shaun | | 314-Shaun | | | |
| | | | Florida State Contract Discount | 64.95 | |
| 68 | 1 | HHAB3S2L | Height Adjustable Base - electric 3 Stage, 2 Leg | $1,120.00<br>$392.56 | $1,120.00<br>$392.56 |
| | | Nickel | | | |
| | | | Florida State Contract Discount | 71.55 | |
| 69 | 1 | HLSL6014L | 60"W x 14"H Laminate Floating Modesty Panel | $250.00<br>$71.13 | $250.00<br>$71.13 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Pinnacle | | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Color: Black | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 72W x 27-7/8H Modesty / Back Panel | $285.00 | $285.00 |
| 70 | 1 | HNLMP7228 | | $99.89 | $99.89 |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 72W x 30D Rectangle Worksurface | $616.00 | $616.00 |
| 71 | 1 | HHAW3072P | | $156.77 | $156.77 |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Edge: Pinnacle | | |
| | | | Grommet: Platinum | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 72W x 24D Rectangle Worksurface | $366.00 | $366.00 |
| 72 | 1 | HNLRC2472 | | $128.28 | $128.28 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Color: Platinum | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | $714.00 | $1,428.00 |
| 73 | 2 | HNL231628PBBF | | $250.26 | $500.52 |
| | | | Cylinder/Satin | | |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | 30x14-1/4x65 Bookcase 5-shelf | $840.00 | $840.00 |
| 74 | 1 | HNL1530BK5 | | $294.42 | $294.42 |

Smooth, Flat

Pinnacle

Grd L1 Standard Laminates

LAM: Pinnacle

Grd L1 Standard Laminates

LAM: Pinnacle

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Guest Chair Four Leg Frame Arms | $459.00 | $459.00 |
| 75 | 1 | HIGCL | | $160.88 | $160.88 |

Glide: Glide

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

Textured Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $837.00 | $837.00 |
| 76 | 1 | HIWM3 | | $293.37 | $293.37 |

Arm: Height and Width Adj

CASTER: Hard (Standard)

Undecided BACK Option

Gr 1 UPH

Centurion

COLOR: Black

FRAME: Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Base: Standard Base | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 36x24x29-1/2 Lateral File two drawer | $1,167.00 | $1,167.00 |
| 77 | 1 | HNL2436LD2 | | $409.03 | $409.03 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Cylinder/Satin | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| 315-Kristie | | 315-Kristie | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Height Adjustable Base - electric 3 Stage, 2 Leg | $1,120.00 | $1,120.00 |
| 78 | 1 | HHAB3S2L | | $392.56 | $392.56 |
| | | | Nickel | | |
| | | | Florida State Contract Discount | 71.55 | |
| | | | | | |
| | | | 60"W x 14"H Laminate Floating Modesty Panel | $250.00 | $250.00 |
| 79 | 1 | HLSL6014L | | $71.13 | $71.13 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Color: Black | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 72W x 27-7/8H Modesty / Back Panel | $285.00 | $285.00 |
| 80 | 1 | HNLMP7228 | | $99.89 | $99.89 |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | | | |
| | | | 72W x 30D Rectangle Worksurface | $616.00 | $616.00 |
| 81 | 1 | HHAW3072P | | $156.77 | $156.77 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Pinnacle | | | |
| | | Edge: Pinnacle | | | |
| | | Grommet: Platinum | | | |
| | | | Florida State Contract Discount | 64.95 | |
|  | | | | | |
| | | | 72W x 24D Rectangle Worksurface | $366.00 | $366.00 |
| 82 | 1 | HNLRC2472 | | $128.28 | $128.28 |
| | | Smooth, Flat | | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Pinnacle | | |
| | | | Color: Platinum | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | $714.00 | $1,428.00 |
| 83 | 2 | HNL231628PBBF | | $250.26 | $500.52 |
| | | | Cylinder/Satin | | |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 30x14-1/4x65 Bookcase 5-shelf | $840.00 | $840.00 |
| 84 | 1 | HNL1530BK5 | | $294.42 | $294.42 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Guest Chair Four Leg Frame Arms | $459.00 | $459.00 |
| 85 | 1 | HIGCL | | $160.88 | $160.88 |
| | | | Glide: Glide | | |
| | | | Back: Upholstered | | |
| | | | Gr 1 UPH | | |
| | | | Centurion | | |
| | | | COLOR: Black | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Textured Black | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $885.00 | $885.00 |
| 86 | 1 | HIWM3 | | $310.19 | $310.19 |
| | | | Arm: Height and Width Adj | | |
| | | | CASTER: Hard (Standard) | | |
| | | | Back: Upholstered | | |
| | | | GRADE: II UPHOLSTERY | | |
| | | | Whisper Vinyl | | |
| | | | COLOR: Black | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | FRAME: Black | | |
| | | | Base: Standard Base | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 36x24x29-1/2 Lateral File two drawer | $1,167.00 | $1,167.00 |
| 87 | 1 | HNL2436LD2 | | $409.03 | $409.03 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Cylinder/Satin | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| 316-Plan Review | | 316-Plan Review | | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | | | |
| | | | Electrical Power Harness 42W 3-1 & 2-2 Systems | $214.00 | $1,712.00 |
| 88 | 8 | HH871242 | | $54.46 | $435.68 |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Base In-Feed Cable Base 3-1 & 2-2 Systems | $227.00 | $454.00 |
| 89 | 2 | HH879072 | | $57.77 | $115.54 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | Duplex Receptacle Circuit 1 3-1 & 2-2 Systems | $43.00 | $215.00 |
| 90 | 5 | HH871501 | | $10.94 | $54.70 |
| | | PAINT: Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Duplex Receptacle Circuit 2 3-1 & 2-2 Systems | $43.00 | $86.00 |
| 91 | 2 | HH871502 | | $10.94 | $21.88 |
| | | PAINT: Muslin | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 72W x 10H Modesty / Back Panel | $285.00 | $285.00 |
| 92 | 1 | HNLMP7210 | | $99.89 | $99.89 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Pinnacle | | | |

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 74.55 | |
| | | | | | |
| | | | 18D Cantilever One Pair | $65.00 | $455.00 |
| 93 | 7 | HCTL182 | | $16.54 | $115.78 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | | | |
| | | | Panel Top Cap 36"W | $56.00 | $448.00 |
| 94 | 8 | HETC36 | | $14.25 | $114.00 |
| | | P1 Paint Opts | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | | | |
| | | | Panel Top Cap 42"W | $59.00 | $413.00 |
| 95 | 7 | HETC42 | | $15.02 | $105.14 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | | | |
| | | | L Connector 35H | $106.00 | $424.00 |
| 96 | 4 | HEC35PL | | $26.98 | $107.92 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | | | |
| | | | Panel Finished End Covers 35H | $49.00 | $441.00 |
| 97 | 9 | HEFEC35P | | $12.47 | $112.23 |
| | | | P1 Paint Opts | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | T Connector 35H | $106.00 | $530.00 |
| 98 | 5 | HEC35PT | | $26.98 | $134.90 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Panel Top Cap 24"W | $36.00 | $36.00 |
| 99 | 1 | HETC24 | | $9.16 | $9.16 |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
|  | | | Florida State Contract Discount | 74.55 | |
| | | | Accelerate Base cover 3 knockout 42"W | $74.00 | $666.00 |
| 100 | 9 | HEBPLATE342 | | $18.83 | $169.47 |
| | | Select P1 Paint | | | |
| | | Muslin | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4W x 18H Ped Low Back Panel | $127.00 | $254.00 |
| 101 | 2 | HNLLB1618 | | $44.51 | $89.02 |
| | | Grd L1 Standard Laminates | | | |
| | | LAM: Pinnacle | | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Flagship Series Pedestal "A" Pull Mobile B/B/F 23D | $730.00 | $5,110.00 |
| 102 | 7 | H18723A | | $185.79 | $1,300.53 |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Standard Random Key Lock | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Systems Rectangular Worksurface Edgeband 24D x 42W | $380.00 | $2,660.00 |
| 103 | 7 | HWR2442P | | $96.71 | $676.97 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | EDGE: Pinnacle | | |
| | | | Grommet: Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

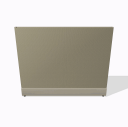
Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | 72W x 24D Rectangle Worksurface | $366.00 | $366.00 |
| 104 | 1 | HNLRC2472 | | $128.28 | $128.28 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Color: Platinum | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Tackable Panel w/o TC 35H x 36W | $320.00 | $2,560.00 |
| 105 | 8 | HETP3536FP | | $81.44 | $651.52 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
|  | | | Tackable Panel w/o TC 35H x 42W | $325.00 | $2,275.00 |
| 106 | 7 | HETP3542FP | | $82.71 | $578.97 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | Tackable Panel w/o TC 35H x 24W | $284.00 | $284.00 |
| 107 | 1 | HETP3524FP | | $72.28 | $72.28 |
| | | | Gr A Fabric | | |
| | | | FABRIC: Sarto | | |
| | | | COLOR: Sesame | | |
| | | | P1 Paint Opts | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Muslin | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | $714.00 | $1,428.00 |
| 108 | 2 | HNL231628PBBF | | $250.26 | $500.52 |
| | | | Cylinder/Satin | | |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $837.00 | $5,859.00 |
| 109 | 7 | HIWM3 | | $293.37 | $2,053.59 |

Arm: Height and Width Adj

CASTER: Hard (Standard)

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

FRAME: Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Base: Standard Base | | |
| 317-Ed | | 317-Ed | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Height Adjustable Base - electric 3 Stage, 2 Leg | $1,120.00 | $1,120.00 |
| 110 | 1 | HHAB3S2L | | $392.56 | $392.56 |
| | | | Nickel | | |
| | | | Florida State Contract Discount | 71.55 | |
| | | | | | |
| | | | 60"W x 14"H Laminate Floating Modesty Panel | $250.00 | $250.00 |
| 111 | 1 | HLSL6014L | | $71.13 | $71.13 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Color: Black | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 72W x 27-7/8H Modesty / Back Panel | $285.00 | $285.00 |
| 112 | 1 | HNLMP7228 | | $99.89 | $99.89 |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 74.55 | |
| | | | 72W x 30D Rectangle Worksurface | $616.00 | $616.00 |
| 113 | 1 | HHAW3072P | | $156.77 | $156.77 |
| | | | Grd L1 Standard Laminates | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Edge: Pinnacle | | |
| | | | Grommet: Platinum | | |
| | | | Florida State Contract Discount | 64.95 | |
|  | | | 72W x 24D Rectangle Worksurface | $366.00 | $366.00 |
| 114 | 1 | HNLRC2472 | | $128.28 | $128.28 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Color: Platinum | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | $714.00 | $1,428.00 |
| 115 | 2 | HNL231628PBBF | | $250.26 | $500.52 |
| | | | Cylinder/Satin | | |
| | | | Color: Black | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | 30x14-1/4x65 Bookcase 5-shelf | $840.00 | $840.00 |
| 116 | 1 | HNL1530BK5 | | $294.42 | $294.42 |

Smooth, Flat

Pinnacle

Grd L1 Standard Laminates

LAM: Pinnacle

Grd L1 Standard Laminates

LAM: Pinnacle

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Guest Chair Four Leg Frame Arms | $459.00 | $459.00 |
| 117 | 1 | HIGCL | | $160.88 | $160.88 |

Glide: Glide

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

Textured Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $837.00 | $837.00 |
| 118 | 1 | HIWM3 | | $293.37 | $293.37 |

Arm: Height and Width Adj

CASTER: Hard (Standard)

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

FRAME: Black

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Base: Standard Base | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 36x24x29-1/2 Lateral File two drawer | $1,167.00 | $1,167.00 |
| 119 | 1 | HNL2436LD2 | | $409.03 | $409.03 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Cylinder/Satin | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| 318-Paul | | 318-Paul | | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | | | |
| | | | Brogan 15 7/8d x 72w x 42h Storage Overhead Cabinet w/Clear Glass Doors | $4,157.00 | $4,157.00 |
| 120 | 1 | BG1572CO | | $1,596.29 | $1,596.29 |
| | | | Cherry Flat Cut Veneer | | |
| | | | Brighton | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 61.60 | |
| | | | Brogan 15d x 36w x 42h Bookcase Overhead | $1,195.00 | $2,390.00 |
| 121 | 2 | BG1536BO | | $458.88 | $917.76 |
| | | | Cherry Flat Cut Veneer | | |
| | | | Brighton | | |
| | | | No Laminate Top Selected | | |
| | | | No Additional Grommets Selected | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Brogan 24d x 48w Executive Bridge | $5,182.00 | $5,182.00 |
| 122 | 1 | BG2448EB | | $1,989.89 | $1,989.89 |
| | | | Cherry Flat Cut Veneer | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Brighton | | |
| | | | No Laminate Top Selected | | |
| | | | Angled Trim Molding (Standard) | | |
| | | | No Additional Grommets Selected | | |
| | | | Ergo Adjustable Worksurface | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Brogan 24d x 36w x 30h Lateral File | $2,401.00 | $4,802.00 |
| 123 | 2 | BG3630LF | | $921.98 | $1,843.96 |
| | | | Cherry Flat Cut Veneer | | |
| | | | Brighton | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | No Laminate Top Selected | | |
| | | | Brogan Pull | | |
| | | | Antique Brass Pull | | |
| | | | Angled Trim Molding (Standard) | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Brogan 24d x 23 5/8w x 72h File/File Storage Wardrobe - Right | $3,664.00 | $3,664.00 |
| 124 | 1 | BG2472SWR | | $1,406.98 | $1,406.98 |
| | | | Cherry Flat Cut Veneer | | |
| | | | Brighton | | |
| | | | Brogan Pull | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Antique Brass Pull | | |
| | | | Angled Trim Molding (Standard) | | |
| | | | File/File (Standard) | | |
| | | | Ergo Adjacent Unit | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Harbor Executive Swivel | $2,512.00 | $2,512.00 |
| 125 | 1 | HB2905 | | $964.61 | $964.61 |
| | | | Brighton | | |
| | | | Grade L2 | | |
| | | | Wollsdorf | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | FOC Earth | | |
| | | | Black | | |
| | | | Wood Base (Standard) | | |
| | | | Plastic Bumper Guards | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Harbor Guest Chair | $1,228.00 | $2,456.00 |
| 126 | 2 | HB2901 | | $471.55 | $943.10 |
| | | | Brighton | | |
| | | | Grade C/COL | | |
| | | | Momentum Fabric | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Free | | |
| | | | Pearl | | |
| | | | Glides (Standard) | | |
| | | | Rubber Cushion Metal Glides (Standard) | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Endorse Task Stool Upholstered Back | $931.00 | $931.00 |
| 127 | 1 | HLTSU | | $326.32 | $326.32 |
| | | | Limited Synchro Tilt | | |
| | | | Arm: Height and Width Adj | | |
| | | | CASTER: Hard (Standard) | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grade 2 Fabric | | |
| | | | Whisper Vinyl | | |
| | | | COLOR: Black | | |
| | | | Base: Standard Plastic Black | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Brogan 24d x 72w Pedestal Credenza - Right | $4,026.00 | $4,026.00 |
| 128 | 1 | BG2472RC | | $1,545.98 | $1,545.98 |
| | | | Cherry Flat Cut Veneer | | |
| | | | Brighton | | |
| | | | No Laminate Top Selected | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Brogan Pull | | |
| | | | Antique Brass Pull | | |
| | | | Angled Trim Molding (Standard) | | |
| | | | File/File (Standard) | | |
| | | | 1 Additional Grommet | | |
| | | | Grommet Center-Top | | |
| | | | Ergo Adjacent Unit | | |
| | | | Florida State Contract Discount | 61.60 | |
| | | | Brogan 36d x 72w Single Pedestal Desk - Left | $7,605.00 | $7,605.00 |
| 129 | 1 | BG3672LD | | $2,920.32 | $2,920.32 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Cherry Flat Cut Veneer | | |
| | | | Brighton | | |
| | | | No Laminate Top Selected | | |
| | | | Brogan Pull | | |
| | | | Antique Brass Pull | | |
| | | | Angled Trim Molding (Standard) | | |
| | | | No Leather Inlay Selected | | |
| | | | Shelf-Tray-Box-File (Standard) | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | No Dictation Slide Selected | | |
| | | | No Additional Grommets Selected | | |
| | | | Ergo Adjustable Worksurface | | |
| 319A-Training | | 319A-Training | | | |
| | | | Florida State Contract Discount | 61.95 | |
| | | | SmartLink Seating 18" 4L Chair 4/carton | $583.00 | $3,498.00 |
| 130 | 6 | HSS4L-18B | | $221.83 | $1,330.98 |
| | | | Nylon | | |
| | | | COLOR: Onyx | | |
| | | | P1 Paint Opts | | |

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Textured Charcoal | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Motivate Presentation Cart Desktop Lectern 2mm edgeband | $343.00 | $343.00 |
| 131 | 1 | HMVPC-DTLG | | $120.22 | $120.22 |
| | | | Grd L1 Standard Laminates | | |
| | | | Bourbon Cherry | | |
| | | | Bourbon | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Motivate Prsntn Cart Standing Ht Adj-Leg 35 Ccave 2mm Top | $1,188.00 | $1,188.00 |
| 132 | 1 | HMVPCA2-1830G | | $416.39 | $416.39 |
| | | | Caster | | |
| | | | Grd L1 Standard Laminates | | |
| | | | Bourbon Cherry | | |
| | | | Bourbon | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Motivate Table Rect 18Dx72W 2mm Edge | $1,244.00 | $8,708.00 |
| 133 | 7 | HMVR-1872G-NS | Nesting Base | $436.02 | $3,052.14 |

No Grommets

Grd L1 Standard Laminates

Bourbon Cherry

Bourbon

Caster

P1 Paint Opts

Muslin

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Motivate Table Rect 18Dx72W 2mm Edge | $1,231.00 | $1,231.00 |
| 134 | 1 | HMVR-1872G-AH | Adj Ht Base | $431.47 | $431.47 |
| | | | No Grommets | | |
| | | | Grd L1 Standard Laminates | | |
| | | | Bourbon Cherry | | |
| | | | Bourbon | | |
| | | | Caster | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| 319B-Training | | 319B-Training | | | |
| | | | Florida State Contract Discount | 61.95 | |
| | | | | | |
| | | | SmartLink Seating 18" 4L Chair 4/carton | $583.00 | $3,498.00 |
| 135 | 6 | HSS4L-18B | | $221.83 | $1,330.98 |
| | | Nylon | | | |
| | | COLOR: Onyx | | | |
| | | P1 Paint Opts | | | |
| | | Textured Charcoal | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Motivate Presentation Cart Desktop Lectern 2mm edgeband | $343.00 | $343.00 |
| 136 | 1 | HMVPC-DTLG | | $120.22 | $120.22 |

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | Bourbon Cherry | | |
| | | | Bourbon | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Motivate Prsntn Cart Standing Ht Adj-Leg 35 Ccave 2mm Top | $1,188.00 | $1,188.00 |
| 137 | 1 | HMVPCA2-1830G | | $416.39 | $416.39 |
| | | | Caster | | |
| | | | Grd L1 Standard Laminates | | |

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Bourbon Cherry | | |
| | | | Bourbon | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Motivate Table Rect 18Dx72W 2mm Edge | $1,244.00 | $8,708.00 |
| 138 | 7 | HMVR-1872G-NS | Nesting Base | $436.02 | $3,052.14 |
| | | | No Grommets | | |
| | | | Grd L1 Standard Laminates | | |
| | | | Bourbon Cherry | | |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Bourbon | | |
| | | | Caster | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Motivate Table Rect 18Dx72W 2mm Edge Adj Ht Base | $1,231.00 | $1,231.00 |
| 139 | 1 | HMVR-1872G-AH | | $431.47 | $431.47 |
| | | | No Grommets | | |
| | | | Grd L1 Standard Laminates | | |
| | | | Bourbon Cherry | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Bourbon | | |
| | | | Caster | | |
| | | | P1 Paint Opts | | |
| | | | Muslin | | |
| 322-SS Conf | | 322-SS Conf | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Preside Laminate Cube base for 48" Tops | $1,001.00 | $1,001.00 |
| 140 | 1 | HTLCUBE48 | | $350.85 | $350.85 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 10500 Series Bookcase 3-shelf<br>36Wx13-1/8Dx43-3/8H | $602.00 | $602.00 |
| 141 | 1 | H105533 | | $211.00 | $211.00 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Preside 48 Soft Square Top | $529.00 | $529.00 |
| 142 | 1 | HTLSFT48 | | $185.41 | $185.41 |
| | | | 2mm Edgeband | | |
| | | | Edge: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | No Grommets | | |
| | | | Gr L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ceres Guest/Multi purpose Four Leg Stacking | $595.00 | $2,380.00 |
| 143 | 4 | HCG6 | | $208.55 | $834.20 |
| | | | Arm: Fixed Arm | | |
| | | | Option: Hard | | |
| | | | Back: Upholstered in-back | | |
| | | | Gr 1 UPH | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Centurion | | |
| | | | COLOR: Black | | |
| | | | Textured Platinum Metallic | | |
| 324-Karen | | 324-Karen | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Park Ave Support Column For Bullet Jetty & Boomerang Pen | $161.00 | $161.00 |
| 144 | 1 | HPC191X | | $56.43 | $56.43 |
| | | | Color: Silver | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | Park Ave 3/4 Lgth Modesty Panel for Pen/Laminate | $215.00 | $215.00 |
| 145 | 1 | HPC180W | | $75.36 | $75.36 |

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 60W x 10H Modesty / Back Panel | $243.00 | $243.00 |
| 146 | 1 | HNLMP6010 | | $85.17 | $85.17 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 15-3/4W x 18H Ped Low Back Panel | $127.00 | $127.00 |
| 147 | 1 | HNLLB1618 | | $44.51 | $44.51 |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 10500 Series Bookcase 5-shelf 36Wx13-1/8Dx71H | $825.00 | $825.00 |
| 148 | 1 | H105535 | | $289.16 | $289.16 |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 60W x 24D Rectangle Worksurface vert grain | $325.00 | $325.00 |
| 149 | 1 | HNLRC2460V | | $113.91 | $113.91 |
| | | | Smooth, Flat | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Pinnacle | | |
| | | | Color: Platinum | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
|  | | | 72W x 24D Rectangle Worksurface | $366.00 | $366.00 |
| 150 | 1 | HNLRC2472 | | $128.28 | $128.28 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Color: Platinum | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | $714.00 | $714.00 |
| 151 | 1 | HNL231628PBBF | | $250.26 | $250.26 |
| | | | Cylinder/Satin | | |
| | | | No Grommet | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 36Wx23-1/8Dx28-1/2H Shelf/Box/Box/Lat File Ped | $1,245.00 | $1,245.00 |
| 152 | 1 | HNL233628PSL | | $436.37 | $436.37 |
| | | | Cylinder/Satin | | |
| | | | No Grommet | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | 36Wx23-1/8Dx28-1/2H Lateral File | $1,056.00 | $1,056.00 |
| 153 | 1 | HNL233628PLF | Pedestal | $370.13 | $370.13 |

Cylinder/Satin

No Grommet

Grd L1 Standard Laminates

LAM: Pinnacle

Grd L1 Standard Laminates

LAM: Pinnacle

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Guest/Multi-Purpose Chair | $466.00 | $466.00 |
| 154 | 1 | HIGS6 | Four-Leg Stacking | $163.33 | $163.33 |

Arm: Fixed

Glide

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

Frame: Textured Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 72x30/48x29-1/2 Jetty Peninsula Rt w/end panel | $1,079.00 | $1,079.00 |
| 155 | 1 | HNL4872JREP | | $378.19 | $378.19 |

Smooth, Flat

Pinnacle

Color: Platinum

Grd L1 Standard Laminates

LAM: Pinnacle

Grd L1 Standard Laminates

LAM: Pinnacle

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | $837.00 | $837.00 |
| 156 | 1 | HIWM3 | | $293.37 | $293.37 |

Arm: Height and Width Adj

CASTER: Hard (Standard)

Back: Upholstered

Gr 1 UPH

Centurion

COLOR: Black

FRAME: Black

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Base: Standard Base | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | 36x24x59-1/2 Lateral File four drawer | $2,125.00 | $2,125.00 |
| 157 | 1 | HNL2436LD4 | | $744.81 | $744.81 |
| | | | Smooth, Flat | | |
| | | | Pinnacle | | |
| | | | Cylinder/Satin | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | LAM: Pinnacle | | |
| | | | Grd L1 Standard Laminates | | |
| | | | LAM: Pinnacle | | |
| 326-Breakroom | | 326-Breakroom | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Seated height X-base for support of 42" tops | $437.00 | $437.00 |
| 158 | 1 | HBTTX30L | | $153.17 | $153.17 |
| | | | P1 Paint Opts | | |
| | | | Textured Titanium | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | 42" Round Top | $421.00 | $421.00 |
| 159 | 1 | HBTTRND42 | | $147.56 | $147.56 |
| | | No Grommets | | | |
| | | Grd L2 Standard Laminates | | | |
| | | LAM: Natural Recon | | | |
| | | EDGE: Natural Recon | | | |
| | | | Florida State Contract Discount | 64.95 | |
| | | | | | |
| | | | Motivate 4-Leg Stack Chair-Set/2 | $548.00 | $1,096.00 |
| 160 | 2 | HMG1 | | $192.07 | $384.14 |
| | | Arm: No Arm | | | |

City of Ft. Pierce

100 N US1

Ft. Pierce

City of Ft. Pierce
100 N US1

Ft. Pierce

Quote Number

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|
| | | | Standard Nylon Glide | | |
| | | | COLOR: Calypso | | |
| | | | Textured Titanium | | |
| | | | Florida State Contract Discount | | |
| | | | 322-Table Ballast | $20.00 | $20.00 |
| | | | | $20.00 | $20.00 |
| | | | Florida State Contract Discount | | |
| | | | 311-Table Ballast | $40.00 | $40.00 |
| | | | | $40.00 | $40.00 |
| | | | Florida State Contract Discount | | |
| | | | Installation-Furniture | $6,006.00 | $6,006.00 |
| | | | | $6,006.00 | $6,006.00 |
| | | | | **Total List:** | $212,923.80 |
| | | | | **Total Sell:** | $75,038.26 |

City of Ft. Pierce

100 N US1

Ft. Pierce

Quote Number

City of Ft. Pierce
100 N US1

Ft. Pierce

David T. Tillman

Contract Number

| Line # | Qty | Part Number | Part Description | List/Sell Price | Extended |
|---|---|---|---|---|---|

**FL State Contract Sales are factory direct sales and therefore Final - No Returns are allowed unless authorized by the factory**

Please make sure to include our quote number on your PO

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | ✓ | | | | | HON | HTL | H80170 | Ocassional Cylinder Table 20"Dia X 20"H | TABLE | 305-Lobby | 305-Lobby | 2 | $ 641.00 | $ 224.67 | $ 1,282.00 | $ 449.34 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .MOCH | LAM: Mocha | | | | | | | | | |
| 2 | | | | | | | 925 | 925 | 1210-GT-A00-AP | Shuttle - Four Leg Guest Chair, Armless, All Plastic Back and Seat | SEATING | 305-Lobby | 305-Lobby | 9 | $ 317.20 | $ 147.00 | $ 2,854.80 | $ 1,323.00 | 53.657 |
| | | | | | | | | | P01 | P01 Black Swan | | | | | | | | | |
| | | | | | | | | | BF | Black Frame | | | | | | | | | |
| | | | | | | | | | ~ | Standard Poly Dome Glides | | | | | | | | | |
| | | | | | | | | | GC1 | GC1 Ganging Clips Armless-to-Arm... | | | | | | | | | |
| | | | | | | | | | ~ | No Cal TB 133 (standard upholstery) | | | | | | | | | |
| | | | | | | | | | ~ | No Book Rack | | | | | | | | | |
| 3 | | ✓ | | | | | HON | HTL | HHAB3S2L | Height Adjustable Base - electric 3 Stage, 2 Leg | FREESTANDING CASEGOODS | 309-Permitting | 309-Permitting | 1 | $ 1,120.00 | $ 392.56 | $ 1,120.00 | $ 392.56 | 64.950 |
| | | | | | | | | | .P8L | Nickel | | | | | | | | | |
| 4 | | ✓ | | | | | HON | HCL | HSCKTPS | Straight Connector Kit | PANEL | 309-Permitting | 309-Permitting | 3 | $ 19.00 | $ 4.84 | $ 57.00 | $ 14.52 | 74.550 |
| | | | | | | | | | .X | No Option | | | | | | | | | |
| 5 | | ✓ | | | | | HON | HCL | HWSB2 | Worksurface Bracket Kit | WORKSURFACE SUPPORT | 309-Permitting | 309-Permitting | 5 | $ 46.00 | $ 11.71 | $ 230.00 | $ 58.55 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 6 | | ✓ | | | | | HON | HCL | HETC30 | Panel Top Cap 30"W | PANEL | 309-Permitting | 309-Permitting | 2 | $ 44.00 | $ 11.20 | $ 88.00 | $ 22.40 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 7 | | ✓ | | | | | HON | HCL | HEC35PL | L Connector 35H | PANEL CONNECTOR | 309-Permitting | 309-Permitting | 2 | $ 106.00 | $ 26.98 | $ 212.00 | $ 53.96 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 8 | | ✓ | | | | | HON | HCL | HEFEC35P | Panel Finished End Covers 35H | PANEL | 309-Permitting | 309-Permitting | 3 | $ 49.00 | $ 12.47 | $ 147.00 | $ 37.41 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 9 | | ✓ | | | | | HON | HCL | HEC35PT | T Connector 35H | PANEL CONNECTOR | 309-Permitting | 309-Permitting | 1 | $ 106.00 | $ 26.98 | $ 106.00 | $ 26.98 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 10 | | ✓ | | | | | HON | HVO | HLSL6014L | 60"W x 14"H Laminate Floating Modesty Panel | WORKSURFACE SUPPORT | 309-Permitting | 309-Permitting | 1 | $ 250.00 | $ 71.13 | $ 250.00 | $ 71.13 | 71.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 11 | | ✓ | | | | | HON | HCG | HNLMP7228 | 72W x 27-7/8H Modesty / Back Panel | WORKSURFACE SUPPORT | 309-Permitting | 309-Permitting | 1 | $ 285.00 | $ 99.89 | $ 285.00 | $ 99.89 | 64.950 |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 12 | | ✓ | | | | | HON | HCL | HEFG1524 | Frameless Glass 15H x 24W | PANEL | 309-Permitting | 309-Permitting | 2 | $ 450.00 | $ 114.53 | $ 900.00 | $ 229.06 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| | | | | | | | | | .R | Glass: Frosted | | | | | | | | | |
| 13 | | ✓ | | | |  | HON | HCL | HEFG1566 | Frameless Glass 15H x 66W | PANEL | 309-Permitting | 309-Permitting | 2 | $ 855.00 | $ 217.60 | $ 1,710.00 | $ 435.20 | 74.550 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| | | | | | | | | | .R | Glass: Frosted | | | | | | | | | |
| 14 | | ✓ | | | | | HON | HSF | H19723A | Flagship Pedestal "A" Pull Freestanding B/B/F | PEDESTALS | 309-Permitting | 309-Permitting | 2 | $ 719.00 | $ 182.99 | $ 1,438.00 | $ 365.98 | 74.550 |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 15 | | ✓ | | | | | HON | HSF | HSC1842 | Storage Cabinet 18D x 36W x 42H | STORAGE | 309-Permitting | 309-Permitting | 1 | $ 840.00 | $ 238.98 | $ 840.00 | $ 238.98 | 71.550 |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 16 | | ✓ | | | |  | HON | HCL | HWR2466P | Systems Rectangular Worksurface Edgeband 24D x 66W | WORKSURFACE | 309-Permitting | 309-Permitting | 2 | $ 512.00 | $ 130.30 | $ 1,024.00 | $ 260.60 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | EDGE: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Grommet: Platinum | | | | | | | | | |
| 17 | | ✓ | | | |  | HON | HTL | HHAW3072P | 72W x 30D Rectangle Worksurface | FREESTANDING CASEGOODS | 309-Permitting | 309-Permitting | 1 | $ 616.00 | $ 156.77 | $ 616.00 | $ 156.77 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | Edge: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Grommet: Platinum | | | | | | | | | |
| 18 | | ✓ | | | | | HON | HCL | HETP3524FP | Tackable Panel w/o TC 35H x 24W | PANEL | 309-Permitting | 309-Permitting | 2 | $ 284.00 | $ 72.28 | $ 568.00 | $ 144.56 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 19 | | ✓ | | | | | HON | HCL | HETP3530FP | Tackable Panel w/o TC 35H x 30W | PANEL | 309-Permitting | 309-Permitting | 4 | $ 298.00 | $ 75.84 | $ 1,192.00 | $ 303.36 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 20 | | ✓ | | | | | HON | HCL | HETP3536FP | Tackable Panel w/o TC 35H x 36W | PANEL | 309-Permitting | 309-Permitting | 2 | $ 320.00 | $ 81.44 | $ 640.00 | $ 162.88 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 21 | | ✓ | | | |  | HON | HCG | HNLRC2472 | 72W x 24D Rectangle Worksurface | WORKSURFACE | 309-Permitting | 309-Permitting | 1 | $ 366.00 | $ 128.28 | $ 366.00 | $ 128.28 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 22 | | ✓ | | | | | HON | HCG | HNL231628PBBF | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | PEDESTALS | 309-Permitting | 309-Permitting | 2 | $ 714.00 | $ 250.26 | $ 1,428.00 | $ 500.52 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 23 | | ✓ | | | | | HON | HCG | HNL1530BK5 | 30x14-1/4x65 Bookcase 5-shelf | STORAGE | 309-Permitting | 309-Permitting | 1 | $ 840.00 | $ 294.42 | $ 840.00 | $ 294.42 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 24 | | ✓ | | | | | HON | HSN | HIGCL | Ignition Guest Chair Four Leg Frame Arms | SEATING | 309-Permitting | 309-Permitting | 1 | $ 459.00 | $ 160.88 | $ 459.00 | $ 160.88 | 64.950 |
| | | | | | | | | | .E | Glide: Glide | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .BLCK | Textured Black | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 25 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 309-Permitting | 309-Permitting | 3 | $ 837.00 | $ 293.37 | $ 2,511.00 | $ 880.11 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 26 | | ✓ | | | | | HON | HCG | HNL2436LD2 | 36x24x29-1/2 Lateral File two drawer | FILE CABINETS | 309-Permitting | 309-Permitting | 1 | $ 1,167.00 | $ 409.03 | $ 1,167.00 | $ 409.03 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 27 | | ✓ | | | | | HON | HSF | HSCF226018LBFOM | Contain 22Hx60Wx18D LH Open/Box/File Footed MtlFrnts | | 309-Permitting | 309-Permitting | 1 | $ 1,889.00 | $ 537.42 | $ 1,889.00 | $ 537.42 | 71.550 |
| | | | | | | | | | .SF | Contain Foot | | | | | | | | | |
| | | | | | | | | | T1 | Platinum Metallic | | | | | | | | | |
| | | | | | | | | | .A | Arch | | | | | | | | | |
| | | | | | | | | | PR0 | Anodized Silver | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .NA | Match Case | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| 28 | | ✓ | | | | | HON | HSF | HSCF226018RBFOM | Contain 22Hx60Wx18D Box/File/RH Open Footed MtlFrnts | | 309-Permitting | 309-Permitting | 1 | $ 1,889.00 | $ 537.42 | $ 1,889.00 | $ 537.42 | 71.550 |
| | | | | | | | | | .SF | Contain Foot | | | | | | | | | |
| | | | | | | | | | T1 | Platinum Metallic | | | | | | | | | |
| | | | | | | | | | .A | Arch | | | | | | | | | |
| | | | | | | | | | PR0 | Anodized Silver | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .NA | Match Case | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| 29 | | ✓ | | | | | HON | HCL | HH879072 | Base In-Feed Cable Base 3-1 & 2-2 Systems | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 1 | $ 227.00 | $ 57.77 | $ 227.00 | $ 57.77 | 74.550 |
| 30 | | ✓ | | | | | HON | HCL | HH871224 | Electrical Power Harness 24W 3-1 & 2-2 Systems | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 4 | $ 204.00 | $ 51.92 | $ 816.00 | $ 207.68 | 74.550 |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31 | | ✓ | | | |  | HON | HCL | HH871130 | Electrical Pass-Thru Cable 30W 3-1 & 2-2 Systems | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 2 | $ 128.00 | $ 32.58 | $ 256.00 | $ 65.16 | 74.550 |
| 32 | | ✓ | | | |  | HON | HCL | HH871230 | Electrical Power Harness 30W 3-1 & 2-2 Systems | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 2 | $ 204.00 | $ 51.92 | $ 408.00 | $ 103.84 | 74.550 |
| 33 | | ✓ | | | |  | HON | HCL | HH871148 | Electrical Pass-Thru Cable 48W 3-1 & 2-2 Systems | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 2 | $ 134.00 | $ 34.10 | $ 268.00 | $ 68.20 | 74.550 |
| 34 | | ✓ | | | | | HON | HCL | HSCKTPS<br>.X | Straight Connector Kit<br>No Option | PANEL | 310-Plan Techs | 310-Plan Techs | 9 | $ 19.00 | $ 4.84 | $ 171.00 | $ 43.56 | 74.550 |
| 35 | | ✓ | | | | | HON | HCL | HH871501<br>.T3 | Duplex Receptacle Circuit 1 3-1 & 2-2 Systems<br>PAINT: Muslin | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 4 | $ 43.00 | $ 10.94 | $ 172.00 | $ 43.76 | 74.550 |
| 36 | | ✓ | | | | | HON | HCL | HH871502<br>.T3 | Duplex Receptacle Circuit 2 3-1 & 2-2 Systems<br>PAINT: Muslin | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 4 | $ 43.00 | $ 10.94 | $ 172.00 | $ 43.76 | 74.550 |
| 37 | | ✓ | | | | | HON | HCL | HH871503<br>.T3 | Duplex Receptacle Circuit 3 3-1 System Only<br>PAINT: Muslin | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 4 | $ 43.00 | $ 10.94 | $ 172.00 | $ 43.76 | 74.550 |
| 38 | | ✓ | | | | | HON | HCL | HH871504<br>.T3 | Duplex Receptacle Circuit 4 3-1 & 2-2 Systems<br>PAINT: Muslin | ELECTRICAL - POWER | 310-Plan Techs | 310-Plan Techs | 4 | $ 43.00 | $ 10.94 | $ 172.00 | $ 43.76 | 74.550 |
| 39 | | ✓ | | | | | HON | HCL | HCTL242<br>$(P1)<br>.T3 | 24D Cantilever One Pair<br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 4 | $ 84.00 | $ 21.38 | $ 336.00 | $ 85.52 | 74.550 |
| 40 | | ✓ | | | | | HON | HCL | HCTL182<br>$(P1)<br>.T3 | 18D Cantilever One Pair<br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 4 | $ 65.00 | $ 16.54 | $ 260.00 | $ 66.16 | 74.550 |
| 41 | | ✓ | | | | | HON | HCL | HCTL181L<br>$(P1)<br>.T3 | Left-hand Cantilever 18"D<br>Select P1 Paint<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 4 | $ 35.00 | $ 8.91 | $ 140.00 | $ 35.64 | 74.550 |
| 42 | | ✓ | | | | | HON | HCL | HSDDPA29R<br>$(P1)<br>.T3 | 29.5"H Desk-to-Panel Attchmnt Kits for Abode<br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 2 | $ 97.00 | $ 24.69 | $ 194.00 | $ 49.38 | 74.550 |
| 43 | | ✓ | | | | | HON | HCL | HSDDPA29L<br>$(P1)<br>.T3 | 29.5"H Desk-to-Panel Attchmnt Kits for Abode<br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 2 | $ 97.00 | $ 24.69 | $ 194.00 | $ 49.38 | 74.550 |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 44 | | ✓ | | | |  | HON | HCL | HSDEP3029F<br><br><br>$(P1)<br>.T3 | 30"D End-Panel Supports: Freestanding<br><br><br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 2 | $ 216.00 | $ 54.97 | $ 432.00 | $ 109.94 | 74.550 |
| 45 | | ✓ | | | |  | HON | HCL | HSDEP3029F<br><br><br>$(P1)<br>.T3 | 30"D End-Panel Supports: Freestanding<br><br><br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 2 | $ 216.00 | $ 54.97 | $ 432.00 | $ 109.94 | 74.550 |
| 46 | | ✓ | | | | | HON | HCL | HSDMP664<br><br><br>$(P1)<br>.T3 | Half Hgt 14Hx66W Mod Pnl<br><br><br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 310-Plan Techs | 310-Plan Techs | 4 | $ 194.00 | $ 49.37 | $ 776.00 | $ 197.48 | 74.550 |
| 47 | | ✓ | | | |  | HON | HCL | HETC30<br><br><br>$(P1)<br>.T3 | Panel Top Cap 30"W<br><br><br>P1 Paint Opts<br>Muslin | PANEL | 310-Plan Techs | 310-Plan Techs | 12 | $ 44.00 | $ 11.20 | $ 528.00 | $ 134.40 | 74.550 |
| 48 | | ✓ | | | |  | HON | HCL | HETC36<br><br><br>$(P1)<br>.T3 | Panel Top Cap 36"W<br><br><br>P1 Paint Opts<br>Muslin | PANEL | 310-Plan Techs | 310-Plan Techs | 4 | $ 56.00 | $ 14.25 | $ 224.00 | $ 57.00 | 74.550 |
| 49 | | ✓ | | | |  | HON | HCL | HETC48<br><br><br>$(P1)<br>.T3 | Panel Top Cap 48"W<br><br><br>P1 Paint Opts<br>Muslin | PANEL | 310-Plan Techs | 310-Plan Techs | 2 | $ 66.00 | $ 16.80 | $ 132.00 | $ 33.60 | 74.550 |
| 50 | | ✓ | | | | | HON | HCL | HEC50PL<br><br><br>$(P1)<br>.T3 | L Connector 50H<br><br><br>P1 Paint Opts<br>Muslin | PANEL | 310-Plan Techs | 310-Plan Techs | 4 | $ 141.00 | $ 35.88 | $ 564.00 | $ 143.52 | 74.550 |
| 51 | | ✓ | | | | | HON | HCL | HEC50PT<br><br><br>$(P1)<br>.T3 | T Connector 50H<br><br><br>P1 Paint Opts<br>Muslin | PANEL | 310-Plan Techs | 310-Plan Techs | 2 | $ 141.00 | $ 35.88 | $ 282.00 | $ 71.76 | 74.550 |
| 52 | | ✓ | | | | | HON | HCL | HEFEC50P<br><br><br>$(P1)<br>.T3 | Panel Finished End Covers 50H<br><br><br>P1 Paint Opts<br>Muslin | PANEL | 310-Plan Techs | 310-Plan Techs | 4 | $ 56.00 | $ 14.25 | $ 224.00 | $ 57.00 | 74.550 |
| 53 | | ✓ | | | |  | HON | HCL | HEBPLATE336<br><br><br>$(P1)<br>.T3 | Accelerate Base cover 3 knockout 36"W<br><br><br>Select P1 Paint<br>Muslin | PANEL COMPONENTS | 310-Plan Techs | 310-Plan Techs | 5 | $ 72.00 | $ 18.32 | $ 360.00 | $ 91.60 | 74.550 |
| 54 | | ✓ | | | |  | HON | HCL | HWR3066PN<br><br><br>$(L1STD)<br>.PINC<br>.PINC | Systems Rectangular Wksfc Edgeband 30D x 66W No Grom<br><br><br>Grd L1 Standard Laminates<br>LAM: Pinnacle<br>EDGE: Pinnacle | WORKSURFACE | 310-Plan Techs | 310-Plan Techs | 4 | $ 555.00 | $ 141.25 | $ 2,220.00 | $ 565.00 | 74.550 |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 55 | | ✓ | | | | | HON | HSF | H19730R | Flagship Pedestal "R" Pull Freestanding B/B/F | PEDESTALS | 310-Plan Techs | 310-Plan Techs | 4 | $ 773.00 | $ 196.73 | $ 3,092.00 | $ 786.92 | 74.550 |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 56 | | ✓ | | | | | HON | HSF | H19823R | Flagship Series Pedestal "R" Pull Freestanding F/F | PEDESTALS | 310-Plan Techs | 310-Plan Techs | 4 | $ 712.00 | $ 181.20 | $ 2,848.00 | $ 724.80 | 74.550 |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 57 | | ✓ | | | |  | HON | HCL | HWR3066P | Systems Rectangular Worksurface Edgeband 30D x 66W | WORKSURFACE | 310-Plan Techs | 310-Plan Techs | 4 | $ 555.00 | $ 141.25 | $ 2,220.00 | $ 565.00 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | EDGE: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T3 | Grommet: Muslin | | | | | | | | | |
| 58 | | ✓ | | | |  | HON | HCL | HWR2448P | Systems Rectangular Worksurface Edgeband 24D x 48W | WORKSURFACE | 310-Plan Techs | 310-Plan Techs | 4 | $ 404.00 | $ 102.82 | $ 1,616.00 | $ 411.28 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | EDGE: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T3 | Grommet: Muslin | | | | | | | | | |
| 59 | | ✓ | | | | | HON | HCL | HETP5030FP | Tackable Panel w/o TC 50H x 30W | PANEL | 310-Plan Techs | 310-Plan Techs | 12 | $ 356.00 | $ 90.60 | $ 4,272.00 | $ 1,087.20 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 60 | | ✓ | | | | | HON | HCL | HETP5036FP | Tackable Panel w/o TC 50H x 36W | PANEL | 310-Plan Techs | 310-Plan Techs | 4 | $ 366.00 | $ 93.15 | $ 1,464.00 | $ 372.60 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 61 | | ✓ | | | | | HON | HCL | HETP5048FP | Tackable Panel w/o TC 50H x 48W | PANEL | 310-Plan Techs | 310-Plan Techs | 2 | $ 434.00 | $ 110.45 | $ 868.00 | $ 220.90 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 62 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 310-Plan Techs | 310 Plan-Techs | 4 | $ 837.00 | $ 293.37 | $ 3,348.00 | $ 1,173.48 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 63 | | ✓ | | | | | HON | HTL | HTPWRGROM2 | Preside Flip Top Port-Ellora | | 311-Conference | 311-Conference | 2 | $ 579.00 | $ 202.94 | $ 1,158.00 | $ 405.88 | 64.950 |
| 64 | | ✓ | | | | | HON | HTL | HTLCUBE168 | Preside Laminate Cube Base For 168" W Table Tops | TABLE | 311-Conference | 311-Conference | 1 | $ 2,406.00 | $ 843.30 | $ 2,406.00 | $ 843.30 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .MOCH | LAM: Mocha | | | | | | | | | |
| 65 | | ✓ | | | | | HON | HTL | HTLC54168 | Preside 168W x 54D Rectangular Shaped Laminate Top | TABLE | 311-Conference | 311-Conference | 1 | $ 1,983.00 | $ 695.04 | $ 1,983.00 | $ 695.04 | 64.950 |
| | | | | | | | | | .G | 2MM/Flat | | | | | | | | | |
| | | | | | | | | | MOCH | Edge: Mocha | | | | | | | | | |
| | | | | | | | | | .G2 | Cut out for Flip Top Port | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .MOCH | LAM: Mocha | | | | | | | | | |
| 66 | | ✓ | | | | | HON | HSN | HME3 | Merit Leather Executive Conference Chair | | 311-Conference | 311-Conference | 12 | $ 950.00 | $ 370.98 | $ 11,400.00 | $ 4,451.76 | 60.950 |
| | | | | | | | | | .W5 | Weight Activated | | | | | | | | | |
| | | | | | | | | | .P | Arm: Fixed Polished Aluminum | | | | | | | | | |
| | | | | | | | | | .H | Hard Caster | | | | | | | | | |
| | | | | | | | | | .LR58 | Leather: Black | | | | | | | | | |
| | | | | | | | | | .PA | Base: Polished Aluminum | | | | | | | | | |
| 67 | | ✓ | | | | | HON | HSN | HIGCL | Ignition Guest Chair Four Leg Frame Arms | SEATING | 313-CRS | 313-CRS | 2 | $ 459.00 | $ 160.88 | $ 918.00 | $ 321.76 | 64.950 |
| | | | | | | | | | .E | Glide: Glide | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .BLCK | Textured Black | | | | | | | | | |
| 68 | | ✓ | | | | | HON | HTL | HHAB3S2L | Height Adjustable Base - electric 3 Stage, 2 Leg | FREESTANDING CASEGOODS | 314-Shaun | 314-Shaun | 1 | $ 1,120.00 | $ 392.56 | $ 1,120.00 | $ 392.56 | 64.950 |
| | | | | | | | | | .P8L | Nickel | | | | | | | | | |
| 69 | | ✓ | | | | | HON | HVO | HLSL6014L | 60"W x 14"H Laminate Floating Modesty Panel | WORKSURFACE SUPPORT | 314-Shaun | 314-Shaun | 1 | $ 250.00 | $ 71.13 | $ 250.00 | $ 71.13 | 71.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 70 | | ✓ | | | | | HON | HCG | HNLMP7228 | 72W x 27-7/8H Modesty / Back Panel | WORKSURFACE SUPPORT | 314-Shaun | 314-Shaun | 1 | $ 285.00 | $ 99.89 | $ 285.00 | $ 99.89 | 64.950 |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 71 | | ✓ | | | |  | HON | HTL | HHAW3072P | 72W x 30D Rectangle Worksurface | FREESTANDING CASEGOODS | 314-Shaun | 314-Shaun | 1 | $ 616.00 | $ 156.77 | $ 616.00 | $ 156.77 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | Edge: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Grommet: Platinum | | | | | | | | | |
| 72 | | ✓ | | | |  | HON | HCG | HNLRC2472 | 72W x 24D Rectangle Worksurface | WORKSURFACE | 314-Shaun | 314-Shaun | 1 | $ 366.00 | $ 128.28 | $ 366.00 | $ 128.28 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 73 | | ✓ | | | | | HON | HCG | HNL231628PBBF | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | PEDESTALS | 314-Shaun | 314-Shaun | 2 | $ 714.00 | $ 250.26 | $ 1,428.00 | $ 500.52 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 74 | | ✓ | | | | | HON | HCG | HNL1530BK5 | 30x14-1/4x65 Bookcase 5-shelf | STORAGE | 314-Shaun | 314-Shaun | 1 | $ 840.00 | $ 294.42 | $ 840.00 | $ 294.42 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 75 | | ✓ | | | | | HON | HSN | HIGCL | Ignition Guest Chair Four Leg Frame Arms | SEATING | 314-Shaun | 314-Shaun | 1 | $ 459.00 | $ 160.88 | $ 459.00 | $ 160.88 | 64.950 |
| | | | | | | | | | .E | Glide: Glide | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .BLCK | Textured Black | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 76 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 314-Shaun | 314-Shaun | 1 | $ 837.00 | $ 293.37 | $ 837.00 | $ 293.37 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | ~ | Undecided BACK Option | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 77 | | ✓ | | | | | HON | HCG | HNL2436LD2 | 36x24x29-1/2 Lateral File two drawer | FILE CABINETS | 314-Shaun | 314-Shaun | 1 | $ 1,167.00 | $ 409.03 | $ 1,167.00 | $ 409.03 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 78 | | ✓ | | | | | HON | HTL | HHAB3S2L | Height Adjustable Base - electric 3 Stage, 2 Leg | FREESTANDING CASEGOODS | 315-Kristie | 315-Kristie | 1 | $ 1,120.00 | $ 392.56 | $ 1,120.00 | $ 392.56 | 64.950 |
| | | | | | | | | | .P8L | Nickel | | | | | | | | | |
| 79 | | ✓ | | | |  | HON | HVO | HLSL6014L | 60"W x 14"H Laminate Floating Modesty Panel | WORKSURFACE SUPPORT | 315-Kristie | 315-Kristie | 1 | $ 250.00 | $ 71.13 | $ 250.00 | $ 71.13 | 71.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| 80 | | ✓ | | | | | HON | HCG | HNLMP7228 | 72W x 27-7/8H Modesty / Back Panel | WORKSURFACE SUPPORT | 315-Kristie | 315-Kristie | 1 | $ 285.00 | $ 99.89 | $ 285.00 | $ 99.89 | 64.950 |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 81 | | ✓ | | | |  | HON | HTL | HHAW3072P | 72W x 30D Rectangle Worksurface | FREESTANDING CASEGOODS | 315-Kristie | 315-Kristie | 1 | $ 616.00 | $ 156.77 | $ 616.00 | $ 156.77 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | Edge: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Grommet: Platinum | | | | | | | | | |
| 82 | | ✓ | | | |  | HON | HCG | HNLRC2472 | 72W x 24D Rectangle Worksurface | WORKSURFACE | 315-Kristie | 315-Kristie | 1 | $ 366.00 | $ 128.28 | $ 366.00 | $ 128.28 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 83 | | ✓ | | | | | HON | HCG | HNL231628PBBF | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | PEDESTALS | 315-Kristie | 315-Kristie | 2 | $ 714.00 | $ 250.26 | $ 1,428.00 | $ 500.52 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 84 | | ✓ | | | | | HON | HCG | HNL1530BK5 | 30x14-1/4x65 Bookcase 5-shelf | STORAGE | 315-Kristie | 315-Kristie | 1 | $ 840.00 | $ 294.42 | $ 840.00 | $ 294.42 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 85 | | ✓ | | | | | HON | HSN | HIGCL | Ignition Guest Chair Four Leg Frame Arms | SEATING | 315-Kristie | 315-Kristie | 1 | $ 459.00 | $ 160.88 | $ 459.00 | $ 160.88 | 64.950 |
| | | | | | | | | | .E | Glide: Glide | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .BLCK | Textured Black | | | | | | | | | |
| 86 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 315-Kristie | 315-Kristie | 1 | $ 885.00 | $ 310.19 | $ 885.00 | $ 310.19 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(2) | GRADE: II UPHOLSTERY | | | | | | | | | |
| | | | | | | | | | .WP | Whisper Vinyl | | | | | | | | | |
| | | | | | | | | | 40 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 87 | | ✓ | | | | | HON | HCG | HNL2436LD2 | 36x24x29-1/2 Lateral File two drawer | FILE CABINETS | 315-Kristie | 315-Kristie | 1 | $ 1,167.00 | $ 409.03 | $ 1,167.00 | $ 409.03 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 88 | | ✓ | | | |  | HON | HCL | HH871242 | Electrical Power Harness 42W 3-1 & 2-2 Systems | ELECTRICAL - POWER | 316-Plan Review | 316-Plan Review | 8 | $ 214.00 | $ 54.46 | $ 1,712.00 | $ 435.68 | 74.550 |
| 89 | | ✓ | | | | | HON | HCL | HH879072 | Base In-Feed Cable Base 3-1 & 2-2 Systems | ELECTRICAL - POWER | 316-Plan Review | 316-Plan Review | 2 | $ 227.00 | $ 57.77 | $ 454.00 | $ 115.54 | 74.550 |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 90 | | ✓ | | | | | HON | HCL | HH871501<br><br>.T3 | Duplex Receptacle Circuit 1 3-1 & 2-2 Systems<br><br>PAINT: Muslin | ELECTRICAL - POWER | 316-Plan Review | 316-Plan Review | 5 | $ 43.00 | $ 10.94 | $ 215.00 | $ 54.70 | 74.550 |
| 91 | | ✓ | | | | | HON | HCL | HH871502<br><br>.T3 | Duplex Receptacle Circuit 2 3-1 & 2-2 Systems<br><br>PAINT: Muslin | ELECTRICAL - POWER | 316-Plan Review | 316-Plan Review | 2 | $ 43.00 | $ 10.94 | $ 86.00 | $ 21.88 | 74.550 |
| 92 | | ✓ | | | | | HON | HCG | HNLMP7210<br><br>$(L1STD)<br>.PINC | 72W x 10H Modesty / Back Panel<br><br>Grd L1 Standard Laminates<br>LAM: Pinnacle | WORKSURFACE SUPPORT | 316-Plan Review | 316-Plan Review | 1 | $ 285.00 | $ 99.89 | $ 285.00 | $ 99.89 | 64.950 |
| 93 | | ✓ | | | | | HON | HCL | HCTL182<br><br>$(P1)<br>.T3 | 18D Cantilever One Pair<br><br>P1 Paint Opts<br>Muslin | WORKSURFACE SUPPORT | 316-Plan Review | 316-Plan Review | 7 | $ 65.00 | $ 16.54 | $ 455.00 | $ 115.78 | 74.550 |
| 94 | | ✓ | | | | | HON | HCL | HETC36<br><br>$(P1)<br>.T3 | Panel Top Cap 36"W<br><br>P1 Paint Opts<br>Muslin | PANEL | 316-Plan Review | 316-Plan Review | 8 | $ 56.00 | $ 14.25 | $ 448.00 | $ 114.00 | 74.550 |
| 95 | | ✓ | | | | | HON | HCL | HETC42<br><br>$(P1)<br>.T3 | Panel Top Cap 42"W<br><br>P1 Paint Opts<br>Muslin | PANEL | 316-Plan Review | 316-Plan Review | 7 | $ 59.00 | $ 15.02 | $ 413.00 | $ 105.14 | 74.550 |
| 96 | | ✓ | | | | | HON | HCL | HEC35PL<br><br>$(P1)<br>.T3 | L Connector 35H<br><br>P1 Paint Opts<br>Muslin | PANEL CONNECTOR | 316-Plan Review | 316-Plan Review | 4 | $ 106.00 | $ 26.98 | $ 424.00 | $ 107.92 | 74.550 |
| 97 | | ✓ | | | | | HON | HCL | HEFEC35P<br><br>$(P1)<br>.T3 | Panel Finished End Covers 35H<br><br>P1 Paint Opts<br>Muslin | PANEL | 316-Plan Review | 316-Plan Review | 9 | $ 49.00 | $ 12.47 | $ 441.00 | $ 112.23 | 74.550 |
| 98 | | ✓ | | | | | HON | HCL | HEC35PT<br><br>$(P1)<br>.T3 | T Connector 35H<br><br>P1 Paint Opts<br>Muslin | PANEL CONNECTOR | 316-Plan Review | 316-Plan Review | 5 | $ 106.00 | $ 26.98 | $ 530.00 | $ 134.90 | 74.550 |
| 99 | | ✓ | | | | | HON | HCL | HETC24<br><br>$(P1)<br>.T3 | Panel Top Cap 24"W<br><br>P1 Paint Opts<br>Muslin | PANEL | 316-Plan Review | 316-Plan Review | 1 | $ 36.00 | $ 9.16 | $ 36.00 | $ 9.16 | 74.550 |
| 100 | | ✓ | | | | | HON | HCL | HEBPLATE342<br><br>$(P1)<br>.T3 | Accelerate Base cover 3 knockout 42"W<br><br>Select P1 Paint<br>Muslin | PANEL COMPONENTS | 316-Plan Review | 316-Plan Review | 9 | $ 74.00 | $ 18.83 | $ 666.00 | $ 169.47 | 74.550 |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 101 | | ✓ | | | | | HON | HCG | HNLLB1618 | 15-3/4W x 18H Ped Low Back Panel | WORKSURFACE SUPPORT | 316-Plan Review | 316-Plan Review | 2 | $ 127.00 | $ 44.51 | $ 254.00 | $ 89.02 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 102 | | ✓ | | | | | HON | HSF | H18723A | Flagship Series Pedestal "A" Pull Mobile B/B/F 23D | PEDESTALS | 316-Plan Review | 316-Plan Review | 7 | $ 730.00 | $ 185.79 | $ 5,110.00 | $ 1,300.53 | 74.550 |
| | | | | | | | | | .L | Standard Random Key Lock | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 103 | | ✓ | | | |  | HON | HCL | HWR2442P | Systems Rectangular Worksurface Edgeband 24D x 42W | WORKSURFACE | 316-Plan Review | 316-Plan Review | 7 | $ 380.00 | $ 96.71 | $ 2,660.00 | $ 676.97 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | EDGE: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T3 | Grommet: Muslin | | | | | | | | | |
| 104 | | ✓ | | | |  | HON | HCG | HNLRC2472 | 72W x 24D Rectangle Worksurface | WORKSURFACE | 316-Plan Review | 316-Plan Review | 1 | $ 366.00 | $ 128.28 | $ 366.00 | $ 128.28 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 105 | | ✓ | | | | | HON | HCL | HETP3536FP | Tackable Panel w/o TC 35H x 36W | PANEL | 316-Plan Review | 316-Plan Review | 8 | $ 320.00 | $ 81.44 | $ 2,560.00 | $ 651.52 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 106 | | ✓ | | | | | HON | HCL | HETP3542FP | Tackable Panel w/o TC 35H x 42W | PANEL | 316-Plan Review | 316-Plan Review | 7 | $ 325.00 | $ 82.71 | $ 2,275.00 | $ 578.97 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 107 | | ✓ | | | | | HON | HCL | HETP3524FP | Tackable Panel w/o TC 35H x 24W | PANEL | 316-Plan Review | 316-Plan Review | 1 | $ 284.00 | $ 72.28 | $ 284.00 | $ 72.28 | 74.550 |
| | | | | | | | | | $(A) | Gr A Fabric | | | | | | | | | |
| | | | | | | | | | .SRT | FABRIC: Sarto | | | | | | | | | |
| | | | | | | | | | 93 | COLOR: Sesame | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 108 | | ✓ | | | | | HON | HCG | HNL231628PBBF | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | PEDESTALS | 316-Plan Review | 316-Plan Review | 2 | $ 714.00 | $ 250.26 | $ 1,428.00 | $ 500.52 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 109 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 316-Plan Review | 316-Plan Review | 7 | $ 837.00 | $ 293.37 | $ 5,859.00 | $ 2,053.59 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 110 | | ✓ | | | | | HON | HTL | HHAB3S2L | Height Adjustable Base - electric 3 Stage, 2 Leg | FREESTANDING CASEGOODS | 317-Ed | 317-Ed | 1 | $ 1,120.00 | $ 392.56 | $ 1,120.00 | $ 392.56 | 64.950 |
| | | | | | | | | | .P8L | Nickel | | | | | | | | | |
| 111 | | ✓ | | | | | HON | HVO | HLSL6014L | 60"W x 14"H Laminate Floating Modesty Panel | WORKSURFACE SUPPORT | 317-Ed | 317-Ed | 1 | $ 250.00 | $ 71.13 | $ 250.00 | $ 71.13 | 71.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| 112 | | ✓ | | | | | HON | HCG | HNLMP7228 | 72W x 27-7/8H Modesty / Back Panel | WORKSURFACE SUPPORT | 317-Ed | 317-Ed | 1 | $ 285.00 | $ 99.89 | $ 285.00 | $ 99.89 | 64.950 |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 113 | | ✓ | | | |  | HON | HTL | HHAW3072P | 72W x 30D Rectangle Worksurface | FREESTANDING CASEGOODS | 317-Ed | 317-Ed | 1 | $ 616.00 | $ 156.77 | $ 616.00 | $ 156.77 | 74.550 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | .PINC | Edge: Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Grommet: Platinum | | | | | | | | | |
| 114 | | ✓ | | | |  | HON | HCG | HNLRC2472 | 72W x 24D Rectangle Worksurface | WORKSURFACE | 317-Ed | 317-Ed | 1 | $ 366.00 | $ 128.28 | $ 366.00 | $ 128.28 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 115 | | ✓ | | | | | HON | HCG | HNL231628PBBF | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | PEDESTALS | 317-Ed | 317-Ed | 2 | $ 714.00 | $ 250.26 | $ 1,428.00 | $ 500.52 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .P | Color: Black | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 116 | | ✓ | | | | | HON | HCG | HNL1530BK5 | 30x14-1/4x65 Bookcase 5-shelf | STORAGE | 317-Ed | 317-Ed | 1 | $ 840.00 | $ 294.42 | $ 840.00 | $ 294.42 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 117 | | ✓ | | | | | HON | HSN | HIGCL | Ignition Guest Chair Four Leg Frame Arms | SEATING | 317-Ed | 317-Ed | 1 | $ 459.00 | $ 160.88 | $ 459.00 | $ 160.88 | 64.950 |
| | | | | | | | | | .E | Glide: Glide | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .BLCK | Textured Black | | | | | | | | | |
| 118 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 317-Ed | 317-Ed | 1 | $ 837.00 | $ 293.37 | $ 837.00 | $ 293.37 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 119 | | ✓ | | | | | HON | HCG | HNL2436LD2 | 36x24x29-1/2 Lateral File two drawer | FILE CABINETS | 317-Ed | 317-Ed | 1 | $ 1,167.00 | $ 409.03 | $ 1,167.00 | $ 409.03 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 120 | | ✓ | | | | | JSI | J16 | BG1572CO | Brogan 15 7/8d x 72w x 42h Storage Overhead Cabinet w/Clear Glass Doors | UPPER STORAGE | 318-Paul | 318-Paul | 1 | $ 4,157.00 | $ 1,596.29 | $ 4,157.00 | $ 1,596.29 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 121 | | ✓ | | | | | JSI | J16 | BG1536BO | Brogan 15d x 36w x 42h Bookcase Overhead | ACCESSORY | 318-Paul | 318-Paul | 2 | $ 1,195.00 | $ 458.88 | $ 2,390.00 | $ 917.76 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | ~ | No Laminate Top Selected | | | | | | | | | |
| | | | | | | | | | ~ | No Additional Grommets Selected | | | | | | | | | |
| 122 | | ✓ | | | | | JSI | J16 | BG2448EB | Brogan 24d x 48w Executive Bridge | FREESTANDING CASEGOODS | 318-Paul | 318-Paul | 1 | $ 5,182.00 | $ 1,989.89 | $ 5,182.00 | $ 1,989.89 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | ~ | No Laminate Top Selected | | | | | | | | | |
| | | | | | | | | | AT | Angled Trim Molding (Standard) | | | | | | | | | |
| | | | | | | | | | ~ | No Additional Grommets Selected | | | | | | | | | |
| | | | | | | | | | ERGO | Ergo Adjustable Worksurface | | | | | | | | | |
| 123 | | ✓ | | | | | JSI | J16 | BG3630LF | Brogan 24d x 36w x 30h Lateral File | FILE CABINETS | 318-Paul | 318-Paul | 2 | $ 2,401.00 | $ 921.98 | $ 4,802.00 | $ 1,843.96 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | ~ | No Laminate Top Selected | | | | | | | | | |
| | | | | | | | | | PO15 | Brogan Pull | | | | | | | | | |
| | | | | | | | | | ANB | Antique Brass Pull | | | | | | | | | |
| | | | | | | | | | AT | Angled Trim Molding (Standard) | | | | | | | | | |
| 124 | | | | | | | JSI | J16 | BG2472SWR | Brogan 24d x 23 5/8w x 72h File/File Storage Wardrobe - Right | FREESTANDING CASEGOODS | 318-Paul | 318-Paul | 1 | $ 3,664.00 | $ 1,406.98 | $ 3,664.00 | $ 1,406.98 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | PO15 | Brogan Pull | | | | | | | | | |
| | | | | | | | | | ANB | Antique Brass Pull | | | | | | | | | |
| | | | | | | | | | AT | Angled Trim Molding (Standard) | | | | | | | | | |
| | | | | | | | | | 2F | File/File (Standard) | | | | | | | | | |
| | | | | | | | | | ERGO ADJAC... | Ergo Adjacent Unit | | | | | | | | | |
| 125 | | ✓ | | | | | JSI | J17 | HB2905 | Harbor Executive Swivel | SEATING | 318-Paul | 318-Paul | 1 | $ 2,512.00 | $ 964.61 | $ 2,512.00 | $ 964.61 | 61.600 |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | L2 | Grade L2 | | | | | | | | | |
| | | | | | | | | | Wollsdorf | Wollsdorf | | | | | | | | | |
| | | | | | | | | | FOC Earth | FOC Earth | | | | | | | | | |
| | | | | | | | | | FOC001 | Black | | | | | | | | | |
| | | | | | | | | | WDB | Wood Base (Standard) | | | | | | | | | |
| | | | | | | | | | PBG | Plastic Bumper Guards | | | | | | | | | |
| 126 | | ✓ | | | | | JSI | J17 | HB2901 | Harbor Guest Chair | SEATING | 318-Paul | 318-Paul | 2 | $ 1,228.00 | $ 471.55 | $ 2,456.00 | $ 943.10 | 61.600 |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | C | Grade C/COL | | | | | | | | | |
| | | | | | | | | | Momentum | Momentum Fabric | | | | | | | | | |
| | | | | | | | | | Free | Free | | | | | | | | | |
| | | | | | | | | | FRE06 | Pearl | | | | | | | | | |
| | | | | | | | | | G | Glides (Standard) | | | | | | | | | |
| | | | | | | | | | MTG | Rubber Cushion Metal Glides (Stan... | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 127 | | | | | | | | HSN | HLTSU | Endorse Task Stool Upholstered Back | | 318-Paul | 318-Paul | 1 | $ 931.00 | $ 326.32 | $ 931.00 | $ 326.32 | 64.950 |
| | | | | | | | | | .S0 | Limited Synchro Tilt | | | | | | | | | |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | $(2) | Grade 2 Fabric | | | | | | | | | |
| | | | | | | | | | .WP | Whisper Vinyl | | | | | | | | | |
| | | | | | | | | | 40 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Plastic Black | | | | | | | | | |
| 128 | | | | | | | JSI | J16 | BG2472RC | Brogan 24d x 72w Pedestal Credenza - Right | FREESTANDING CASEGOODS | 318-Paul | 318-Paul | 1 | $ 4,026.00 | $ 1,545.98 | $ 4,026.00 | $ 1,545.98 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | ~ | No Laminate Top Selected | | | | | | | | | |
| | | | | | | | | | PO15 | Brogan Pull | | | | | | | | | |
| | | | | | | | | | ANB | Antique Brass Pull | | | | | | | | | |
| | | | | | | | | | AT | Angled Trim Molding (Standard) | | | | | | | | | |
| | | | | | | | | | 2F | File/File (Standard) | | | | | | | | | |
| | | | | | | | | | 1 | 1 Additional Grommet | | | | | | | | | |
| | | | | | | | | | B | Grommet Center-Top | | | | | | | | | |
| | | | | | | | | | ERGO ADJACE... | Ergo Adjacent Unit | | | | | | | | | |
| 129 | | | | | | | JSI | J16 | BG3672LD | Brogan 36d x 72w Single Pedestal Desk - Left | FREESTANDING | 318-Paul | 318-Paul | 1 | $ 7,605.00 | $ 2,920.32 | $ 7,605.00 | $ 2,920.32 | 61.600 |
| | | | | | | | | | CH1 | Cherry Flat Cut Veneer | | | | | | | | | |
| | | | | | | | | | BRG | Brighton | | | | | | | | | |
| | | | | | | | | | ~ | No Laminate Top Selected | | | | | | | | | |
| | | | | | | | | | PO15 | Brogan Pull | | | | | | | | | |
| | | | | | | | | | ANB | Antique Brass Pull | | | | | | | | | |
| | | | | | | | | | AT | Angled Trim Molding (Standard) | | | | | | | | | |
| | | | | | | | | | ~ | No Leather Inlay Selected | | | | | | | | | |
| | | | | | | | | | STBF | Shelf-Tray-Box-File (Standard) | | | | | | | | | |
| | | | | | | | | | ~ | No Dictation Slide Selected | | | | | | | | | |
| | | | | | | | | | ~ | No Additional Grommets Selected | | | | | | | | | |
| | | | | | | | | | ERGO | Ergo Adjustable Worksurface | | | | | | | | | |
| 130 | | | | | | | HON | HEN | HSS4L-18B | SmartLink Seating 18" 4L Chair 4/carton | SEATING | 319A-Training | 319A-Training | 6 | $ 583.00 | $ 221.83 | $ 3,498.00 | $ 1,330.98 | 61.950 |
| | | | | | | | | | .E | Nylon | | | | | | | | | |
| | | | | | | | | | .ON | COLOR: Onyx | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .P7A | Textured Charcoal | | | | | | | | | |
| 131 | | | | | |  | HON | HTL | HMVPC-DTLG | Motivate Presentation Cart Desktop Lectern 2mm edgeband | TABLE | 319A-Training | 319A-Training | 1 | $ 343.00 | $ 120.22 | $ 343.00 | $ 120.22 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 132 | | ✓ | | | | | HON | HTL | HMVPCA2-1830G | Motivate Prsntn Cart Standing Ht Adj-Leg 35 Ccave 2mm Top | TABLE | 319A-Training | 319A-Training | 1 | $ 1,188.00 | $ 416.39 | $ 1,188.00 | $ 416.39 | 64.950 |
| | | | | | | | | | .C | Caster | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 133 | | ✓ | | | | | HON | HTL | HMVR-1872G-NS | Motivate Table Rect 18Dx72W 2mm Edge Nesting Base | TABLE | 319A-Training | 319A-Training | 7 | $ 1,244.00 | $ 436.02 | $ 8,708.00 | $ 3,052.14 | 64.950 |
| | | | | | | | | | .N | No Grommets | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | .C | Caster | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 134 | | ✓ | | | | | HON | HTL | HMVR-1872G-AH | Motivate Table Rect 18Dx72W 2mm Edge Adj Ht Base | TABLE | 319A-Training | 319A-Training | 1 | $ 1,231.00 | $ 431.47 | $ 1,231.00 | $ 431.47 | 64.950 |
| | | | | | | | | | .N | No Grommets | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | .C | Caster | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 135 | | ✓ | | | | | HON | HEN | HSS4L-18B | SmartLink Seating 18" 4L Chair 4/carton | SEATING | 319B-Training | 319B-Training | 6 | $ 583.00 | $ 221.83 | $ 3,498.00 | $ 1,330.98 | 61.950 |
| | | | | | | | | | .E | Nylon | | | | | | | | | |
| | | | | | | | | | .ON | COLOR: Onyx | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .P7A | Textured Charcoal | | | | | | | | | |
| 136 | | ✓ | | | |  | HON | HTL | HMVPC-DTLG | Motivate Presentation Cart Desktop Lectern 2mm edgeband | TABLE | 319B-Training | 319B-Training | 1 | $ 343.00 | $ 120.22 | $ 343.00 | $ 120.22 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 137 | | ✓ | | | | | HON | HTL | HMVPCA2-1830G | Motivate Prsntn Cart Standing Ht Adj-Leg 35 Ccave 2mm Top | TABLE | 319B-Training | 319B-Training | 1 | $ 1,188.00 | $ 416.39 | $ 1,188.00 | $ 416.39 | 64.950 |
| | | | | | | | | | .C | Caster | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 138 | | ✓ | | | | | HON | HTL | HMVR-1872G-NS | Motivate Table Rect 18Dx72W 2mm Edge Nesting Base | TABLE | 319B-Training | 319B-Training | 7 | $ 1,244.00 | $ 436.02 | $ 8,708.00 | $ 3,052.14 | 64.950 |
| | | | | | | | | | .N | No Grommets | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | .C | Caster | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 139 | | ✓ | | | | | HON | HTL | HMVR-1872G-AH | Motivate Table Rect 18Dx72W 2mm Edge Adj Ht Base | TABLE | 319B-Training | 319B-Training | 1 | $ 1,231.00 | $ 431.47 | $ 1,231.00 | $ 431.47 | 64.950 |
| | | | | | | | | | .N | No Grommets | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .H | Bourbon Cherry | | | | | | | | | |
| | | | | | | | | | .H | Bourbon | | | | | | | | | |
| | | | | | | | | | .C | Caster | | | | | | | | | |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .T3 | Muslin | | | | | | | | | |
| 140 | | ✓ | | | | | HON | HTL | HTLCUBE48 | Preside Laminate Cube base for 48" Tops | TABLE | 322-SS Conf | 322-SS Conf | 1 | $ 1,001.00 | $ 350.85 | $ 1,001.00 | $ 350.85 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 141 | | ✓ | | | | | HON | HCG | H105533 | 10500 Series Bookcase 3-shelf 36Wx13-1/8Dx43-3/8H | FREESTANDING CASEGOODS | 322-SS Conf | 322-SS Conf | 1 | $ 602.00 | $ 211.00 | $ 602.00 | $ 211.00 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | PINC | LAM: Pinnacle | | | | | | | | | |
| 142 | | ✓ | | | | | HON | HTL | HTLSFT48 | Preside 48 Soft Square Top | | 322-SS Conf | 322-SS Conf | 1 | $ 529.00 | $ 185.41 | $ 529.00 | $ 185.41 | 64.950 |
| | | | | | | | | | .G | 2mm Edgeband | | | | | | | | | |
| | | | | | | | | | PINC | Edge: Pinnacle | | | | | | | | | |
| | | | | | | | | | .N | No Grommets | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Gr L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 143 | | ✓ | | | | | HON | HSN | HCG6 | Ceres Guest/Multi purpose Four Leg Stacking | SEATING | 322-SS Conf | 322-SS Conf | 4 | $ 595.00 | $ 208.55 | $ 2,380.00 | $ 834.20 | 64.950 |
| | | | | | | | | | .F | Arm: Fixed Arm | | | | | | | | | |
| | | | | | | | | | .H | Option: Hard | | | | | | | | | |
| | | | | | | | | | .PB | Back: Upholstered in-back | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .PLAT | Textured Platinum Metallic | | | | | | | | | |
| 144 | | ✓ | | | | | HON | HCG | HPC191X | Park Ave Support Column For Bullet Jetty & Boomerang Pen | FREESTANDING CASEGOODS | 324-Karen | 324-Karen | 1 | $ 161.00 | $ 56.43 | $ 161.00 | $ 56.43 | 64.950 |
| | | | | | | | | | .X | Color: Silver | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 145 | | ✓ | | | |  | HON | HCG | HPC180W | Park Ave 3/4 Lgth Modesty Panel for Pen/Laminate | FREESTANDING CASEGOODS | 324-Karen | 324-Karen | 1 | $ 215.00 | $ 75.36 | $ 215.00 | $ 75.36 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 146 | | ✓ | | | |  | HON | HCG | HNLMP6010 | 60W x 10H Modesty / Back Panel | WORKSURFACE SUPPORT | 324-Karen | 324-Karen | 1 | $ 243.00 | $ 85.17 | $ 243.00 | $ 85.17 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 147 | | ✓ | | | | | HON | HCG | HNLLB1618 | 15-3/4W x 18H Ped Low Back Panel | WORKSURFACE SUPPORT | 324-Karen | 324-Karen | 1 | $ 127.00 | $ 44.51 | $ 127.00 | $ 44.51 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 148 | | ✓ | | | | | HON | HCG | H105535 | 10500 Series Bookcase 5-shelf 36Wx13-1/8Dx71H | FREESTANDING CASEGOODS | 324-Karen | 324-Karen | 1 | $ 825.00 | $ 289.16 | $ 825.00 | $ 289.16 | 64.950 |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | PINC | LAM: Pinnacle | | | | | | | | | |
| 149 | | ✓ | | | |  | HON | HCG | HNLRC2460V | 60W x 24D Rectangle Worksurface vert grain | WORKSURFACE | 324-Karen | 324-Karen | 1 | $ 325.00 | $ 113.91 | $ 325.00 | $ 113.91 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 150 | | ✓ | | | |  | HON | HCG | HNLRC2472 | 72W x 24D Rectangle Worksurface | WORKSURFACE | 324-Karen | 324-Karen | 1 | $ 366.00 | $ 128.28 | $ 366.00 | $ 128.28 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 151 | | ✓ | | | | | HON | HCG | HNL231628PBBF | 15-3/4Wx23-1/8Dx28-1/2H Box/Box/File Pedestal | PEDESTALS | 324-Karen | 324-Karen | 1 | $ 714.00 | $ 250.26 | $ 714.00 | $ 250.26 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .X | No Grommet | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 152 | | ✓ | | | | | HON | HCG | HNL233628PSL | 36Wx23-1/8Dx28-1/2H Shelf/Box/Box/Lat File Ped | PEDESTALS | 324-Karen | 324-Karen | 1 | $ 1,245.00 | $ 436.37 | $ 1,245.00 | $ 436.37 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .X | No Grommet | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 153 | | ✓ | | | | | HON | HCG | HNL233628PLF | 36Wx23-1/8Dx28-1/2H Lateral File Pedestal | PEDESTALS | 324-Karen | 324-Karen | 1 | $ 1,056.00 | $ 370.13 | $ 1,056.00 | $ 370.13 | 64.950 |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | .X | No Grommet | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 154 | | ✓ | | | | | HON | HSN | HIGS6 | Ignition Guest/Multi-Purpose Chair Four-Leg Stacking | SEATING | 324-Karen | 324-Karen | 1 | $ 466.00 | $ 163.33 | $ 466.00 | $ 163.33 | 64.950 |
| | | | | | | | | | .F | Arm: Fixed | | | | | | | | | |
| | | | | | | | | | .E | Glide | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .BLCK | Frame: Textured Black | | | | | | | | | |
| 155 | | ✓ | | | | | HON | HCG | HNL4872JREP | 72x30/48x29-1/2 Jetty Peninsula Rt w/end panel | FREESTANDING CASEGOODS | 324-Karen | 324-Karen | 1 | $ 1,079.00 | $ 378.19 | $ 1,079.00 | $ 378.19 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .T1 | Color: Platinum | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 156 | | ✓ | | | | | HON | HSN | HIWM3 | Ignition Wk Mid-bck Pneu Syn tilt Bck Adj Tilt Seat Gld | SEATING | 324-Karen | 324-Karen | 1 | $ 837.00 | $ 293.37 | $ 837.00 | $ 293.37 | 64.950 |
| | | | | | | | | | .A | Arm: Height and Width Adj | | | | | | | | | |
| | | | | | | | | | .H | CASTER: Hard (Standard) | | | | | | | | | |
| | | | | | | | | | .U | Back: Upholstered | | | | | | | | | |
| | | | | | | | | | $(1) | Gr 1 UPH | | | | | | | | | |
| | | | | | | | | | .CU | Centurion | | | | | | | | | |
| | | | | | | | | | 10 | COLOR: Black | | | | | | | | | |
| | | | | | | | | | .T | FRAME: Black | | | | | | | | | |
| | | | | | | | | | .SB | Base: Standard Base | | | | | | | | | |
| 157 | | ✓ | | | | | HON | HCG | HNL2436LD4 | 36x24x59-1/2 Lateral File four drawer | FILE CABINETS | 324-Karen | 324-Karen | 1 | $ 2,125.00 | $ 744.81 | $ 2,125.00 | $ 744.81 | 64.950 |
| | | | | | | | | | .G | Smooth, Flat | | | | | | | | | |
| | | | | | | | | | PINC | Pinnacle | | | | | | | | | |
| | | | | | | | | | .A | Cylinder/Satin | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| | | | | | | | | | $(L1STD) | Grd L1 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .PINC | LAM: Pinnacle | | | | | | | | | |
| 158 | | ✓ | | | | | HON | HTL | HBTTX30L | Seated height X-base for support of 42" tops | TABLE | 326-Breakroom | 326-Breakroom | 1 | $ 437.00 | $ 153.17 | $ 437.00 | $ 153.17 | 64.950 |
| | | | | | | | | | $(P1) | P1 Paint Opts | | | | | | | | | |
| | | | | | | | | | .P8V | Textured Titanium | | | | | | | | | |

| Item | Color | ✓ | | | | Preview | Mfg | Cat | Part Number | Part Description | Category | Tag | Alias 1 | Qty | List | Sell | Ext List | Ext Sell | Sell - % |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 159 | | ✓ | | | |  | HON | HTL | HBTTRND42 | 42" Round Top | TABLE | 326-Breakroom | 326-Breakroom | 1 | $ 421.00 | $ 147.56 | $ 421.00 | $ 147.56 | 64.950 |
| | | | | | | | | | .N | No Grommets | | | | | | | | | |
| | | | | | | | | | $(L2STD) | Grd L2 Standard Laminates | | | | | | | | | |
| | | | | | | | | | .LNR1 | LAM: Natural Recon | | | | | | | | | |
| | | | | | | | | | .NR | EDGE: Natural Recon | | | | | | | | | |
| 160 | | ✓ | | | | | HON | HSN | HMG1 | Motivate 4-Leg Stack Chair-Set/2 | SEATING | 326-Breakroom | 326-Breakroom | 2 | $ 548.00 | $ 192.07 | $ 1,096.00 | $ 384.14 | 64.950 |
| | | | | | | | | | .N | Arm: No Arm | | | | | | | | | |
| | | | | | | | | | .E | Standard Nylon Glide | | | | | | | | | |
| | | | | | | | | | .CP | COLOR: Calypso | | | | | | | | | |
| | | | | | | | | | .P8V | Textured Titanium | | | | | | | | | |
| | | | | | | | | | | 322-Table Ballast | | | | 1 | $ 20.00 | $ 20.00 | $ 20.00 | $ 20.00 | |
| | | | | | | | | | | 311-Table Ballast | | | | 1 | $ 40.00 | $ 40.00 | $ 40.00 | $ 40.00 | |
| | | | | | | | | | | Installation-Furniture | | | | 1 | $ 6,006.00 | $ 6,006.00 | $ 6,006.00 | $ 6,006.00 | |
| | | | | | | | | | | **Grand Total** | | | | | | | **$ 212,923.80** | **$ 75,038.26** | **64.758** |

**AMENDMENT 2**
To State Term Contract 425-001-12-1
Office Furniture and Files

This Amendment 2 ("Amendment"), effective as of March 2, 2020, to the Office Furniture and Files, Contract No. 425-001-12-1 ("Contract"), is made by and between the State of Florida, Department of Management Services ("Department"), and ("Contractor"). The Department and Contractor are collectively referred to herein as the "Parties."

**WHEREAS,** the Contract was entered into by the Parties on March 2, 2012, to continue through March 1, 2016, for the provision of office furniture and files, pursuant to Solicitation No. ITB 17-425-001-F;

**WHEREAS,** the Contract was subsequently renewed and is now set to expire on March 1, 2020; and

**WHEREAS,** in accordance with section 287.057(12), Florida Statutes, upon mutual agreement, the Department and the Contractor may extend the Contract.

**NOW THEREFORE**, for the mutual covenants contained herein, and pursuant to subsection 4.42, Attachment II, the Parties agree to amend the Contract as follows:

**1.0** **Contract Extension.** The Contract is extended for a period of six (6) months, effective March 2, 2020, through September 1, 2020.

**2.0** **Scrutinized Companies.** Section 11, Scrutinized Company List, of the Contract is hereby amended to add the following sentence:

The Department may immediately terminate this Contract if the Contractor has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

**3.0** **Public Records.** The Contract is hereby amended to add a new section 19 as follows:

**19.0 Public Records.**
The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing public access to all documents, papers, letters or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1), F.S. Solely for the purposes of this section the contract manager is the agency custodian of public records, unless another is designated per (e), below. If, under a resulting contract or purchase order, the Contractor is providing services and is acting on behalf of a public agency, as provided by section 119.0701, Florida Statutes. The Contractor shall:

(a) Keep and maintain public records required by the public agency to perform the service;

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the contract if the contractor does not transfer the records to the public agency;
(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency; and

(e) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

**4.0** **Inspector General and Records Retention.** The Contract is hereby amended to add a new section 20 as follows:

**20.0 Cooperation with Inspector General and Records Retention.**
Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

**5.0** **Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**6.0** **Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

| | |
|---|---|
| **State of Florida:**<br>**Department of Management Services** | **Contractor:** |
| **By:** _____<br>**Name: Tami Fillyaw**<br>**Title: Chief of Staff**<br>**Date:** | **By:** _____<br>**Name:**<br>**Title:**<br>**Date:** |

**AMENDMENT NO.: 1**
**RENEWAL NO.: 1**
Office Furniture and Files
State Term Contract No.: 425-001-12-1

**This Amendment No. 1** ("Amendment"), effective as of March 3, 2016, to the Office Furniture and Files, State Term Contract No. 425-001-12-1("Contract"), between the State of Florida, Department of Management Services ("Department") and NAME ("Contractor") are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

**WHEREAS** the Department awarded the above referenced Contract to NAME for the provisions of Office Furniture and Files; and

**WHEREAS** the Parties agree to amend the contract as provided in section 4.26 of State Term Contract No. 425-001-12-1; and

**THEREFORE,** in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following;

**I. Contract Amendment**. Pursuant to sections 4.26 of the State Term Contract, the State Term Contract No. 425-001-12-1 is renewed for a period of four years at the same terms and conditions, with a new contract expiration date of March 2, 2020.

**II. Employment Verification.** Pursuant to State of Florida Executive Orders Nos.: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.

**III. Preferred Price Affidavit Requirement.** The Department will provide the Preferred Pricing Affidavit, incorporated by reference as the attached Exhibit D, for completion by an authorized representative of the Contractor attesting that the Contractor is in compliance with the preferred pricing provision in Section 4(b) of the PUR 1000 form. The contractor agrees to submit to the Department, at least annually, the completed Preferred Pricing Affidavit.

**IV. Scrutinized Company List.** In executing this contract, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), F.S., Contractor agrees the Department may immediately terminate this contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract.

**V. Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**VI. Cooperation with the Inspector General**. Pursuant to section 20.055(5), Florida Statutes, contractor and any subcontractors understand and will comply with their duty to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

**VII. Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**VIII. Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

**IX. Preference to Florida Vendors.** If the lowest response is submitted by a Respondent whose principal place of business is located outside the State of Florida, preference shall be applied consistent with Section 287.084, F.S.

**X. Diversity Reporting.** The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority, women, and veteran business enterprises in the economic life of the State. The Department of Management Services encourages supplier diversity through certification of business enterprises, advocacy and outreach and Business Match Maker events. For additional information, please contact the Office of Supplier Diversity at (850) 487-0915 or osdhelp@dms.myflorida.com. Upon request, the Contractor shall report to the Department, spend with certified and other minority business enterprises. These reports will include the period covered, the name, minority code and Federal Employer Identification Number of each minority Vendor utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority Vendor on behalf of each purchasing agency ordering under the terms of this Contract.

**XI. Subcontractors.** The Contractor shall not subcontract any work under the Contract without the prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all subcontracted work. The Department supports diversity in its Procurement Program and requests that all subcontracting opportunities afforded by this contract enthusiastically embrace diversity. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. Contractor can contact the Office of Supplier Diversity at (850) 487-0915 for information on minority vendors who may be considered for subcontracting opportunities.

| | |
|---|---|
| **State of Florida,**<br>**Department of Management Services:** | **Contractor: xxxxx** |
| **By:** _____ | **By:** _____ |
| **Name: Erin Rock** | **Name:** _____ |
| **Title: Deputy Secretary** | **Title:** _____ |
| **Date:** _____ | **Date:** _____ |

**CONTRACT BETWEEN**

**FLORIDA DEPARTMENT OF MANAGEMENT SERVICES**

**AND**

**[Contractor Name]**

This Contract is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and (Contractor).

Whereas, the Contractor replied to the Division's Invitation to Bid (ITB) No.:17-425-001-F- Office Furniture and Files;

Accordingly, and in consideration of the mutual promises contained in the Contract documents, the Department and the Contractor do hereby enter into this Contract.

## 1.0 NAME OF PROJECT

Office Furniture and Files

## 2.0 SUMMARY OF THE CONTRACTUAL SERVICES / SCOPE OF WORK

This state term contract includes for the purchase of office and conference/public area furniture, including lateral and vertical steel files, dispatch/911 furniture, conference or training tables, mail processing furniture, conference or training chairs, map files, storage and presentation accessories, reception desks, single and multiple seating units, sofas and loveseats (public areas), and occasional tables. Fireproof files, art work and decorative lamps and accessories are not part of this contract.

## 3.0 DELIVERABLES

All products offered under this Contract shall be new and unused and in current production - remanufactured or refurbished products are not part of this offering. No series shall be considered for award under this Contract if already awarded or in conflict with another State Term Contract**. Eligible products include, but are not limited to:**

| | |
|---|---|
| **Office Furniture** | **Lateral, Vertical and Fireproof Steel Files** |
| **Dispatch/911 Furniture** | **Conference or Training Tables** |
| **Mail Processing Furniture** | **Conference or Training Chairs** |
| **Map Files** | **Storage and Presentation Accessories** |
| **Reception Desks** | **Single & Multiple Seating Units** |
| **Sofas & Loveseats (Public Areas)** | **Occasional Tables** |

## 4.0 SUMMARY OF PENALTY FOR FAILURE OF CONTRACTOR TO MEET DELIVERALBES

Delay in delivery beyond the time specified must be justified to the ordering agency, in writing, and if required, the Contractor shall provide temporary furniture on a rent-free basis. Furthermore, items not delivered within the required delivery schedule may result in the Contractor being found in default by the Department in accordance with contract conditions.

## 5.0 EFFECTIVE DATE

This Contract shall begin on March 2, 2012, or on the last date in which it is signed by all parties, whichever is later.

## 6.0 EXPIRATION DATE

This Contract shall expire on March 1, 2016 unless cancelled earlier in accordance with its terms.

## 7.0 RENEWAL

In accordance with Section 4.26 of the State Term Contract No. 425-001-12-1, upon mutual written agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 4 years at the same price, terms and conditions, allowed by Chapter 287, Florida Statutes.

## 8.0 EFFECT OF A REPLACEMENT CONTRACT

A replacement contract may be established under a new solicitation process prior to March 1, 2016. In such case, the Department may terminate this Contract prior to March 1, 2016.

## 9.0 INTELLECTUAL PROPERTY

The parties do not anticipate that any intellectual property will be developed as a result of this contract.

## 10.0 PREFERRED PRICE

The Contractor agrees to submit to Customer at least annually an affidavit from an authorized representative attesting that the Contractor is in compliance with the preferred pricing provision in Section 4(b) of form PUR 1000.

## 11.0 SCRUTINIZED COMPANY LIST

In executing this contract, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), F.S., Contractor agrees the Department may immediately terminate this contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract.

## 12.0 EMPLOYMENT ELIGIBILITY VERIFICATION

Pursuant to State of Florida Executive Orders Nos.: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Contractor during the contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.

## 13.0 REPORTING REQUIREMENTS

Section 5.7 of the ITB 17-425-001-F, is superseded and entirely replaced with the following:
Each Contractor shall submit a sales report on a Quarterly basis. Reporting periods coincide with the State Fiscal Year:

- Quarter 1- (July-September)
- Quarter 2 - (October-December)
- Quarter 3 - (January-March)
- Quarter 4 - (April-June)

Each Quarterly Sales Report must be in Excel format and shall include:

- Contractor's Name and contact information as required on the Department of Management Services "Contract Quarterly Report"
- Detail of time period covered by included data

- Total sales including detail of list price and contract price
- Transaction detail will include:

| | |
|---|---|
| **Part Number/SKU** | Your product part number if applicable |
| **Item / Service Name** | Given name of Item or Service |
| **MFG** | Manufacturer, Publisher, Service Provider |
| **Item Category** | Description of the product category, according to attached table |
| **Item Subcategory** | Additional grouping for item |
| **Product Description** | Additional detail for item |
| **Customer Name** | State Agencies, Universities, Political Subdivisions, Other Eligible Users |
| **NIGP Code** | National Institute of Government Procurement code |
| **Florida Commodity Code** | Florida Commodity Code |
| **UOM** | Unit of Measure |
| **UOM Desc** | Description of unit of measure (see example) |
| **Volume Qty** | Number of items/services purchased/provided |
| **Order Date** | Order date |
| **Date Delivered** | Delivered date to customer |
| **Purchase Type** | Purchase Order, Payment Card, Other |
| **List Price** | List price (Market + fee contracts use market price) |
| **Contract Price** | Contracted price with state per contract terms |
| **Additional Fields** | Any new information related to your company's products/services |

Failure to provide quarterly and annual sales reports, including no sales, within thirty (30) calendar days following the end of each quarter (January, April, July and October) and/or contract year may result in the contract supplier being found in default and termination of the contract by the Department. Upon request, the Contractor shall report to the Department, spend with certified and other minority business enterprises. Reports must include the period covered, the name, minority code and Federal Employer Identification Number of each minority vendor utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority vendor on behalf of each purchasing agency ordering under the terms of this contract. Initiation and submission of the Contract Sales Summaries are to be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary forms by email to the Contract Manager.

## 14.0 MYFLORIDAMARKETPLACE (MFMP) CATALOG REQUIREMENTS

Section 5.25 of the ITB 17-425-001-F, is supplemented with the following specific detail:

The Contractor shall provide a Line-item catalog containing all awarded items and contracted final prices using the format supported by the system. The awarded supplier ("Contractor") hereby agrees to cooperate with DMS and MyFloridaMarketPlace (and any authorized agent or successor entity to MyFloridaMarketPlace) in the event DMS selects this statewide contract to be exhibited on the MyFloridaMarketPlace. At a minimum, the Contractor agrees to the following:

1.0 Contractor agrees, upon DMS' request, to deliver a line item catalog. The line item catalog content must be limited to the Contractor's statewide contract offering.

2.0 Line Item Catalog. By providing a line item catalog, Contractor is providing a list of its products/services and pricing within a specific template format for MyFloridaMarketPlace through a catalog repository tool used for MyFloridaMarketPlace called Aravo*. In this scenario, Contractor must submit an updated electronic catalog from time to time to maintain the most up to-date version of its product/service offering under the statewide contract. As a result, DMS will have an opportunity to confirm the accuracy of the electronic catalog that was loaded into Aravo before the electronic data file is loaded into the MyFloridaMarketPlace eProcurement System (MFMP). In addition, DMS will have the ability to define when the electronic catalog and any subsequent revisions thereto "go live".

3.0 The Contractor agrees to meet the following requirements:

a. Catalog must contain the most current pricing, including all applicable administrative fees and or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the statewide contract; and

The accuracy of the catalog must be maintained by Contractor throughout the duration of the statewide contract; and

b. The catalog must include a State-specific contract identification number; and
c. The catalog must include detailed product line item descriptions; and
d. The catalog must include pictures when possible;** and
e. The catalog must include any additional DMS content requirements

4.0 Contractor agrees that DMS controls which statewide contracts appear in MFMP and that DMS may elect at any time to remove any Contractor's offering from MFMP.

5.0 Contractor must be able to accept Purchase Orders via fax, e-mail, cXML or EDI INT AS 12.

*Aravo is a catalog repository tool used by MFMP. Contractors maintain their line item catalog offerings through this online tool. Contractor's catalog content is reviewed and approved by DMS in Aravo before being migrated into the MyFloridaMarketPlace eProcurement System. These services will be provided by MFMP at no additional cost to the Contractor.

**Details regarding the submission of image files and catalog content will be discussed during the enablement process; however, the following represents key information regarding the submission of product image files:

- Provide actual image files (in gif, jpeg and other commonly used formats) for all of the items in the Contractor's catalog that will be hosted by the MyFloridaMarketPlace system. These images are displayed to the customer directly in search results as well as in the product details window.
- Provide the actual image files in a 'zip archive'. Please go to www.winzip.com to download the WinZip® application that is needed to create such an archive as well as additional details about using WinZip® application.
- Provide only one image per product.
- Color pictures are preferred; however, black and white pictures or drawings are acceptable if this is the current standard for the Contractor's business marketing.
- Please note the MyFloridaMarketPlace prefers jpg format for image files (280X280 pixels) although images in many other formats are accepted.
    - When an image is in jpg format, it is resized to 280X280 pixels, if necessary, to maintain a consistent appearance MFMP.
    - When an image is in a format other than jpg, it will be converted to jpg and resized to 280X280 pixels to maintain a consistent appearance for MFMP.
- As products change, updated image files must be submitted to update the MyFloridaMarketPlace Catalog.

In rare instances where an image is not available, DMS will work with the Contractor to determine the best solution for advertising the Contractor's offering.

**15.0** **ELECTRONIC INVOICE** The Contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the MFMP. Contractor agrees, upon DMS' request, to establish electronic invoicing within ninety (90) days of written request. Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of three mechanisms as listed below. Suppliers can select the method that best meets their capabilities from the following list:

- **cXML (commerce eXtensible Markup Language)**
  This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services. *The cXML format is the Ariba preferred method for eInvoicing*.
- **EDI (Electronic Data Interchange)**
  This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services.
- **PO Flip via ASN**
  The online process allows suppliers to submit invoices via the ASN for catalog and non-catalog goods and services. Suppliers have the ability to create an invoice directly from their Inbox in their ASN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider of MFMP, a State Contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider the right and license to reproduce and display within the system the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the Contract.

The Contractor will work with the MFMP management team to obtain specific requirements for the Electronic Invoicing upon contract award.

**16.0 CONTRACT DOCUMENTS**

This Contract, together with the following attached documents, set forth the entire understanding of the parties with respect to the subject matter. In case of conflict, the terms of this Contract shall control. If a conflict exists among any of the attached documents, the documents shall have priority in the order listed:

**A.** **ATTACHMENT I:** THIS DOCUMENT
**B.** **ATTACHMENT II:** ITB, No.: 17-425-001-F, as amended.
**C.** **ATTACHMENT III:** Contractor's Response to the ITB.

**17.0 CONTRACT MANAGEMENT**

**A.** **Contract Manager**

The Department employee who is primarily responsible for overseeing the Contractor's performance of its duties and obligations pursuant to the terms of this Contract and for maintaining the Contract administration file. The Contract Manager shall be as follows:

Shameka Smith

Contract Manager
Department of Management Services
4050 Esplanade Way #360
Tallahassee, FL 32399-0950
Telephone: (850) 414-6740
Fax: (850) 414-6122
E-mail: shameka.smith@dms.myflorida.com

The Department may appoint a different Contract Manager, which shall not constitute an amendment to the Contract, by sending written notice to Contractor. Any communication to the Department relating to the Contract shall be addressed to the Contract Manager.

**B. Contractor's Representative**

[Representative Name]
[Contractor Name]
[Street Address]
[City, State, Zipcode]
Telephone: [number]
Fax: [number]
E-mail: [address]

**18.0 WARRANT OF AUTHORITY**

Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party.

| | |
|---|---|
| **State of Florida,**<br>**Department of Management Services:** | **[Contractor Name]** |
| **By:**_____ | **By:**_____ |
| **Name: Kelly Loll, C.P.M.**<br>**Chief Procurement Officer &** | **Name:**_____ |
| **Title: Director of State Purchasing** | **Title:**_____ |
| **Date:**_____ | **Date:**_____ |

***Approved as to form and legality***

***By:*** _____ _____
***Office of the General Counsel*** ***Date***
***Department of Management Services***

RICK SCOTT
Governor

JOHN P. MILES
Secretary

4050 Esplanade Way | Talla | Fax: 850.922.6149

# INVITATION TO BID (ITB)

## For

# OFFICE FURNITURE AND FILES

## ITB Number 17-425-001-F

**ITB Issue Date:** December 20, 2010
**Responses Due:** January 24, 2011 (2:00 pm ET)

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES
DIVISION OF STATE PURCHASING
4050 ESPLANADE WAY, SUITE 360
TALLAHASSEE, FL 32399-0950

## TABLE OF CONTENTS

**1.0 INTRODUCTION**
**2.0 GENERAL INSTRUCTIONS TO RESPONDENTS [PUR1001 (10/06)]**
**3.0 SPECIAL INSTRUCTIONS TO RESPONDENTS**
**4.0 GENERAL CONTRACT CONDITIONS [PUR1000 (10/06)**
**5.0 SPECIAL CONDITIONS**
**6.0 PRICE SHEET**
**7.0 FORMS**

**[The remainder of this page is intentionally left blank (other than footer information)]**

## SECTION ONE: INTRODUCTION

**CONTENTS:**

**1.1 Introduction**
**1.2 Event Timeline**

**[The remainder of this page is intentionally left blank (other than footer information)]**

## 1.1 Introduction

The State of Florida's current Office Furniture and Files State Term Contract #425-001-06-1 has an average annual sales volume of $73,000,000.00.* Customers include 34 State agencies and other Eligible Users. Current Eligible Users consist of local governmental entities such as cities, counties, colleges, universities, and school boards in the State of Florida, as defined in 60A-1.005, Florida Administrative Code.

*(The figures listed are for informational purposes only and should be used as a guide for responding purposes.)

## 1.2 Event Timeline

Respondents should review and become familiar with the Event Timeline. The Dates and Times within the Event Timeline may be subject to change. It is the responsibility of the Respondent to check for any changes. All changes to the Event Timeline will be through an Addendum to this solicitation.

| Event Timeline Activity for ITB #17-425-001-F | Date |
|---|---|
| Notice of Office Furniture & Files solicitation is posted to the Vendor Bid System (VBS) and the complete Office Furniture & Files solicitation is posted in the MyFloridaMarketPlace Sourcing Tool. Solicitation will initially be in "Preview" status where Respondents can view/download all information and ask questions, but **cannot** input or submit responses. | December 20, 2010 |
| Deadline to submit Questions, or request for specification change via the MyFloridaMarketPlace Sourcing tool Q&A Board (Respondents must monitor Message Board for communications). | January 4, 2011<br>5 pm ET |
| Department will post Answers to Respondents' questions as an addendum to the solicitation within the MyFloridaMarketPlace Sourcing Tool. Respondents must monitor Message Board for communications. | January 11, 2011 |
| Deadline to submit Response, including all required documents in the MyFloridaMarketPlace Sourcing Tool. Utilize the Response Preparation Checklist to make sure all required documents and responses are completed. (Section 7.7) | January 24, 2011<br>2 pm ET |
| Deadline for submittal of State Term Contract dedicated web site URL Address. (Section 3.12) | January 24, 2011<br>2 pm ET |
| Notice of Intent to Award posted on Vendor Bid System (VBS). | March 29, 2011 |
| Deadline for development of eProcurement catalog within MyFloridaMarketPlace. | To Be Determined<br>Prior to Contract |
| Contract Award | Per Section 2.17<br>Contract Formation |

## SECTION TWO: GENERAL INSTRUCTIONS TO RESPONDENTS (PUR 1001 10/06)

**CONTENTS:**


**2.1 Definitions**
**2.2 General Instructions**
**2.3 Electronic Submission of Responses**
**2.4 Terms and Conditions**
**2.5 Questions**
**2.6 Conflict of Interest**
**2.7 Convicted Vendors**
**2.8 Discriminatory Vendors**
**2.9 Respondent's Representation and Authorization**
**2.10 Manufacturer's Name and Approved Equivalents**
**2.11 Performance Qualifications**
**2.12 Public Opening**
**2.13 Electronic Posting of Notice of Intended Award**
**2.14 Firm Response**
**2.15 Clarifications/Revisions**
**2.16 Minor Irregularities/Right to Reject**
**2.17 Contract Formation**
**2.18 Contract Overlap**
**2.19 Public Records**
**2.20 Protests**
**2.21 Limitation on Vendor Contact with Agency During Solicitation Period**


**[The remainder of this page is intentionally left blank (other than footer information)]**

**2.1 Definitions**
The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
(b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
(c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
(d) "Response" means the material submitted by the respondent in answering the solicitation.
(e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

**2.2 General Instructions**
Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

**2.3 Electronic Submission of Responses**
Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

**2.4 Terms and Conditions**
All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and
- Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

**2.5 Questions**
Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the

Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 20 of these Instructions.

**2.6 Conflict of Interest**

This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

**2.7 Convicted Vendors**

A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount ($25,000) provided in section 287.017 of the Florida Statutes.

**2.8 Discriminatory Vendors**

An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

**2.9 Respondent's Representation and Authorization**

In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1) (a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This

includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.

- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

**2.10 Manufacturer's Name and Approved Equivalents**

Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

**2.11 Performance Qualifications**

The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

**2.12 Public Opening**

Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1) (b), Florida

Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

**2.13 Electronic Posting of Notice of Intended Award**

Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

**2.14 Firm Response**

The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

**2.15 Clarifications/Revisions**

Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

**2.16 Minor Irregularities/Right to Reject**

The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

**2.17 Contract Formation**

The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

**2.18 Contract Overlap**

Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

**2.19 Public Records**

Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

**2.20 Protests**

Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3) (b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3) (a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

**2.21 Limitation on Vendor Contact with Agency During Solicitation Period**

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

**[The remainder of this page is intentionally left blank (other than footer information)]**

## SECTION THREE: SPECIAL INSTRUCTIONS TO RESPONDENTS

**CONTENTS:**


**3.1 Definitions**
**3.2 Purpose and Scope**
**3.3 Contact Person**
**3.4 Who May Respond**
**3.5 MyFloridaMarketPlace Overview**
**3.5.1 MyFloridaMarketPlace Vendor Registration Application**
**3.5.2 MyFloridaMarketPlace Sourcing Tool Training**
**3.5.3 Sourcing Tool Tips**
**3.5.4 Email Notification**
**3.5.5 Questions & Answers**
**3.6 Amendments or Addendums to the Solicitation Documents**
**3.7 Order of Precedence**
**3.8 Submittal of Response**
**3.8.1 Price Sheet**
**3.8.2 Ordering Instructions**
**3.8.1 Authorized Dealers & Manufacturer Representatives**
**3.8.2 Savings/Price Reductions**
**3.8.3 Product List**
**3.8.4 Certification of Drug-Free Workplace**
**3.9 Purchase Orders or Invoices for Reference**
**3.10 Environmental Requirements**
**3.11 Recycled Content Requirements**
**3.12 Manufacturer's URL Address for Dedicated Website Address**
**3.13 Cost Savings Objective**
**3.14 State Objectives**
**3.14.1 Diversity**
**3.14.2 Environmental Considerations**
**3.14.3 Certification of Drug-Free Workplace Program**
**3.14.4 Products Available from the Blind or Other Handicapped (RESPECT)**
**3.14.5 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)**
**3.15 Basis for Award**
**3.16 Special Accommodation**


**[The remainder of this page is intentionally left blank (other than footer information)]**

## 3.1 Definitions

The definitions found below (alphabetical order) and referenced in General Instructions to Respondents, (PUR 1001) Section 2.1 and General Contract Conditions, (PUR 1000) Section 4.1 of the ITB shall apply.

**Delivery Methods – Definition of Terms**

**Drop-Ship: FOB Destination.** Orders shipped directly by a manufacturer to the purchaser or user. Items delivered to the ordering agency shall be unloaded by the delivering carrier and placed on the agency's loading dock. If there is no loading dock, items shall be unloaded by the delivery carrier and placed in a space immediately adjacent to the carrier's vehicle at the delivery location.

**Delivered Not Installed:** On delivered non-installed orders items delivered to the ordering agency shall be unloaded by the delivering carrier and placed on the agency's loading dock. If there is no loading dock, items shall be unloaded by the delivery carrier and placed in a space immediately adjacent to the carrier's vehicle at the delivery location.

**Inside Delivery, Non-Installed:** On orders specifying inside (non-installed) delivery, items shall be unloaded and delivered, in the shipping carton, to the ordering agency by the delivering carrier and placed inside the door on the first or ground level floor of the building.

**Installed Delivery:** On installed orders, (open, set in place, ready for use) the Contractor or the delivering carrier, acting as the Contractor's agent, shall be responsible for receipt, inspection, and assembly of items delivered in the area designated by the ordering agency, as well as prompt removal and disposal of all debris which is a result of the delivery. The ordering agency shall be responsible for the immediate removal of any existing furniture from the area in which the contract items are to be installed. Elevator(s) must be made available if more than one story. If no elevator is available, delivery will be made to the ground floor, or additional delivery fees may be negotiated.

**Department** (http://dms.myflorida.com)**:** The Department of Management Services for the State of Florida. DMS provides administrative support for state agencies and state employees.

**Eligible User of the Contract:** Eligible users are defined in Rule 60A-1.005, Florida Administrative Code (F.A.C.) as: (i) all 34 State agencies, (ii) all other governmental agencies, as defined in Section 163.3164, Florida Statutes, which have a physical presence in the State of Florida, and (iii) any independent, nonprofit college or university located in Florida and accredited by the Southern Association of Colleges and Schools. *Specific Authority 287.042 (12) FS. Law Implemented 287.012 (12) F.S. History – New 8-24-04.*

**Environmentally Preferable Product (EPP):** A product or service that has a lesser or reduced effect on human

health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

**Environmental Policy or Mission:** A statement or philosophy by the organization of its intentions and principles in relation to its overall environmental performance, which provides a framework for action and for the setting of its environmental objectives and targets.

**GSA:** Acronym for the U.S. General Services Administration. GSA leverages the buying power of the federal government to acquire best value for taxpayers and federal customers. For additional information about GSA, please visit the U.S. General Service Administration at: http://www.gsa.gov.

**ITB:** Acronym for Invitation to Bid.

**Manufacturer(s):** The original producer of a commodity and/or contractual service.

**MSRP:** Acronym for the Manufacturer's Suggested Retail Price. It represents the Manufacturer's recommended retail selling price, list price, published price or other usual and customary price that would be paid by the purchaser for specific commodities and contractual services without benefit of a Contract resulting from the solicitation. It must publically listed, available, and verifiable by the Department.

**Post-Consumer Content:** Materials in a recycled product which are derived from businesses or consumers after having served their intended uses, and which have been separated or diverted from solid waste for the purpose of collection, recycling and disposition.

**Post-Industrial Content:** Materials generated by manufacturers or product converters, such as trimmings, overruns and obsolete products, that are incorporating back into the manufacturing process of the same or different products are considered post-industrial materials or scraps.

**Recycle (www.epa.gov):** Collecting recyclable materials that would otherwise be considered waste, sorting and processing recyclables into raw materials such as fibers, manufacturing raw materials into new products, and purchasing recycled products.

**SCS Indoor Advantage™:** The Scientific Certification Systems (SCS) organization was founded in 1984 as an internationally recognized, neutral third party to certify environmentally safe indoor products. The SCS Indoor Advantage certification program identifies those products that meet specific indoor air quality emission requirements. These standards are set by the Business and Institutional Furniture Manufacturer's Association (BIFMA) and the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED). The program applies to any non-flooring product generally used within an enclosed indoor environment including wall coverings, systems furniture, casegoods, and insulation. **SCS Indoor Advantage™Gold:** The program tests and certifies products for compliance with the indoor air quality emission requirements of BIFMA, LEED, and California Section 01350, an environmental standard specification to cover key environmental performance issues.

**State:** means the State of Florida.

### 3.2 Purpose and Scope

The State of Florida, Department of Management Services, invites interested Respondents, to submit proposals in accordance with the solicitation documents. The purpose of this ITB is to establish a forty-eight month (48) State Term Contract for the purchase of Office Furniture & Files with the potential option for renewals as allowed by Chapter 287, Florida Statutes for purchase by all State Agencies and other eligible users.

### 3.3 Contact Person

The following person is the Department's **SOLE** point of contact from the date of release of this ITB until selection of successful provider(s).

**Brenda Wells,** CPPB, FCPM, FCPA, FCCM
Purchasing Analyst, Team Lead
State of Florida Interior Design License #0002922
Department of Management Services
Division of State Purchasing
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399
Telephone: (850) 488-6904
Fax: (850) 414-6122
Email: Brenda.Wells@dms.MyFlorida.com

### 3. 4 Who May Respond

The Department seeks Responses from manufacturers holding current Federal (GSA) Contracts for products offered on this Contract. Though the Department intends to contract directly with manufacturers, the Department encourages the participation of certified minority business enterprises (CMBE). Information on CMBEs is available from the Office of Supplier Diversity at http://osd.dms.state.fl.us.

Each Respondent must be authorized to conduct business with the State of Florida, and possess the experience and personnel resources to provide the products and services described in this ITB. The Department retains the right to request additional information pertaining to the Respondent's ability and qualifications to accomplish all services described in this ITB as deemed necessary during the ITB or after contract award.

### 3.5 MyFloridaMarketPlace Overview

The Department uses the MyFloridaMarketPlace system (MFMP) to receive Responses electronically. This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool.

#### 3.5.1 MyFloridaMarketPlace Vendor Registration Application

Vendors must have a revised, current, and complete Vendor Registration Application identified on the MyFloridaMarketPlace Vendor Registration System at: https://vendor.myfloridamarketplace.com/. If you have not registered or have requested a registration update, please be advised that a minimum of forty-eight (48) hours will be required for access to the MyFloridaMarketPlace Sourcing Tool. Completion of this registration is mandatory for those Vendors who wish to submit a Response.

#### 3.5.2 MyFloridaMarketPlace Sourcing Tool Training

This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool at: https://sourcing.myfloridamarketplace.com/. Optional training on how to respond to this solicitation electronically is offered at: http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm. **While training is optional, we strongly recommend you take advantage of this offer.**

Download and review the document titled "ITB Event User Guide."

- For all technical questions about the Sourcing Tool, Vendors should contact the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or: vendorhelp@myfloridamarketplace.com.
- For additional information or assistance on using the Sourcing Tool, please visit the MyFloridaMarketPlace website at the following link: http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm.

  This site includes:
  a. Solicitation User Guides
  b. On Demand web-based Sourcing training link
  c. WinZip FAQs
  d. Vendor FAQs
  e.

#### 3.5.3 MyFloridaMarketPlace Sourcing Tool Tips

When working in the MyFloridaMarketPlace Sourcing Tool, be aware of the twenty (20) minute time-out function in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty (20)

minutes to ensure your entries since you last saved are not lost.

Please note that clicking the SAVE button within the MyFloridaMarketPlace Sourcing Tool only saves your solicitation Responses. **The SAVE button does not transmit your solicitation Response to the State**. In order to transmit your solicitation Response to the State, you must click the SUBMIT button on the SUMMARY page of the solicitation Response.

After clicking the SUBMIT button, it is the Respondent's responsibility to check any submitted Response within the MyFloridaMarketPlace Sourcing Tool to verify that the Response is accurately and completely captured within the MyFloridaMarketPlace Sourcing Tool. Respondents must do this while there is sufficient time remaining in the solicitation period in the event you discover an error and need to resubmit a revised Response.

To validate your Response, you should do the following before the solicitation period ends:

- Go to the "My Bids / My Responses" tab within the MyFloridaMarketPlace Sourcing Tool after you submitted your Response.
- Click on the Response ID number of your last submitted Response.
- Review entire Response to make sure all responses are complete, accurate, and as you intended to submit.
- Minimum areas to check are:
    - Text boxes – Is your entire answer viewable?
    - Yes/No questions – Is the displayed answer correct?
    - All uploaded document files – Can you open attached document(s) and clearly view entire content? Does the content of the file(s) match your intended Response within the MyFloridaMarketPlace Sourcing Tool (e.g., not an earlier version, incomplete copy, or working copy)?
    - Pricing and Other Information – Are all Prices and other information you intended to submit visible and accurately captured within MyFloridaMarketPlace Sourcing Tool?
    - Required Items - Are all items listed in the solicitation completed as required within the MyFloridaMarketPlace Sourcing Tool?

**DO NOT RELY ON THE MYFLORIDAMARKETPLACE SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN SECTION 1.2, EVENT TIMELINE.** The Response deadline(s) shall be as reflected in Section 1.2, Event Timeline, of this solicitation. The MyFloridaMarketPlace Sourcing Tool's time remaining clock is not the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments.

**It is strongly recommended that you submit your response as early as possible.** You should allow time to receive any requested assistance and to receive verification of your submittal; waiting until the last hours of the solicitation could impact the timely submittal of your response.

### 3.5.4 Email Notification

Respondents are reminded that the Sourcing Tool's email notifications are an option provided to Respondents as a courtesy. The State of Florida is not under any obligation and does not guarantee that Respondents will receive email Notifications concerning the posting, amendment or close of ITB's. Respondents are responsible for checking the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System for information and updates concerning this ITB.

### 3.5.5 Questions and Answers

Respondents shall examine this solicitation to determine if the Department's requirements are clearly stated. If there are any requirements which are unclear or objectionable, Respondents should submit notice to the Department using the Sourcing Tool's Q&A Board by the due date for Respondents to submit questions listed in the Event Timeline.

Please note that questions will **NOT** be answered via telephone or fax. The Department shall post the answers to the questions via the MyFloridaMarketPlace Sourcing Tool by the date stated on the Event Timeline. Each

Respondent is responsible for monitoring the MyFloridaMarketPlace system for new or changing information. The Department shall not be bound by any verbal information or by any written information that is not either contained within the solicitation documents or formally noticed and issued by the ITB sole point of contact. Questions shall not constitute formal protest of the specifications or of the solicitation. The formal protest process is described in Section 2.20 Protests.

### 3.6 Amendments or Addendums to the Solicitation Documents

The Department reserves the right to issue amendments or addendums to the solicitation. Notice of any amendment or addendum will be posted within the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System. Such notice, if required, will contain the appropriate details for identifying and/or reviewing the formal changes to the solicitation. Each Respondent is responsible for monitoring the sites for new or changing information concerning this solicitation.

### 3.7 Order of Precedence

Respondents are encouraged to carefully review all materials contained herein and prepare responses accordingly. In the event any conflict exists between the Special and General Instructions, the Special Instructions shall prevail. In the event any conflict exists between the Special and General Conditions, the Special Conditions shall prevail. This Section, **3.7**, supersedes and replaces **Section 2.4**, General Instructions Terms and Conditions.

All responses are subject to the terms of the following sections of this ITB which, in case of conflict, shall have the order of precedence listed:

a) Introduction
b) Special Contract Conditions
c) Special Instructions To Respondents
d) General Contract Conditions (PUR 1000)
e) General Instruction to Respondents (PUR 1001)
f) Price Sheets
g) Forms

The Department objects to and shall not consider any additional terms or conditions submitted by a Respondent, including any appearing in documents attached as part of a Respondent's Response. In submitting its Response, the Respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall result in the disqualification of the Respondent's Response for any offers associated with the additional terms or conditions. Failure to comply with the solicitation requirements, specifications, terms, and conditions, including those specifying information that must be submitted with a Response, may be grounds for rejecting a Response.

### 3.8 Submittal of Response

Respondents shall submit their offer online via the MyFloridaMarketPlace Sourcing Tool at: https://sourcing.myfloridamarketplace.com.

**OFFERS MUST BE SUBMITTED IN THE MYFLORIDAMARKETPLACE SOURCING TOOL BY THE DATE AND TIME SPECIFIED ON THE EVENT TIMELINE. Offers not submitted within MyFloridaMarketPlace shall be rejected.**

The Department shall not consider late offers and the Sourcing Tool will NOT accept offers after the closing date and time specified in the Event Timeline or as amended by the Department. Each Respondent is responsible for ensuring that its response is submitted at the proper time. In the event a Respondent submits more than one response in the MyFloridaMarketPlace Sourcing Tool, **only** the last Response received by the system shall be considered for award. Previous responses will not be visible to the State of Florida. The Response Preparation Checklist is provided to assist submittal but does not relieve the Respondent of responsibility for ensuring that all Requirements of the ITB are included with the Response submittal.

**The following documents must be uploaded into the Respondent's Response within the MyFloridaMarketPlace Sourcing Tool*:**

1. **Price Sheet**

2. **Ordering Instructions Form**
3. **Authorized Dealers & Manufacturer Representatives Form**
4. **Savings/Price Reductions Form**
5. **Product List Form**
6. **Certification of Drug-Free Workplace Form**

***IT IS STRONGLY RECOMMENDED THAT YOU SUBMIT YOUR RESPONSE AS EARLY AS POSSIBLE. YOU SHOULD ALLOW TIME TO RECEIVE ANY REQUESTED ASSISTANCE AND TO RECEIVE VERIFICATION OF YOUR SUBMITTAL; WAITING UNTIL THE LAST HOURS OF THE SOLICITATION COULD IMPACT THE TIMELY SUBMITTAL OF YOUR RESPONSE. DO NOT RELY ON THE "MYFLORIDAMARKETPLACE" SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE EVENT TIMELINE OF THIS ITB.**

**Additionally**, the following information must be **received by** the contact person below no later than the Response Opening Date & Time. Please refer back to the Event Timeline for Dates and Times.

1. **Current Manufacturer Published Price List/Book* (compact disc – CD) (Section 5.10)**
   Cover page and table of contents must be included with price pages. *Consistent with GSA Contract.
2. **Current Federal GSA Catalog/Price Book (compact disc – CD) (Section 5.10)**
   Cover page, terms and conditions, table of contents must be included with price pages.
3. **Copy of your GSA Contract (compact disc- CD) (Section 5.10)**
   Documentation of the price, discount and tiers offered must be submitted with the Response.
4. **Purchase Orders or Invoices for Reference (Section 3.9)**
5. **Environmental Requirements (Section 3.10)**
6. **Recycled Content Requirements (Section 3.11)**
7. **Manufacturer's URL Address for dedicated website address (Section 3.12)**

Failure to provide all requested information within the Response may result in rejection of the Response.
Outer packaging shall **clearly state** Bid Title, Bid (solicitation) Number, Bid Opening Date and Time.

**3.8.1 Price Sheet**

**Price Sheet Responses shall be submitted on the Price Sheet Form, Section 6.1.**
**All pricing shall duplicate GSA price lists and discounts for every item offered.**
Reference Prices/Discounts, Section 5.10 and Balance-of-Line Price/Products, Section 5.11.

**This document must be uploaded into Respondent's Response within MyFloridaMarketPlace.**
**Failure to comply with this requirement shall result in disqualification of Response.**

**3.8.2 Ordering Instructions Form (Section 7.1)**

On the Ordering Instructions Form Respondents shall identify persons responsible for answering questions about the Response and administering the Contract, and shall provide information necessary for placing orders under the Contract.
**This document must be uploaded into Respondent's Response within MyFloridaMarketPlace.**
**Failure to comply with this requirement may result in disqualification of Response.**

**3.8.3 Authorized Dealers & Manufacturer Representatives Form (Section 7.2)**

Respondents are required to name at least a minimum of two (2) different servicing dealers for the State of Florida. **Respondents are encouraged to use certified Minority Business Enterprise dealers.**
**Reference Authorized Dealers & Manufacturer Representative, Section 5.27.**
**This document must be uploaded into Respondent's Response within MyFloridaMarketPlace.**
**Failure to comply with this requirement shall result in disqualification of Response.**

**3.8.4 Savings/Price Reductions Form (Section 7.5)**

Respondents shall submit one (1) accurately completed Savings/Price Reductions Form with their

Response containing the required savings information offered to the State of Florida. The Savings/Price Reductions Form will be submitted electronically using the MFMP Sourcing Tool, per Section 3.5 of the solicitation.
**This document must be uploaded into Respondent's Response within MyFloridaMarketPlace. Failure to comply with this requirement may result in disqualification of Response.**

**3.8.5 Product List Form (Section 7.6)**

The Product List Form is an example of furniture products offered under this ITB which will be available on the State of Florida Office Furniture & Files Contract. Eligible users of this Contract will be able to view the contractors name for each listing checked on the State Purchasing Contract website.
**This document must be uploaded into Respondent's Response within MyFloridaMarketPlace. Failure to comply with this requirement may result in disqualification of Response.**

**3.8.6 Certification of Drug-Free Workplace Form (Section 7.3)**

Respondents shall submit one (1) accurately completed Certification of Drug-Free Workplace Form with their Response certifying the Respondent has a drug-free workplace program. The Certification of Drug-Free Workplace Form will be submitted electronically using the MFMP Sourcing Tool, per Section 3.5 of the solicitation.
**This document must be uploaded into Respondent's Response within MyFloridaMarketPlace. Failure to comply with this requirement may result in disqualification of Response.**

**3.9 Purchase Orders or Invoices for Reference**

All Respondents shall furnish a minimum of three (3) projects sold to "Eligible Users" (see Definitions, Section 3.1) completed in Florida in the last 24 months including the name of the Customer responsible personnel and phone number where this specific type of furniture is installed. Copies of the purchase orders or invoices must be legible and identify the date, Customer, specific furniture type and price. Three (3) purchase orders or invoices **shall be submitted with the mailed Responses** and received by the contact person no later than the Deadline to submit Response. The State of Florida reserves the right to contact the customer regarding the services provided.
**Failure to comply with this requirement shall result in disqualification of Response.**

**3.10 Environmental Requirements**

The State of Florida is committed to reducing waste and promoting energy conservation. To that effort, Respondents responding to this ITB are required to meet minimum recycled content standards **AND** to submit information relating to their company's environmental policy and implementation process.

1. Respondents shall submit a detailed environmental policy. This policy shall explain the Respondent's environmental mission and shall include detailed information on initiatives or procedures related to the realization of the environmental mission, for example:

| | |
|---|---|
| Pollution prevention opportunities | Disposal of solid and/or hazardous waste |
| Energy conservation | Recycling of scrap |
| Water conservation | Health and safety issues |
| Green House Gas (GHG) reductions | Community involvement |

   Environmentally preferable products (EPPs) are listed for this Contract on the Florida Climate Friendly Products List, pursuant to Executive Order 07-126, titled "Leadership by Example: Immediate Actions to Reduce Greenhouse Gas Emissions from Florida State Government". Upon award, Contractors will be encouraged to submit a list of their qualifying products for review and posting to the Florida Climate-Friendly Preferred Products List. The current list can be viewed at the following DMS website link:

2. Respondent shall submit any prepared and/or approved documentation or certifications for GSA products submitted in relation to the BIFMA Sustainability Guidelines, BIFMA level ™ Certification from Scientific Certification Systems (SCS), ISO 14001, and EPA Comprehensive Procurement Guidelines.

   If awarded, Respondents shall provide a link to this information on the State Contract Web Page as

described in this Section 5.24, Dedicated State Term Contract Website Requirement.
**Environmental Requirements shall be submitted with the mailed Response and received by the contact person no later than the Response Opening Date and Time.**
**Failure to comply with this requirement may result in disqualification of Response.**

### 3.11 Recycled Content Requirements

Respondent shall confirm that all corrugated cardboard materials and containers used in the packaging and transport of office furniture products will be made with a minimum of 35% recycled material (post-consumer and/.or post-industrial) and meets standard performance requirements. Verification of the recycled material content shall be confirmed in writing by the product supplier or through documented specifications from the product supplier.

Respondent shall identify all product lines (or products) including recycled content and/or post consumer recycled content. Awarded contractor shall provide the content percentage of the recycled materials in the identified product lines no later than 30 days after contract award date.
**Recycled Content Requirements shall be submitted with the mailed Response and received by the contact person no later than the Response Opening Date and Time.**
**Failure to comply with this requirement may result in disqualification of Response.**

### 3.12 Manufacturer's URL Address for Dedicated Website Address

The Department displays contract and product information online for customer's use. Each Contractor shall develop and maintain a State Contract web page on the Internet to post approved contract information. Respondent shall submit the Universal Resource Locator (URL) address for this Contract. This URL link may remain hidden while the responses are under evaluation. Reference Section 5.24, Dedicated State Term Contract Website Requirement for specific requirements.
**URL Address shall be submitted with the mailed Response and received by the contact person no later than the Response Opening Date and Time.**
**Failure to comply with this requirement may result in disqualification of Response.**

### 3.13 Cost Savings Objective

Chapter 2010-151, Laws of Florida, Section 47, provides the following:
Each state agency, as defined in s. 216.011, Florida Statutes, shall review existing contract renewals and reprocurements with private providers and public-private providers in an effort to reduce contract payments by at least 3 percent. It is the statewide goal to achieve substantial savings; however, it is the intent of the Legislature that the level and quality of services not be affected. Each agency shall renegotiate and reprocure contracts consistent with this section. Any savings that accrue through renegotiating the renewal or reprocurement of an existing contract shall be placed in reserve by the Executive Office of the Governor.

In order to achieve this objective, the Department seeks to achieve a cost savings of at least 3 percent when compared to the pricing contained in the Department's most recent state term contract for these commodities. Current and previous contracts can be accessed through the Division of State Purchasing website at:
http://dms.myflorida.com/business_operations/state_purchasing.

### 3.14 State Objectives

Within thirty (30) calendar days following award of the Contract, if awarded, the successful Respondent shall submit plans addressing each of the State's five (5) objectives listed below, to the extent applicable to the items / services covered by this solicitation.

#### 3.14.1 Diversity

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority- and women-owned business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority- and women-owned businesses with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

It is vital that small, minority, women-owned and veteran-owned business enterprises participate in the State's procurement process as both prime Contractors and Subcontractors under prime Contracts. Small, minority, and women-owned businesses are strongly encouraged to submit replies to this solicitation.

The Contractor shall submit documentation addressing Diversity and describing the efforts being made to encourage the participation of small, minority, women-owned and veteran-owned businesses. Information on Certified Minority Business Enterprises (CMBE) is available from the Office of Supplier Diversity at:

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

### 3.14.2 Environmental Considerations

The State supports and encourages initiatives to protect and preserve our environment. The Department encourages the Contractor to submit as part of any response the Contractor's plan to support the procurement of products and materials with recycled content. The Contractor shall also provide a plan for reducing and or handling of any hazardous waste generated by Contractor's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Contractor's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

### 3.14.3 Certification of Drug-Free Workplace Program

The State supports and encourages initiatives to keep the workplaces of Florida's Suppliers and Contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie bids are received, preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, Respondent shall certify that the Respondent has a drug-free workplace program using the Certification of Drug-Free Workplace form included in Section 7.4 of the solicitation. The Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation.

### 3.14.4 Products Available from the Blind or Other Handicapped (RESPECT)

The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at http://www.respectofflorida.org.
The Contractor shall describe how it will address the use of RESPECT in offering the items of the solicitation.

### 3.14.5 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section 946.515(2), and (4), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at http://www.pride-enterprises.org/.

The Contractor shall describe how it will address the use of PRIDE in offering the items of the solicitation.

## 3.15 Basis for Award

Award shall be made statewide for each manufacturer's office furniture product offering currently available on GSA schedule. The Department intends to award to responsible vendor per brand offering GSA pricing or better. Respondents

whose bids, past performance, or current status do not reflect the capability, integrity or reliability to fully and in good faith perform the requirements of the Contract may be rejected as non-responsible.

The Department reserves the right to make awards as determined to be in the best interest of the State of Florida, and to accept or reject any and all offers, or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State of Florida's best interest.

**3.16 Special Accommodation**
Any person requiring a special accommodation at State Purchasing because of a disability should call State Purchasing at (850) 488-8440 at least five (5) workdays prior to the bid opening. If you are hearing or speech impaired, please contact State Purchasing by using the Florida Relay Service at (800) 955-8771 (TDD).

## SECTION FOUR: GENERAL CONTRACT CONDITIONS - PUR 1000 (10/06)

**CONTENTS:**


**4.1 Definitions**
**4.2 Purchase Orders**
**4.3 Product Version**
**4.4 Price Changes Applicable Only to Term Contracts**
**4.5 Additional Quantities**
**4.6 Packaging**
**4.7 Inspection at Contractor's Site**
**4.8 Safety Standards**
**4.9 Americans with Disabilities Act**
**4.10 Literature**
**4.11 Transportation and Delivery**
**4.12 Installation**
**4.13 Risk of Loss**
**4.14 Transaction Fee**
**4.15 Invoicing and Payment**
**4.16 Taxes**

**4.17 Governmental Restrictions**
**4.18 Lobbying and Integrity**
**4.19 Indemnification**
**4.20 Limitation of Liability**
**4.21 Suspension of Work**
**4.22 Termination for Convenience**
**4.23 Termination for Cause**
**4.24 Force Majeure, Notice of Delay, and No Damages for Delay**
**4.25 Changes**
**4.26 Renewal**
**4.27 Purchase Order Duration**
**4.28 Advertising**
**4.29 Assignment**
**4.30 Antitrust Assignment**
**4.31 Dispute Resolution**
**4.32 Employees, Subcontractors, and Agents**
**4.33 Security and Confidentiality**
**4.34 Contractor Employees, Subcontractors, and Other Agents**
**4.35 Insurance Requirements**
**4.36 Warranty of Authority**
**4.37 Warranty of Ability to Perform**
**4.38 Notices**
**4.39 Leases and Installment Purchases**
**4.40 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)**
**4.41 Products Available From the Blind or Other Handicapped**
**4.42 Modification of Terms**
**4.43 Cooperative Purchasing**
**4.44 Waiver**
**4.45 Annual Appropriations**
**4.46 Execution in Counterparts**
**4.47 Severability**

### 4.1 Definitions

The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.

(c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

### 4.2 Purchase Orders

In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

**4.3 Product Version**

Purchase orders shall be deemed to reference a manufacturer's most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

**4.4 Price Changes Applicable Only to Term Contracts**

If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

**4.5 Additional Quantities**

For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

**4.6 Packaging**

Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

### 4.7 Inspection at Contractor's Site
The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

### 4.8 Safety Standards
All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

### 4.9 Americans with Disabilities Act
Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

### 4.10 Literature
Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

### 4.11 Transportation and Delivery
Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

### 4.12 Installation
Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

### 4.13 Risk of Loss
Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected

product.

**4.14 Transaction Fee**

The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.**

**4.15 Invoicing and Payment**

Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

**4.16 Taxes**

The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

**4.17 Governmental Restrictions**

If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

**4.18 Lobbying and Integrity**

Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS.The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the

benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dlis.dos.state.fl.us/barm/genschedules/gensched.htm). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

**4.19 Indemnification**

The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

**4.20 Limitation of Liability**

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

**4.21 Suspension of Work**

The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

**4.22 Termination for Convenience**

The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

**4.23 Termination for Cause**

The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

**4.24 Force Majeure, Notice of Delay, and No Damages for Delay**

The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

**4.25 Changes**
The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

**4.26 Renewal**
Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

**4.27 Purchase Order Duration**
Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.
The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

**4.28 Advertising**
Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

**4.29 Assignment**
The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any

assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

**4.30 Antitrust Assignment**
The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

**4.31 Dispute Resolution**
Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

**4.32 Employees, Subcontractors, and Agents**
All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

**4.33 Security and Confidentiality**
The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

**4.34 Contractor Employees, Subcontractors, and Other Agents**
The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

**4.35 Insurance Requirements**
During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is

a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

**4.36 Warranty of Authority**
Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**4.37 Warranty of Ability to Perform**
The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

**4.38 Notices**
All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

**4.39 Leases and Installment Purchases**
Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

**4.40 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)**
Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at http://www.pridefl.com.

**4.41 Products Available from the Blind or Other Handicapped**
Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at http://www.respectofflorida.org.

**4.42 Modification of Terms**
The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's

acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

**4.43 Cooperative Purchasing**

Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16) (a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

**4.44 Waiver**

The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**4.45 Annual Appropriations**

The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

**4.46 Execution in Counterparts**

The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**4.47 Severability**

If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

## SECTION FIVE: SPECIAL CONDITIONS

**CONTENTS:**

**5.1 Eligible Products**
**5.2 Exclusions**
**5.3 Qualifications**
**5.4 Doing Business with the State**
**5.5 Ethical Business Practices**
**5.6 Sales Requirement**
**5.7 Quarterly Contract Sales Summary Requirement**
**5.8 Purchasing Card Program**
**5.9 Preferred Pricing Compliance**
**5.10 Prices/Discounts**
**5.11 Balance-of-Line Price/Product**
**5.12 Fill-In Pricing**
**5.13 Addition/Deletion of Vendors and Products Offered**
**5.14 Quantity Discounts**
**5.15 Delays & Complaints**
**5.16 Compliance with Laws**
**5.17 Conformance to Codes**
**5.18 Delivery Requirements**
**5.19 Delivery/Installation Recommendations for Steel Files**
**5.20 Installation Costs / Reconfiguration**
**5.21 Space Planning / Design Fees**
**5.22 Change Orders**
**5.23 Contract Revisions**
**5.24 Dedicated State Term Contract Website Requirement**
**5.25 MyFloridaMarketPlace (MFMP) Electronic Catalog Requirement**
**5.26 Requirements of Contractors**
**5.27 Authorized Servicing Dealers and Manufacturer Representative**
**5.28 Intellectual Property**
**5.29 Warranty**
**5.30 Insurance, Worker's Compensation**

**[The remainder of this page is intentionally left blank (other than footer information)]**

**5. 1 Eligible Products**

All products offered under this Contract shall be new and unused and in current production - remanufactured or refurbished products are not part of this offering. No series shall be considered for award under this Contract if already awarded or in conflict with another State term contract**. Eligible products include, but are not limited to,**

| | |
|---|---|
| **Office Furniture** | **Lateral, Vertical and Fireproof Steel Files** |
| **Dispatch/911 Furniture** | **Conference or Training Tables** |
| **Mail Processing Furniture** | **Conference or Training Chairs** |
| **Map Files** | **Storage and Presentation Accessories** |
| **Reception Desks** | **Single & Multiple Seating Units** |
| **Sofas & Loveseats (Public Areas)** | **Occasional Tables** |

The Department reserves the right to require Respondents to submit samples of the proposed products before making a final determination of acceptability.

**5. 2 Exclusions**

The following items are specifically excluded and not within the scope of this Contract:

- Art work
- Decorative lamps and accessories

**5.3 Qualifications**

Only Responses submitted by product manufacturers will be considered for evaluation. Respondents must have the capability to provide products and services in accordance with the solicitation documents. Contract orders may be directed to a manufacturer's representative or to servicing dealers, but only those Responses signed and presented by the product manufacturer will be considered for contract award.

**5.4. Doing Business with the State – Other State Agencies Requirements**

Vendors doing business with the State of Florida are required to register in the MyFloridaMarketPlace (MFMP) system. In addition, to conduct business in Florida, a vendor must register/obtain licenses with particular state agencies such as the Department of State, Division of Corporations, the Department of Revenue, and the Department of Financial Services. To review these requirements, click on the following link:
http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/mfmp_vendors/vendor_toolkit/doing_business_with_the_state_of_florida

**5.5 Ethical Business Practices**

Contractor shall work in partnership with the State to ensure a successful and valuable contract, and ethical practices are required of State employees, Contractors, and all parties representing the contractor. All work performed under this Contract will be subject to review by the Inspector General of the State of Florida, and any findings suggesting unethical business practices may be cause for default proceedings and/or contract termination. **Reference General Contract Conditions, PUR 1000, Lobbying and Integrity, Section 4.18 for additional requirements.**

**5.6 Sales Requirement**

Sales will be reviewed on a quarterly basis. Should **no** sales be recorded in two consecutive contract quarters, the Contractor may be placed in probationary status or may be subject to termination for convenience.

**5.7 Quarterly Contract Sales Summary Requirement**

The Contractor is required to provide Quarterly Contract Sales Summary reports to the Contract Manager. Reports shall include:

- Contractor's Name
- Reporting Period

- Total dollar value of purchases per quarter differentiating between Eligible User types, State Agencies and Political Subdivisions.
- Listing total dollar of Environmentally Preferred Products sales and contract sales through Certified Minority Business Enterprises.

Initiation and submission of the Contract Sales Summaries are to be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary forms by email to the Contract Manager as stipulated. The Department shall distribute, in electronic format, the Contract Sales Summary forms to be used by the Contractor upon Contract Formation, Section 2.17.
The Department reserves the right to require Contractors to submit more detailed reports as necessary.
**Reference General Contract Conditions, PUR 1000, Transaction Fee, Section 4.14 for reporting requirements.**

**Failure to provide a quarterly report, including no sales, within thirty (30) calendar days following the end of each quarter may result in the default proceedings and/or termination of the Contract by the Department.**

### 5.8 Purchasing Card Program

The State of Florida and numerous Eligible Users have adopted and implemented various Purchasing Card programs using different universal card formats (e.g., American Express, MasterCard, and Visa). Accordingly, the Contractor and the Manufacturer's authorized Dealers must have the ability to accept universal card format Purchasing Cards, including American Express, MasterCard, and Visa, during the Contract term. Contractors and Manufacturer's authorized Dealers may receive payments from Eligible Users by universal card format Purchasing Cards in the same manner as other credit / debit card purchases. Universal card format Purchasing Cards (e.g., American Express, MasterCard, and Visa) acceptance is mandatory, but is not the exclusive method of payment (e.g., Purchase Order). The method of ordering and payment (e.g., Purchase Order, Purchasing Card) shall be selected by the Eligible User.

The Eligible User will not fill out any Contractor or Manufacturer's authorized Dealer forms or separate contracts in association with the Contractor or Manufacturer's authorized Dealer accepting a Purchasing Card payment. Contractors and Manufacturer's authorized Dealers are not allowed to charge a fee for accepting a Purchasing Card payment. Surcharges or convenience fees are prohibited. On-line billing or payment systems maintained by the Contractor, Manufacturer's authorized Dealer, or their respective agent will not store the card holder's name, account number, and expiration date for re-use. Card holders will provide the Contractor or Manufacturer's authorized Dealer, as applicable, with card account information at each Purchasing Card transaction.

### 5.9 Preferred Price Compliance

In accordance with Chapter 2010-151, Laws of Florida, Section 48(2), the Contractor is required to submit, at least once during each year of the Contract, an Affidavit from an authorized representative of the Contractor attesting that the Contract is in compliance with Section 4.4(b), Best Pricing Offer. Contractor's failure to comply with Section 4.4(b) may be grounds for terminating the Contract, at the Department's sole discretion. The Department shall distribute the Affidavit form to be used by the Contractor upon Contract Formation, Section 2.17.

### 5.10 Prices/Discounts

**All pricing shall duplicate GSA price lists and discounts for every item offered.**
Prices shall be submitted in the form of:

1.) A discount off manufacturer's current published price list **with the GSA-approved discount structure or better, in effect at the time of bid opening.** A copy of your GSA Contract verifying the price and discount offered must be submitted with the Response.

**AND**

2.) **The published GSA discounted price lists**, in effect at the time of bid opening.

Adjustments to address a difference between the GSA industrial Funding Fee and the MyFloridaMarketPlace Transaction Fee may be listed on the Price Sheet as a percentage of the total applicable charge, and shall not exceed the exact difference of the two fees (.25%).
**Reference General Conditions (PUR 1000), Section 4.14 Transaction Fee Reports for additional information.**

**Reference Special Instructions to Respondents, Price Sheet, Section 3.8.1.**
**Reference Special Conditions, Contract Revisions, Section 5.23 for price adjustments.**

**5.11 Balance-of-Line Price/Products**

Contractor may offer additional products, parts or items for series that have not been included on the Contractor's GSA Contract but expand additional offering and options to the State of Florida. Any Balance-of-Line series or products approved by GSA during the contract term must be submitted to the State for consideration or remove them from the Balance-of-Line category. Balance-of-Line items may be added or removed during the contract term and the process will not impact your GSA product offering on the state term contract.

Pricing submitted for Balance-of-Line items shall be within 5% of the discount offered for similar items already on the current contract. The request to increase prices for Balance-of-Line must meet the criteria for an Equitable Adjustment. The only price increases considered outside of GSA modifications (for approved products) are Equitable Adjustments.
For more details on the Equitable Adjustment process, please reference (General Conditions (PUR 1000) Section 4. Price Changes Applicable only to Term Contracts, paragraph (e) Equitable Adjustments: http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_agreements_and_price_lists/state_term_contracts/furniture_office_and_files.

The Department reserves the right to accept or reject any balance of line items submitted for the Contract. This provision is not intended to allow an abundance of non-GSA approved items on the Contract. The majority of items approved on this Contract for any Contractor should be GSA approved items.

**5.12 Fill-In Pricing**

The Contractor must honor "fill-in" orders at the same pricing and discount for 90 days after substantial completion of a single job, delivered to a single location.

**5.13 Addition/Deletion of Vendors and Products Offered**

The Department reserves the right to add or delete products, and delete vendors, within 180 days after such action by GSA, as published in the Federal Supply Schedule and all "Supplements".

**5.14 Quantity Discounts**

Contractor is encouraged to offer additional discounts for one time delivery of large single orders of any assortment of items.

**5.15 Delays & Complaints**

Delivery delays and service complaints will be monitored on a continual basis. Documented inability to perform under the conditions of the Contract (via the established Complaint to Vendor process (PUR 7017)) may result in default proceedings and/or contract termination.

**5.16 Compliance with Laws**

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Chapter 60A-1 of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for contract termination.

**5.17 Conformance to Codes**

The installing dealer shall be responsible for verifying furniture space plan/configuration fits the given space and all aisles and openings and doors meet the local fire and safety codes and are in conformance with ADA regulations. Also, upon the request of the Department or Customer, the Contractor shall be responsible for providing written verification of their product's conformance to current fire and flammability codes, as regulated by the State of Florida.

**5.18 Delivery Requirements**
**The delivery requirements below are specific to this contract. Reference General Contract Conditions, PUR 1000, paragraph 4.11 for additional information.**

Delivery and shipping costs shall mirror charges as approved by GSA. All charges for freight, delivery, and installation shall be noted on the Price Sheet(s), Section 6.1. The Department reserves the right to reject any additional charges.

Delivery of all contract items (with the exception of special finish, custom fabric, or customized orders) is required within 90 days from receipt of purchase order containing complete ordering information (contract number, commodity number, item description, manufacturer's model number and street delivery address (not Post Office Box)). **It is highly recommended that the Agency confirm receipt of the Purchase Order with the manufacturer and servicing dealer. If orders are sent directly to the manufacturer, the servicing dealer may not always be aware of pending orders and the time frame.** Any known factors (including vacation period, factory inventory, etc.) that may disrupt this delivery schedule must be clearly presented to the Customer along with the specific information on how orders will be processed during such periods. Delay in delivery beyond the time specified must be justified to the ordering agency, in writing, and if required, the Contractor shall provide temporary furniture on a rent-free basis. Furthermore, items not delivered within the required delivery schedule may result in the Contractor being found in default by the Department in accordance with contract conditions.

**5.19 Delivery/Installation Recommendations for Steel Files**
The stability of steel files is assured if they are properly installed and loaded, therefore **THE STATE OF FLORIDA HIGHLY RECOMMENDS** users to consider purchasing steel files **"DELIVERED AND INSTALLED"** from the approved manufacturer.

If steel files are ordered "Drop-ship" or "Delivered Not Installed"; it is highly recommended that the user note on the order to the Contractor or servicing dealer that a delivery carrier must be equipped with a way to remove the files from the truck (see "Drop-ship" or "Delivered Not Installed" under Section 3.1 Delivery Methods – Definitions of Terms).

Follow the instructions that are shipped with the files to ensure that they are properly installed to provide safe performance. Instructions should include information about leveling files and ganging files together. Counterbalance for lateral file units is recommended unless cabinets are ganged from most manufacturers. There may be an additional charge for counterbalance.

**5.20 Installation Costs/Reconfiguration**
Installation charges shall be listed as a per-item fee, percentage of price fee, or negotiable on the price sheets. Installing agent shall be responsible for receipt, inspection, and assembly of items at the location listed on the purchase order. The installation charges shall also apply to any required reconfiguration of systems furniture during the term of the contract.

**5.21 Space Planning/Design Fees**
Space planning fees for systems and modular furniture shall be listed as an hourly fee, percentage of price fee or negotiable per project on the price sheet. Customer shall approve space planning or design fees in writing prior to any services being performed by the Contractor or servicing dealer.

**5.22 Change Orders**
Issuance of a purchase order under a contract resulting from this Response is a binding agreement. Purchasers should carefully check the accuracy of the order. Change orders or revisions are thereafter subject to the following:

- All requests for changes must be submitted in written form or entered in the Ariba System (per format of the purchase order). Changes in the number of units (additions or deletions), commodity number, description, features of colors can only be made subject to the approval of the Contractor.
- Changes or revisions in the method of delivery or the designated delivery destination can only be made subject to the approval of the Contractor.
- Multiple delivery points must be clearly indicated on the purchase order. When multiple delivery locations are required, enter "See Below" in the "Ship To" box on the purchase order. List delivery locations and

instructions in the body of the purchase order, as well as the commodity number and quantity for each location.

- Orders may be cancelled ONLY by obtaining approval from the Contractor, and may be subject to a 25% (or greater) re-stocking fee, plus freight charges. Most furniture orders are considered custom and cannot be cancelled or returned.

**5.23 Contract Revisions**

Revisions to the contract are allowed during the term of the contract. Any revisions to the originally approved contract information **must** be authorized in writing by the Department prior to implementation. A contract revision authorization form will be sent to awarded Contractors and must be submitted with any request to revise pricing and/or terms,ordering instructions, or servicing dealer listing. Any **GSA revision of pricing and products shall** be submitted to the Department with the Department reserving the right to accept or reject within 30 days, or cancel the Contract. **Any increase shall not become effective until approved by the Department.** The Department reserves the right to reject items offered whose discounts are less favorable than those offered to other entities in the State (i.e., city or county contracts), and reject items that do not offer the best value to the State.

**PRICE OR PRODUCTS CHANGES**

New or revised price lists or additional/deleted products may be considered for addition/deletion to the contract after GSA approval. All requests must include the following:

1. Contract Revision/Authorization Form (may submit one form for all requests).
2. Revised Price Sheet Form. Any line item not completed, example -installation or space planning fees, we assume no charges are incurred for Customers.
3. Copy of the Federal GSA Modification approving any price changes or adjustments, add/deletion of products – in its entirety. All pages, attachments and letters referenced in the modification must be included in your request.
4. Current manufacturer published price list/book consistent with GSA Contract referenced in the GSA modification- compact disc format (CD). Cover page, terms and conditions, table of contents must be included to confirm pricing.
5. Manufacturer's current Federal GSA Catalog (if it's applicable and you are submitting a new GSA Contract during this contract) - compact disc format (CD). Cover page, terms and, table of contents must be included to document GSA discount and tiers.
6. Literature of product or series requested for addition.

**SERVICING DEALER CHANGES**

Addition or deletions of servicing dealers may be requested at any time during the Contract. All requests must include the following:

1. Contract Revision/Authorization Form (may submit one form for all requests).
2. Letter or email information from the manufacturer requesting addition/deletion of the dealer(s).
3. Updated Distributor Template – if they will be receiving orders on behalf of the manufacturer in MyFloridaMarketPlace (MFMP). See Authorized Dealers and Manufacturer Representative Form for additional information. (Section 7.2)

**ORDERING INSTRUCTION CHANGES**

Changes to the Ordering Instructions may be requested at any time during the contract effective dates. All requests must include the following:

1. Contract Revision/Authorization Form (may submit one form for all requests).
2. Letter or email information from the manufacturer clarifying the requested change - if needed.
3. Revised Ordering Instructions Form

**5.24 Dedicated State Term Contract Website Requirement**

The contract resulting from this ITB will become a public document. The Department is using the Florida Communities Network (FCN) on the Internet World Wide Web (WWW) to distribute contract and product information to users of State Term Contracts outside of MyFloridaMarketPlace (MFMP).

The Department shall link the Contractor's web page and Price Sheet (Section 6.1) to the contract site: http://dms.myflorida.com. Approved revised Price Sheet(s) from the Contractor will be sent to the Contract Manager in Microsoft Word version for posting to the contract site.

Contractors shall develop and maintain a State Contract Web Page on the Internet WWW to post approved contract information to enable access to and ordering of Customers' specific items. The Contractor's web page will be linked from the State Contract website and dedicated to the State of Florida Contract. Contractors are responsible for maintaining the contract information below through their State Contract Web Page for the life of the contract.

Each Contractor's State Contract Web Page must include the following information:

- Ordering Instructions
- Authorized Servicing Dealers & Manufacturer Representative
- Commercial Price Book or GSA Price Book, PDF or HTML
- Environmental Requirements
- Recycled Content Requirement
- Additional links may be included to access additional product literature, the Contractor's home page, or any other pertinent information.

Any revisions to the originally approved contract information **must** be authorized in writing by the Department prior to implementation. If unauthorized information is discovered within the site, the contract link may be immediately suspended until the information is appropriately revised, or until the contract is terminated. **Except in the event of unforeseen technological interruptions or forces of nature, continued disruption of service or inadequate access may be grounds for default proceedings and/or contract termination.**
**Final award is contingent on completion of submitted Universal Resource Locator (URL) for the State Term Contract Web Page. See Event Timeline.**

**5.25 MyFloridaMarketPlace (MFMP) Electronic Catalog Requirement**.
The MyFloridaMarketPlace ("MFMP") third-party service provider is responsible for converting Contract catalog information into a format supported by the system. To accomplish this conversion, the Contractor, if requested, shall provide certain information in electronic format directly to the service provider (Note: This format is generally Microsoft Excel™.).

Within ten (10) business days of written notice from the MFMP service provider, Contractor shall provide all information necessary to facilitate electronic purchases from this Contract. Such information may include, but is not limited to, Contractor Name, Manufacturer / Brand Name, SKU, Commodity Description, unit of measure. Contractor shall provide this information in the format required by the MFMP service provider. No costs or expenses associated with providing this information shall be charged to the State, Department, Eligible Users, or MFMP service provider. With the Contractor's timely assistance, the MFMP service provider shall create and maintain web-based placement of the requested Contract information.

**Final award is contingent on completion of and submittal of MyFloridaMarketPlace electronic catalog. See Event Timeline.**

**5.26 Requirements of Contractors**

- Printed paper copies of this contract will not be automatically distributed to contractors or users. Contractors can view their current contract through the State Purchasing website at http://purchasing.state.fl.us.
- Color brochures and fabric/finish cards must be provided to all users upon request.
- All price lists and literature will be provided at no charge to the Department or Customers.
- The Department shall review and approve all literature, price lists, and promotional materials before distribution to agencies and political subdivisions.

Failure to comply with these requirements may result in default proceedings and/or contract termination.

**5.27 Authorized Servicing Dealers and Manufacturer Representative**

Contractors are required to name at least a minimum of two (2) different servicing dealers for the State of Florida. **Contractors are encouraged to use certified Minority Business Enterprise dealers.** It is the Contractor's responsibility to insure that all customers will be given equal representation and service with the approved dealers. Each dealer named will be responsible for delivery and installation of products, as well as providing needed assistance to Eligible Users, as defined in Special Instructions, Eligible Users, Section 3.1. All servicing dealers participating in this contract are required to register in MyFloridaMarketPlace if they will be receiving orders on behalf of the manufacturer.

**5.28 Intellectual Property**

The parties do not anticipate that any Intellectual Property will be developed or created as a result of the Contract. However, in such case as it is developed or created, any Intellectual Property developed or created as a result of the Contract will belong to and be the sole property of the State of Florida. This provision will survive the termination or expiration of the Contract.

**5.29 Warranty**

All equipment including material used therein shall be warranted by the Contractor against mechanical, electrical, and workmanship defects. In the event defects become evident within the warranty period, the Contractor shall either repair or replace the defective parts and materials at no additional cost to the Customer. The Contractor shall be liable to the Customer for supply of information and material necessary for mandatory revisions determined by the manufacturer at no additional cost to the Customer for the duration of the warranty period. The duration of this full parts warranty period shall be at least 5 years (except for fabric and pneumatic cylinders, which shall be warranted for a minimum of 1 year), or the manufacturer's standard warranty period, whichever is longer. The warranty period shall start with the date of equipment acceptance and shall be extended to include times during which the equipment is out of service for warranty repair. The warranty shall apply to all equipment provided under this contract.

**5.30 Insurance, Worker's Compensation**

The Contractor shall take out and maintain during the life of this agreement, Worker's Compensation Insurance for all of his employees connected with the work of this project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. Such insurance shall comply fully with the Florida Worker's Compensation law. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Workmen's Compensation statute, the Contractor shall provide, and cause each sub-contractor to provide, adequate insurance, satisfactory to the Customer, for the protection of his employees not otherwise protected.

INSURANCE, CONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE

The Contractor shall take out and maintain during the life of this agreement COMPREHENSIVE GENERAL LIABILITY AND COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE as shall protect him from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this agreement whether such operations are by himself or by anyone directly or indirectly employed by him, and the amount of such insurance shall be the minimum limits as follows:

| | |
|---|---|
| A. CONTRACTOR'S COMPREHENSIVE GENERAL LIABILITY COVERAGES, BODILY INJURY & PROPERTY DAMAGE | $300,000.00 Each Occurrence, Combined Single Limit |
| B. AUTOMOBILE LIABILITY COVERAGES, BODILY INJURY & PROPERTY DAMAGE | $100,000.00 Each Occurrence, Combined Single Limit |

Insuring clause for both BODILY INJURY and PROPERTY DAMAGE shall be amended to provide coverage on an OCCURRENCE BASIS

## SECTION SIX: PRICE SHEET

**CONTENTS:**

**6.1 Price Sheet**

**[The remainder of this page is intentionally left blank (other than footer information)**

| ITB No. 17-425-001-F, Office Furniture and Files | | | |
|---|---|---|---|
| **Section 6.1 Price Sheet** | | | |
| Respondent's Name: | | | |
| Respondent's Brand Name: | | | |
| Price List Name / Number / Date (be specific): | | | |
| Series Bid: Each series shall be listed separately by name and/or number. | | | |
| **Quantity Discount Tiers[1]** | **GSA Discount[2] (##.##%)** | **State of Florida Discount Offered[3] (##. ##%)** | **State of Florida Offer Status[4]** |
| [Example: $0 - $5,000] | 50.00% | 49.75% | **Compliant** |
| [Example: $5,000 - $10,000] | 50.00% | 49.00% | **Non-Compliant** |
| [Example: $10,000 - $25,000] | 50.00% | 50.25% | **Compliant** |
| | | | **Compliant** |
| | | | **Compliant** |
| | | | **Compliant** |
| | | | **Compliant** |
| | | | **Compliant** |
| | | | **Compliant** |
| | | | **Compliant** |
| **Additional Quantity Discounts:** | | | |
| [List additional discounts applicable to any Single Order of any combination of awarded contract items to be delivered at one time to one destination.] | | | |

| |
|---|
| **Balance-of-Line Price/Products (if applicable):** |
| [List Product Names, Price List/Name/Number/Date (be specific) and discounts.] |
| **Installation:** |
| [Charges may be listed as cost per item, % of net cost of items, or negotiable per project. List any installation charges.] |
| **Space Planning / Design Fees:** |
| Fees may be listed as an hourly fee, percentage of price fee, or negotiable per project. List space planning / design fees.] |
| **Shipping / Delivery Costs:** |
| [If there are additional costs not already listed in the basic discount price, please detail those here.] |
| **Section 6.1. Notes:** |
| 1 - Quantity Discount Tiers: Enter the list quantity discount tiers as approved in your GSA Contract. |
| 2 - GSA Discount (##. ## %): Enter the GSA Discount including Industrial Funding Fee. Percentages provided in the template form are examples and can be replaced with your contract discount information. |
| 3 - State of Florida Discount Offered (##. ## %): Enter the State of Florida Discount offered including Transaction Fee (Fixed Discount). See Section 5.10 Price/Discount |
| 4 - State of Florida Offer Status: For each Discount Tier, enter the State of Florida Discount offered (including Transaction Fee). The discount must be no less than 0.25% below the GSA Discount including Industrial Funding Fee. Compliance / Non-Compliance status will be automatically calculated and displayed. See Section 5.10 Price/Discount |
| **Any additional charges or fees must be noted on this form OR the State expects that there are no charges.** |
| **PLEASE DUPLICATE ON ADDITIONAL TABS IF NEEDED.** |

## SECTION SEVEN: FORMS

**CONTENTS:**

**7.1 Ordering Instructions Form**
**7.2 Authorized Servicing Dealer & Manufacturer Representatives Form**
**7.3 Certification of Drug-Free Workplace Program**
**7.4 Quarterly Sales Report Form**
**7.5 Savings/Price Reductions Form**

**7.6 Product List Form**
**7.7 Response Preparation Checklist**

**[The remainder of this page is intentionally left blank (other than footer information)**

| ITB No. 17-425-001-F Office Furniture and Files | |
|---|---|
| **Section 7.1 Ordering Instructions Form** | |
| **Respondent Information** | |
| RESPONDENT NAME: | [Enter Respondent's Name] |

| | |
|---|---|
| RESPONDENT FEID NO.: | [Enter Respondent's Federal Employer Identification Number] |
| MFMP / SPURS VENDOR NO.: | [Enter Respondent's MFMP / SPURS Vendor Number, if Known] |
| STREET ADDRESS: | [Enter Respondent's Street Address] |
| CITY, STATE and ZIP: | [Enter Respondent's City, State and ZIP] |
| INTERNET ADDRESS: | [Enter Respondent's Internet Address] |
| TELEPHONE NO.: | [Enter Respondent's Main Telephone Number] |
| TOLL-FREE NO.: | [Enter Respondent's Main Toll-Free Telephone Number, if Available] |
| FAX NO.: | [Enter Respondent's Main Fax Number] |
| **Person Responsible For Administering The Contract** | |
| NAME: | [Enter Contact's Name] |
| TITLE: | [Enter Contact's Title] |
| STREET ADDRESS: | [Enter Contact's Street Address] |
| CITY, STATE and ZIP: | [Enter Contact's City, State and ZIP] |
| E-MAIL ADDRESS: | [Enter Contact's E-Mail Address] |
| TELEPHONE NO.: | [Enter Contact's Telephone Number] |
| TOLL-FREE NO.: | [Enter Contact's Toll-Free Telephone Number, if Available] |
| CELL PHONE NO.: | [Enter Contact's Cell Phone Number (Optional)] |
| FAX NO.: | [Enter Contact's Fax Number] |
| **Ordering and Remit-To Information Please provide information where Customers should direct orders. You must provide a regular mailing address and email address. If equipped to receive purchase orders electronically, you may also provide an Internet Address.** | |
| REMIT-TO: | [Enter Respondent's Remit-To Name] Or Enter "See Servicing Dealer List" |
| REMIT-TO STREET ADDRESS: | [Enter Respondent's Remit-To Street Address] |
| REMIT-TO CITY, STATE and ZIP: | [Enter Respondent's Remit-To City, State and ZIP] |
| REMIT-TO EMAIL and/or INTERNET ADDRESS: | [Enter Respondent's Remit-To Email and/or INTERNET Address] |
| **Note: Please make sure the Ordering Instructions information provided above matches the MyFloridaMarketPlace ("MFMP") Vendor Registration account information (http://vendor.myfloridamarketplace.com/).** | |
| PLEASE DUPLICATE ON ADDITIONAL TABS IF NEEDED. | |

| ITB No. 17-425-001-F Office Furniture and Files | |
|---|---|
| **Section 7.2 Authorized Servicing Dealer & Manufacturer's Representatives Form** | |
| **Servicing Dealer Information** | |
| DEALER NAME: | [Enter Dealer's Name] |
| DEALER FEID NO.: | [Enter Dealer's Federal Employer Identification Number] |
| MFMP / SPURS VENDOR NO.: | [Enter Dealer's MFMP / SPURS Vendor Number, if Known] |
| STREET ADDRESS: | [Enter Dealer's Street Address] |
| CITY, STATE and ZIP: | [Enter Dealer's City, State and ZIP] |
| INTERNET ADDRESS: | [Enter Dealer's Internet Address] |
| TELEPHONE NO.: | [Enter Dealer's Main Telephone Number] |
| TOLL-FREE NO.: | [Enter Dealer's Main Toll-Free Telephone Number, if Available] |
| FAX NO.: | [Enter Dealer's Main Fax Number] |
| **Manufacturer Representation** | |
| MANUFACTURER'S REPRESENTATIVE NAME: | [Enter Manufacturer's Representative Name] |
| TITLE: | [Enter Manufacturer's Representative Title] |
| STREET ADDRESS: | [Enter Manufacturer's Representative Street Address] |
| CITY, STATE and ZIP: | [Enter Manufacturer's Representative City, State and ZIP] |
| E-MAIL ADDRESS: | [Enter Manufacturer's Representative E-Mail Address] |
| TELEPHONE NO.: | [Enter Manufacturer's Representative Telephone Number] |
| TOLL-FREE NO.: | [Enter Manufacturer's Representative Toll-Free Telephone Number, if Available] |
| CELL PHONE NO.: | [Enter Manufacturer's Representative Cell Phone Number (Optional)] |
| FAX NO.: | [Enter Manufacturer's Representative Fax Number] |
| GORAPHIC AREA OF TERRITORY: | [Enter Manufacturer's Representative Geographic Area of Territory] |
| **NOTES:** | |
| **Note: Please make sure the Ordering Instructions information provided above matches the MyFloridaMarketPlace ("MFMP") Vendor Registration account information (http://vendor.myfloridamarketplace.com/).** | |
| **PLEASE DUPLICATE THIS FORM ON ADDITIONAL TABS AS NEEDED** | |

# Certification of Drug-Free Workplace: Section 7.3

Section 287.087 of the Florida Statutes provides that, where identical tie bids are received, preference shall be given to a bid received from a bidder that certifies it has implemented a drug-free workforce program. Please sign below and return this form to certify that your business has a drug-free workplace program.

1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.

3) Give each employee engaged in providing the commodities or contractual services that are under Bid a copy of the statement specified in Subsection (1).

4) In the statement specified in Subsection (1), notify the employees, as a condition of working on the commodities or contractual services that are under Bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.

5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.

6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements. False statements are punishable at law.

BIDDER'S NAME: _____

By: _____

Authorized Signature Print Name and Title

# Section 7.4

## Quarterly State Term Contract Sales Summary Report

| | |
|---|---|
| Vendor Name: | FEID#: |
| Contact Person: | Phone Number: Email: |
| Contract Title: | Contract #: |

**Fax or Email form to: Brenda Wells Fax: 850-414-6122 Email: brenda.wells@dms.myflorida.com**

*Report reflects all sales for the **20xx (YEAR)** CALENDAR QUARTER:* Check One

| | |
|---|---|
| ☐ Quarterly Period Ending **March 31st** | ☐ Quarterly Period Ending **June 30th** |
| | |
| ☐ Quarterly Period Ending **September 30th** | ☐ Quarterly Period Ending **December 31st** |

| ENTITY | TOTAL DOLLARS |
|---|---|
| **STATE AGENCIES:**<br>Report dollar amount sold to all State Agencies. | $ ____ |
| **POLITICAL SUBDIVISIONS:**<br>Report dollar amount sold to other Political Subdivisions [including but not limited to, Counties, Cities, Schools, Universities, Colleges and Utilities]. | $ ____ |
| **Environmentally Preferred Products**<br>Report dollar amount sold to agencies:<br><br>Report dollar amount sold to political subdivisions: | $ ____<br><br>$ ____ |
| **GRAND TOTAL:** | $ ____ |

**Under penalties of perjury, I declare that this is a true and accurate report of all sales due under the terms and conditions of this state term contract for the specified quarterly reporting period.**

AUTHORIZED TYPED SIGNATURE: ____

AUTHORIZED ELECTRONIC SIGNATURE: ____

**Notes:**
1) A quarterly report is required even if there are no sales for the specified quarter; please enter zero dollars where applicable.
2) This form is for the reporting of quarterly sales only. It is not related to reporting and payment of vendor transaction fees.
3) To enter electronic signature, click text box, click "Insert" (on tool bar), select "picture", and select picture type to paste or enter signature.
4) For information concerning the use of this form, please contact the Contract Administrator named above.

(Rev. 7/15/08)

# Quarterly State Term Contract Sales Summary Report

| Commodity/service Category (as listed on the Contract | Agency\Eligible User | Quantity Sold | P-Card Payments | P. O./D. O. Payments | Total Sales |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Detail by commodity/service category, and/or by customer.
May be formatted to accommodate company reporting system.

## SAVINGS/PRICE REDUCTIONS: Section 7.5

Invitation to Bid (ITB) No. _____

Respondent is required to furnish the percent (%) savings in prices offered compared to retail, list, published or other usual and customary prices that would be paid by the purchaser without benefit of a contract resulting from this bid.

DATE _____

COMPETITIVE PRICES OFFERED AVERAGE _____ % SAVINGS.

HOW CAN WE VERIFY THE CLAIMED SAVINGS (example: retail or other usual and customary prices published at [url], or other source of benchmark prices)?

_____

_____

_____

AUTHORIZED SIGNATURE: _____

TELEPHONE NUMBER: _____

RESPONDENT NAME: _____

IF CONTRACT AWARDED, STATE PURCHASING ANALYST/SPECIALIST TOOK THE FOLLOWING STEPS TO VERIFY SAVINGS:

_____

_____

_____

_____

WHAT WERE THE RESULTS? _____

PURCHASING ANALYST/SPECIALIST: _____

PUR 7064 (Rev 2/04)

## PRODUCT LIST FORM: Section 7.6

The Product List Form is an example of furniture products offered under this Solicitation which will be available on the State of Florida Office Furniture and Files Contract. Please check the products you offer.

MANUFACTURER NAME: _____

**SYSTEMS FURNITURE**
- ☐ Open Office Systems Furniture
- ☐ Desking Systems
- ☐ Communications Ctr. Workstations
- ☐ Stacking Open Office Systems
- ☐ Floor-to-Ceiling Partitions
- ☐ Computer Stations

**TECHNOLOGY/RISK MANAGEMENT**
- ☐ Dispatch/911
- ☐ LAN Furniture
- ☐ WAN Furniture
- ☐ Server Racks
- ☐ Lateral Files-Metal
- ☐ Keyboard Supports
- ☐ Cable Management
- ☐ CAD Workstations
- ☐ Adjustable Height Work Surfaces
- ☐ Ergonomic Accessories

**FILES/STORAGE**
- ☐ Lateral Files - Steel
- ☐ Vertical Files - Steel
- ☐ Lateral Files-Wood
- ☐ Vertical Files-Metal
- ☐ Vertical Files-Wood
- ☐ Fireproof Files
- ☐ ADP/Data Storage
- ☐ Metal Storage Cabinets
- ☐ Plan Storage
- ☐ Media Storage
- ☐ Shelving/Personal Storage
- ☐ Conference Storage & Training Storage

**SEATING**
- ☐ Ergonomic Seating
- ☐ Task Seating
- ☐ Multi-Shift Seating
- ☐ Big & Tall Seating
- ☐ Big & Tall Multi-Shift
- ☐ Executive Seating
- ☐ Side Chairs
- ☐ Lounge Seating
- ☐ Training Room Seating
- ☐ Stack Chairs
- ☐ Multi-Purpose Seating
- ☐ Wood Seating
- ☐ Conference or training chairs

**CASEGOODS**
- ☐ Executive Wood Office Furniture
- ☐ Laminate Office Furniture
- ☐ Metal Office Furniture
- ☐ Computer Desks
- ☐ Laminate Bookcases
- ☐ Wood Files
- ☐ Wood Bookcases

**CONFERENCE/TRAINING /PUBLIC AREA**
- ☐ Training Tables
- ☐ Wood Conference Tables
- ☐ Occasional Tables
- ☐ Laminate Conference Tables
- ☐ Laminate Conference Accessories
- ☐ Presentation Accessories
- ☐ Computer Training Tables
- ☐ Multi-Purpose Tables
- ☐ Audio/Visual Accessories
- ☐ Reception Desks

☐Map Files
☐Mail Processing Furniture
☐Sofas & Loveseats
☐Single & Multiple Seating Units

## Response Preparation Checklist: Section 7.7

The Response Preparation Checklist is a guide to assist Respondents in verifying the completeness of their response. The Response Preparation Checklist ***does not*** relieve the Respondent of the responsibility of ensuring that all requirements of this solicitation are included with submittal of Response.

**The following section pertains to the electronic portion of the response that will be submitted via the MyFloridaMarketPlace Sourcing Tool:**

_____ Reviewed the MyFloridaMarketPlace Sourcing Tool Online Training Guide.

_____ All documents requiring a Yes/No answer have been fully read and answered.

_____ All required documents have been fully completed and uploaded into Respondent's response. **(Price Sheet(s), Ordering Instructions, Authorized Dealers & Manufacturer Representatives, Savings/Price Reduction, Product List, and Certification of Drug-Free Workplace Form)**

_____ Submitted all questions to the MyFloridaMarketPlace Q&A Board, no later than date and time listed in Section 1.2 Event Timeline.

_____ Viewed answers to submitted questions as posted in addendum to solicitation.

_____ Submitted the electronic portion of the response using the MyFloridaMarketPlace Sourcing tool.

**The following section pertains to the portion of the response that must be received by the contact person below no later than date and time listed in Section 1.2 Event Timeline.**

_____Dedicated Website URL Address
_____ Purchase Orders or Invoices
_____Environmental Requirements
_____Recycled Content Requirements
_____ Federal GSA Catalog /Price Book (CD format)
_____ Current Price Book (CD format)
_____ GSA Contract (copy)

**Contact Person:** **Brenda Wells, CPPB, FCPM, FCPA, FCCM**
**Purchasing Analyst, Team Lead**
**Department of Management Services**
**Division of State Purchasing**
**4050 Esplanade Way, Suite 370**
**Tallahassee, FL 32399-0950**

**Outer packaging shall clearly states the Response Title, Number, Opening Date and Time along with Respondent's Name and Address.**

***ADDENDUM NO. 1***

State of Florida
Department of Management Services

**INVITATION TO BID ("ITB")**
**17-425-001-F**
**Office Furniture and Files**

**January 11, 2011**

The Department hereby answers Questions posted by interested Vendors, and provides additional guidance for completing Price Sheets. Unless expressly indicated, the answers included herein do not amend the terms of the solicitation documents.

Failure to file a protest within the time prescribed in §120.57(3), Florida Statutes, or failure to file a bond or other security within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes

Please Note: This addendum does not need to be returned with the Response.

| | |
|---|---|
| Question No. 1 | Due to restructuring within our company, our current GSA contract is scheduled to expire this year. However, our parent company intends to secure a new GSA contract under the parent company's name and FID #. If awarded a contract with the State of Florida, are we able to transfer the Florida contract to the new GSA contract awarded to our parent company at the prices on the new GSA contract? |
| Answer No.1. | Awarded Contractors may request revisions at any time during the contract term in accordance with Prices/Discount, Section 5.10, Addition/Deletion of Vendors and Products Offered, Section 5.13 and Contract Revisions, Section 5.23. |
| Question No. 2 | Can a vendor/manufacturer be included on 2 contracts? Example: if a vendor has an E&I contract which does not include conferencing and desk, will this vendor be able to submit those products on this contract? Thanks |
| Answer No. 2 | Yes, a vendor can be included on two contracts; however, the products must not be in conflict. Please reference Basis for Award, Section 3.15 and Eligible Products, Section 5.1. |
| Question No. 3 | Good afternoon, I would like to respond to this bid, however, I do not see anywhere in this package an itemized list indicating product, descriptions and quanitities. Will there be a separate addendum? |
| Answer No. 3 | No. The contract resulting from this solicitation is a state term contract and will be used for many projects throughout the state. Specific project requirements will be provided by contract customers, per project. Please reference Introduction, Section 1.1. |
| Question No. 4 | I notice that only Manufacturers who hold a GSA Contract can submit a bid. Does the GSA Contract held at the time of submitting a bid have to remain in effect for the entire term of the Florida Contract? |
| Answer No. 4 | Awarded Contractors may request price and product changes at any time during the contract term in accordance with Prices/Discount, Section 5.10, Addition/Deletion of Vendors and Products Offered, Section 5.13 and Contract Revisions, Section 5.23. |

Question No. 5 I am requesting that the deadline for questions be extended. This bid was issued just before Christmas break and many of the manufacturers I represent are just getting back as they

were closed the last two weeks. Another few days to a week would be helpful to be sure we have reviewed and asked all relevant questions.

Answer No. 5 The Event Timeline is comparable to previous solicitations for this commodity. The Department does not intend to amend the timeline.

Question No.6 As a continuation of my question on GSA Pricing- our current GSA catalog is out of date (and) has several line items that are obselete. The new GSA catalog has several new line items - we would like to submit the new price list as the basis for our bid, even though it has not been approved by GSA yet (should be within a month). Can we do that?

Answer No. 6 The Basis for Award, Section 3.15, specifies products currently available on GSA Schedule. Awarded Contractors may request price and product changes at any time during the contract term in accordance with Prices/Discount, Section 5.10, Addition/Deletion of Vendors and Products Offered, Section 5.13 and Contract Revisions, Section 5.23.

Question No. 7 Can you please clarify what "Series Bid" means (on Section 6.1 Price Sheet). We sell Console furniture and millwork but have several types of consoles. Are each of our console products considered a different series? Is Millwork a different series?

Answer No. 7 "Series Bid" means the name and/or number your company assigns or refers to a group of products to identify the products.

Question No. 8 (Company name removed) recently submitted a request for a price change to our GSA catalog. I expect this to be accepted by GSA in the next month. Can I use this new GSA pricing as the basis for our bid? Our current GSA price is based off our old Price catalog, not the current one.

Answer No. 8 Please refer to Answer No. 6.

Question No. 9 RE; "Copy of GSA Contract"; Are you wanting the award pages and mods or are you wanting the entire solicitation offer award and mods which runs over 400 pages?

Answer No. 9 Reference Section 3.8 Submittal of Bid. We need the specific pages which detail the Respondent's GSA award that confirm manufacturer name, contract number, effective dates, and pricing discounts.

Question No.10 The ITB has a Responses Due date of January 24, 2011 (2:00 pm ET), but the online timer indicates only 6 days left. Which is correct.

Answer No.10 The solicitation was in Preview Status at the time of this question. The timer would have shown how many days were remaining in the Preview phase. Responses are due January 24, 2011, 2:00 PM ET.

Question No. 11 I need your advice on how or if I should bid for the contract. We are (Company Name) the Florida distributor for Ergonomic Office Chairs. We sell quite a few 24/7 chairs to 911 and power companies in Florida. Ergonomic Office Chairs has the Ironhorse line of chairs under a GSA contract. Normally when I sell to GSA in my territory, the transaction has to go through Ergonomic Office Chairs and then I am the direct contact for the GSA customer if a warranty issue arises. The pricing is all the same in my territory under the GSA pricing. My

question is can I bid on the Florida contract? All the pricing will be the same whether you purchase from me or direct through Ergonomic Office Chairs. I would appreciate your input. Thank you very much and have a good day.

Answer No.11 Please reference Who May Respond, Section 3.4.

Question No.12 Can you tell me where the Prepare Response button is located? It is not at the top of the page, thank you very much.

Answer No.12 Please refer to Answer #10.

Question No.13 Good morning, Are all manufacturers eligible that meet the GSA and state specs?

Answer No.13 Please reference Who May Respond, Section 3.4 and Basis for Award, Section 3.15.

Question No.14 Good morning, Will you need a seperate product list for each manufacturer?

Answer No.14 Yes. Please reference Submittal of Response, Section 3.8.

Question No.15 Good morning, In order to give you pricing I will need more specs on the product list form. There are no specifications about size, finish or needs. Will you publish a spec sheet?

Answer No.15 No. Please refer to Answer #3.

Question No.16 Section 4.11 Transportation and Delivery - Will the order acknowledgement with the actual ship date be satisfactory to comply with potentional delivery delays beyond the 30 day requirement notification?

Answer No.16 Section 5.18 Delivery Requirements takes precedence over Section 4.11. Section 5.18 specifies 90 days delivery for furniture. Delays must be clearly presented to the Customer and justified to the ordering agency in writing. If a delay is noted on the Order acknowledgement, it is the responsibility of the manufacturer or servicing dealer to notify this delay to the Customer and obtain acceptance.

Question No.17 Section 4.4 (d) Trade-In. Please confirm that the term equipment is strictly meaning things like copiers and fax machines, etc. Not, furniture.

Answer No.17 Trade-In, Section 4.4, paragraph (d) is not applicable for furniture. Please reference Order of Precedence, Section 3.7.

Question No.18 5.10 prices/Discounts: (Company name removed) is a State of Florida corporation. We manufacture and install Full Height Demountable wall systems. We do not have a GSA price list with discount. We have a Miami-Dade County contact for materials, labor and freight included with a discount schedule. Can we provide this contract in lieu of the GSA pricing under 287.042 (16) (a), F.S.?

Answer No.18 Please reference Section 3.4, Who May Respond. Responses are requested from manufacturers holding current Federal (GSA) Contracts for products offered on this contract. Section 287.042(16), F.S., references an alternate contract source approval process. This process is separate from this competitive process outlined in Section 287.057

(1) (a), F.S.

Question No.19 Even though our current contract was just extended through March 2012 we should still participate in this bid?

Answer No.19 Yes. The current state term contract for Office Furniture and Files has been renewed through March 1, 2012, and will be in effect until a new contract has been implemented.

FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN §120.57(3), FLORIDA STATUTES, OR FAILURE TO FILE A BOND OR OTHER SECURITY WITHIN THE TIME ALLOWED FOR FILING A BOND SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES

**ITB 17-425-001-F**
**Office Furniture and Files**
**Addendum No. 2**

The referenced solicitation is amended as follows:

The Notice of Intent to Award will be posted on the Vendor Bid System (VBS) on May 17, 2011.

FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN §120.57(3), FLORIDA STATUTES, OR FAILURE TO FILE A BOND OR OTHER SECURITY WITHIN THE TIME ALLOWED FOR FILING A BOND SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES.

Section 1.2 Event Timeline is amended as follows:

| Event Timeline Activity for ITB #17-425-001-F | Date |
|---|---|
| Notice of Office Furniture & Files solicitation is posted to the Vendor Bid System (VBS) and the complete Office Furniture & Files solicitation is posted in the MyFloridaMarketPlace Sourcing Tool. Solicitation will initially be in "Preview" status where Respondents can view/download all information and ask questions, but **cannot** input or submit responses. | December 20, 2010 |
| Deadline to submit Questions, or request for specification change via the MyFloridaMarketPlace Sourcing tool Q&A Board (Respondents must monitor Message Board for communications). | January 4, 2011<br>5 pm ET |
| Department will post Answers to Respondents' questions as an addendum to the solicitation within the MyFloridaMarketPlace Sourcing Tool. Respondents must monitor Message Board for communications. | January 11, 2011 |
| Deadline to submit Response, including all required documents in the MyFloridaMarketPlace Sourcing Tool. Utilize the Response Preparation Checklist to make sure all required documents and responses are completed. (Section 7.7) | January 24, 2011<br>2 pm ET |
| Deadline for submittal of State Term Contract dedicated web site URL Address. (Section 3.12) | January 24, 2011<br>2 pm ET |
| Notice of Intent to Award posted on Vendor Bid System (VBS). | May 17, 2011 |
| Deadline for development of eProcurement catalog within MyFloridaMarketPlace. | To Be Determined Prior to Contract Award |
| Contract Award | Per Section 2.17 Contract Formation |

**ITB No. 17-425-001-F**
**Office Furniture and Files**
**Addendum No. 3**

The referenced solicitation is amended as follows:

The posting of the Notice of Intent to Award scheduled for May 17, 2011 is postponed. All updates will be posted on the Vendor Bid System. Questions should be directed to Brenda Wells, Purchasing Analyst, at Brenda.Wells@dms.myflorida.com.

FAILURE TO FILE A PROTEST WITHIN THE TIME PRESCRIBED IN §120.57(3), FLORIDA STATUTES, OR FAILURE TO FILE A BOND OR OTHER SECURITY WITHIN THE TIME ALLOWED FOR FILING A BOND SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER CHAPTER 120, FLORIDA STATUTES.

Section 1.2 Event Timeline is amended as follows:

| Event Timeline Activity for ITB #17-425-001-F | Date |
|---|---|
| Notice of Office Furniture & Files solicitation is posted to the Vendor Bid System (VBS) and the complete Office Furniture & Files solicitation is posted in the MyFloridaMarketPlace Sourcing Tool. Solicitation will initially be in "Preview" status where Respondents can view/download all information and ask questions, but **cannot** input or submit responses. | December 20, 2010 |
| Deadline to submit Questions, or request for specification change via the MyFloridaMarketPlace Sourcing tool Q&A Board (Respondents must monitor Message Board for communications). | January 4, 2011<br>5 pm ET |
| Department will post Answers to Respondents' questions as an addendum to the solicitation within the MyFloridaMarketPlace Sourcing Tool. Respondents must monitor Message Board for communications. | January 11, 2011 |
| Deadline to submit Response, including all required documents in the MyFloridaMarketPlace Sourcing Tool. Utilize the Response Preparation Checklist to make sure all required documents and responses are completed. (Section 7.7) | January 24, 2011<br>2 pm ET |
| Deadline for submittal of State Term Contract dedicated web site URL Address. (Section 3.12) | January 24, 2011<br>2 pm ET |
| Notice of Intent to Award posted on Vendor Bid System (VBS). | To Be Determined |
| Deadline for development of eProcurement catalog within MyFloridaMarketPlace. | To Be Determined Prior to Contract Award |
| Contract Award | Per Section 2.17 Contract Formation |

**City Commission Regular Meeting** **11. b.**

**Meeting Date:** 07/20/2020

**Re:** Case #18-1524 - 1005 Ohio Avenue - Lisa M. Chase Pacheco

**Submitted For:** Shaun Coss, Building Dept. Coordinator, Building

**SUBJECT:**

Approve request to reduce the Building Department lien in the amount of $23,340.00 against 1005 Ohio Avenue., Fort Pierce, FL 34950 - Parcel ID Number: 2415-703-0102-000-3 owned by Lisa M. Chase Pacheco, of the same address, to $672.74 payable in 60 days.

**SUMMARY:**

The request for reduction is made by Ms. Lisa M. Chase Pacheco, owner of the property. She hired a contractor to replace her AC and the contractor applied for the permit but it was not issued. After receiving the violation letter, she tried to contact the contractor, by phone and certified letter, but was unable to make contact. The case eventually went before the Special Magistrate, and after some time the owner obtained the permit and the necessary inspection. At the Massey Hearing before the Special Magistrate, she agreed to staff's recommended reduction to $672.74 payable in 60 days.

**RECOMMENDATION:**

The Special Magistrate, having heard the request of the owner and testimony from staff, recommends reducing the lien to $672.74 payable in 60 days. If not paid within the 60 days, the lien will revert to the original amount of $23,340.00.

| | |
|---|---|
| Hard Costs (postage / filing fees / photos) | $ 47.74 |
| Case Processing Fees (months open / inspections) | $225.00 |
| Special Magistrate Hearing Costs | $150.00 |
| City Commission Hearing (7/20/20) | $250.00 |

**ALTERNATIVES:**

Deny Request.
Make alternative arrangements.

**RESPONSIBLE STAFF:**

Shaun Coss, Building Department Coordinator

**COORDINATED WITH:**

Paul Thomas, Building Official

**Fiscal Impact**

**Budgeted Y/N:** 2020

**Fiscal Year:** 2020
**Account:** Enterprise
**Amount:** 672.74
**OTHER INFORMATION:**
$422.74 to the Enterprise Fund
$250.00 to the General Fund

## Attachments

Lien Reduction Request
Property Card
Cost Breakdown Memo

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| Building | Paul Thomas | 07/08/2020 03:55 PM |
| City Manager | Nick Mimms | 07/15/2020 11:16 AM |

Form Started By: Elizabeth Beck Started On: 07/07/2020 04:50 PM
Final Approval Date: 07/15/2020

THE SUNRISE CITY
FORT PIERCE
BUILDING DEPARTMENT
Florida

# REQUEST FOR A REDUCTION OR RESCINDMENT OF BUILDING VIOLATION LIENS

| | | | | | |
|---|---|---|---|---|---|
| Date: | 02/13/2020 | | | | |
| Property address: | 1005 OHIO AVE | | | | |
| Owner(s) of record: | Lisa M Chase Pacheco | | | | |
| Mailing address: | 1005 Ohio Ave, Ft Pierce, FL 34950 | | | | |
| Property tax ID #: | 2415-703-0102-000-3 | | | | |
| Original purchase date | | Original purchase price: | | | |
| Property is used for: | ☒ Single Family | ☐ Multi-family | ☐ Commercial | ☐ Industrial | ☐ Vacant Lot |
| Name of person requesting reduction: | Lisa Pacheco | Relationship to owner(s) | | | |
| Telephone #: | | Mobile phone #: | 845-430-2204 | | |
| E-mail: | LCHASE14@yahoo | Preferred contact method: | | | |
| What are owner(s) intentions for property: | Primary Residence | | | | |
| Are there current code violations? | ☒ No | ☐ Yes | Explain: (please attached notice) | | |
| Is property listed for sale? | ☒ No | ☐ Yes | If yes, what is listing price? | | |
| Is property under contract for sale? | ☒ No | ☐ Yes | If yes, what is the sale price | | |

AMOUNT OF FINE / LIEN $ 23,380.00

DOLLAR AMOUNT REQUESTING TO BE WAIVED $ 23,380.00

DOLLAR AMOUNT I AGREE TO PAY $ -0-

Lisa M Pacheco
Signature of Owner or Representative

3-1-2020
Date

## REQUEST FOR REDUCTION OF PENALTY FOR BUILDING VIOLATIONS

By completing this form, you are making statements under oath. Failure to be truthful is a violation of Fort Pierce City Code and Florida Statutes pertaining to perjury, which is a felony punishable by up to fifteen (15) years imprisonment.

INSTRUCTIONS:

1. Please fill in blanks completely.
2. Be specific when writing your statement. Use additional pages if necessary.
3. If you are claiming medical or financial hardship, attach supporting documentation (i.e. doctor's statement or proof of income).
4. Complete the appropriate application for lien reduction / rescindment.
5. For lot clearing or demolition liens, contact Kathy D'Arton in the Finance Department (772-467-3076) for cost / fees breakdown.
6. For code enforcement liens (those imposed by a Special Magistrate or Code Enforcement Board), contact Colleen Greer (772-467-3149) for cost / fees breakdown.
7. For building violation liens (those imposed by a Special Magistrate or Code Enforcement Board), contact Elizabeth Beck (772-467-3718) for cost / fees breakdown.
8. If you do not have access to a Notary Public, one will be provided to you by the Department at no charge. All forms must be signed in the presence of the Notary to be valid.
9. Return this form, the application and any other pertinent documentation to the Building Department.
10. Requests for Reduction / Rescindment of building violation liens are governed by Rule 17 of the City's Rules & Regulation for Code Enforcement Board and Special Magistrate.

Property Address: 1005 Ohio Ave

Property Owner: Lisa Pacheco

Mailing Address: 1005 Ohio Ave Fort Pierce, FL 34950

Telephone #: _____ Cell Phone #: 845-430-2204

E-Mail Address: LCHASE14@yahoo.com

Is the property in compliance? Yes If not, please explain in the narrative of your request.

Rule 17: Requests for Reduction of Liens.

A. A respondent may request a reduction of a lien otherwise imposed by the City to the Department, after the original violation is in compliance and the Department has issued an affidavit of compliance. No such request shall be made until after the date originally set for compliance has passed and the property is already under penalty. Any request for reduction of lien shall be made in writing to the Department and shall state reasons why a reduction of the Lien should be considered. The request should include a description of any supporting documentation which should be considered in furtherance of such request.

B. If any of the following conditions are met, the Department has the authority to process a lien reduction request and issue a Release of Lien:

(1) The amount of settlement for a property zoned residential with less than four (4) dwelling units is $5000 or more and is payable in less than 30 days.

(2) The amount of the settlement for a property either zoned residential with four (4) or more dwelling units, zoned commercial or zoned industrial is $10,000 or more and is payable in less than 30 days.

(3) The settlement is based upon the receipt of excess tax sale proceeds that have been received by the City and respectively cover the administrative costs incurred.

The Department shall forward the request to the Special Magistrate or Code Enforcement Board if additional review is required, if a hearing is specifically requested or in the best interest of the City. The Department and Requestor may enter into an agreement to settle the Lien reduction. Any written agreement between the requesting party and the Department to settle the lien reduction shall constitute a waiver of hearing by the Special Magistrate or Code Board by both parties.

C. If the request does not meet the criteria outlined in Section (b), the Department has determined the request requires additional review, or the requesting party chooses to not waive his or her right to a hearing, the Department shall schedule a hearing on the request before the Special Magistrate or Board, with notice to the respondent. After hearing both sides, the Special Magistrate shall make a determination, or the Board shall adopt a motion, that the request for reduction of the lien be denied, granted, or granted with conditions. The determination will be based upon evidence, upon consideration of the following criteria:

(1) The gravity or seriousness of the violation;

(2) Any and all actions taken by the violator to correct the violations or, if the violation was not corrected by the original violator, what action was taken

by any other owner or party in interest to bring the property into compliance;

(3) The length of time necessary to bring the property into compliance;

(4) The number of times the violator was previously found in violation by either the Code Enforcement Board, Special Magistrate, or other quasi-judicial or judicial process, or otherwise admitted guilt in any such proceeding;

(5) The number of violation notices the violator has received in the past as well as their nature and the final disposition of each such notice;

(6) Whether or to what extent there are extenuating factors preventing timely compliance, such as unavoidable personal hardship.

(7) Whether or to what extent there are pending violation proceedings on the subject property or any other property within the City owned by the respondent.

D. If the Special Magistrate only determines that the request for reduction be approved and the following conditions are met, they may order the Department, once payment is received and any other conditions are met, to issue a Release of Lien:

(1) The amount of settlement for a property zoned residential with less than four (4) dwelling units is $3,000 or more and is payable in less than 6 months.

(2) The amount of the settlement for a property either zoned residential with four (4) or more dwelling units, zoned commercial or zoned industrial is $7,500 or more and is payable in less than 6 months.

The Special Magistrate or Code Enforcement Board may, at its discretion, forward the request to the Commission if they feel additional review is required or in the best interest of the City.

E. If the Special Magistrate or the Board determines that the request for reduction be approved but the request does not meet the criteria outlined in Section (d), the determination is to deny the request, or additional review is required, they shall forward their recommendation to the City Commission for a final determination.

F. Any recommendation for waiver or reduction may include further recommendation that the reduction be conditioned upon payment of the reduced amount within a specified period of time. Failure to pay the reduced amount within that time period will result in the lien reverting to the original amount.

G. There shall be established an administrative fee of $250.00 for any requests for mitigation of a code enforcement lien that must be heard by the City Commission. Such fee may be imposed after consideration by the City

## OWNER / REPRESENTATIVE REQUEST TO PROCESS APPLICATION

| Property Address: | 1005 OHIO AVE |
|---|---|

I acknowledge that I have been provided a copy of Rule 17 of the Rules of Procedure for the City of Fort Pierce Code Enforcement Board and Special Magistrates and that I have read the rules and being advised as such make the following request:

☐ I am requesting that my application for lien reduction be processed administratively through the Rules of Procedure Sec. 17(b), I understand the requirements to be met and that I waive my right to a hearing before either the Special Magistrate or City Commission.

☒ I am requesting that my application for lien reduction be processed through the Rules of Procedure Sec. 17(c), I understand the requirements to be met and that my request will be heard and determination made by the Special Magistrate that authorized Order Assessing Fine and Imposing Lien.

☐ I am requesting that my application for lien reduction be processed through the Rules of Procedure Sec. 17(e) and that my request will be heard and determination made by the City Commission of the City of Fort Pierce.

Lisa M Pacheco — 3-11-2020

Signature of Owner or Representative — Date

---

## COFP – APPLICATION PROCESS DETERMINATION

☐ Staff has reviewed the request for lien reduction and agrees to process the application as requested by the signing party.

☐ Staff has reviewed the request for lien reduction and does not agree to process the application as requested by the signing party.

Comments:

_____

_____ _____

Shaun Coss, Building Department Coordinator — Date

I, Lisa Pacheco, do hereby submit this Petition in request for a reduction in the total amount of the penalty imposed and in support offer the following statement:

Im writing this to outline my position regarding the correspondance I have recieved from your office in connection with the permit for the Air Conditioning unit and why I feel everything has been out of my control. Back in Sept 2017 I decieded to upgrade my air conditioning unit. After considerable research I hired Mike Mazzilli of So Low Air Conditioning and Heating Inc. to carry out the nessisary work, Which I paid in full and assumed that he had done everything correctly and by the book. It wasnt untill I recieved your letter dated May 24th 2018 that it came to my attention

Signed: Lisa M Pacheco Date: 3-2-2020

Print Name: LISA PACHECO

STATE OF FLORIDA

COUNTY OF ST. LUCIE

PERSONALLY APPEARED before me, the undersigned authority Lisa Pacheco who acknowledged before me that the information contained herein is true and correct. He or She is / is not personally known to me and has produced FL Driver's License as identification.

SWORN TO AND SUBSCRIBED before me this 2nd day of March, 2020.

Elizabeth Beck

Notary Public, State of Florida

Notary Public State of Florida
Elizabeth Beck
My Commission GG 336375
Expires 05/20/2023

that a new permit had not been attained. So I called and spoke with Shaun Coss and told him what happed, he told me to try and get a hold of Mike Mazzilli through letter which I did through social Media as well and never heard back from Mike Mazzilli. Once again I though all was taken care of (I didn't realize it was mine and not Mikes problem being that it was in our contract that he was responsible for the permit) Until I got a letter in January 2019 that I had to go to Court. So I went to City Hall and spoke to Shaun Coss and told him everything and he kindly informed me exactly what I had to do and explained everything So I could understand it and basicly said I had to pay a fine and get a permit but he said he'd give me either 60 or 90 days to get the money. So in March I returned to pay the fine and no one could

any paper work and had ~~the~~ said that codes had changed and that they were sorry that they would call me when they found the paperwork when I returned from my cruise

And yet again it wasn't until I received a letter dated December 2019 stating I owed $17,000 So again I went to city hall to straighten everything out where finally I obtained a permit, had the inspector come and get my permit

I have always tried to do the right thing and I feel I shouldn't have to pay any fines. My only wrong doing is being nieve on how the System works and trusting in it.

I can go into much more detail if I have to. I've learned alot and I'm much more knowledgable as a new homeowner in Florida. I feel I've always ~~tried~~ tried to do the ~~right~~ right thing

And I should not be penalized for other peoples negligents.

Thank you,
Sincerly Lisa Pacheco

Michelle Franklin, CFA -- Saint Lucie County Property Appraiser -- All rights reserved.

## Property Identification

Site Address: 1005 OHIO AVE
Sec/Town/Range: 16/35S/40E
Map ID: 24/16S
Zoning: SF Low Den

Parcel ID: 2415-703-0102-000-3
Account #: 25007
Use Type: 0100
Jurisdiction: Fort Pierce

## Ownership

Lisa M Chase Pacheco
1005 Ohio AVE
Fort Pierce, FL 34950

## Legal Description

SUNRISE ESTATES BLK 7 E 20 FT OF LOT 3, LOT 4 AND W 25 FT OF LOT 5 (OR 3539-1280)

## Current Values

| | |
|---|---|
| Just/Market Value: | $125,300 |
| Assessed Value: | $98,213 |
| Exemptions: | $50,000 |
| Taxable Value: | $48,213 |

**Property taxes are subject to change upon change of ownership.**

- **Past taxes are not a reliable projection of future taxes.**
- **The sale of a property will prompt the removal of all exemptions, assessment caps, and special classifications.**

## Total Areas

| | |
|---|---|
| Finished/Under Air (SF): | 1,311 |
| Gross Sketched Area (SF): | 2,356 |
| Land Size (acres): | 0.35 |
| Land Size (SF): | 15,400 |

Taxes for this parcel: SLC Tax Collector's Office
Download TRIM for this parcel: Download PDF

## Sale History

| Date | Book/Page | Sale Code | Deed | Grantor | Price |
|---|---|---|---|---|---|
| Jul 11, 2013 | 3539 / 1280 | 0111 | OA | Chase (EST) Bruce A | $0 |
| Mar 29, 1993 | 0835 / 0784 | XX01 | QC | Reginald H Wagle | $100 |
| Mar 29, 1993 | 0835 / 0782 | XX01 | QC | | $100 |
| Mar 27, 1993 | 0835 / 0785 | XX00 | WD | Reginald H Wagle | $68,600 |
| Mar 27, 1993 | 0835 / 0783 | XX01 | QC | Reginald H Wagle | $100 |

## Building Information (1 of 1)

Finished Area: 1,311 SF

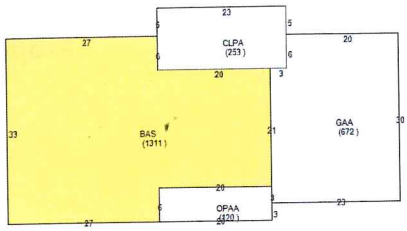
Gross Sketched Area: 2,356 SF

### Exterior Data

| | | |
|---|---|---|
| View: | Roof Cover: Fibrglss Shg | Roof Structure: Gable |
| Building Type: HC- | Year Built: 1972 | Frame: |
| Grade: C- | Effective Year: 1978 | Primary Wall: CB Stucco |
| Story Height: 1 Story | No. Units: 1 | Secondary Wall: |

### Interior Data

| | | |
|---|---|---|
| Bedrooms: 2 | Electric: MAXIMUM | Primary Int Wall: |
| Full Baths: 2 | Heat Type: FrcdHotAir | Avg Hgt/Floor: 0 |
| Half Baths: 0 | Heat Fuel: ELEC | Primary Floors: Carpet |




## Sketch Area Legend

| Sub Area | Description | Area | Fin. Area | Perimeter |
|---|---|---|---|---|
| BAS | BASE AREA | 1311 | 1311 | 160 |
| CLPA | Closed Porch Average | 253 | 0 | 68 |
| GAA | Garage Attached Average | 672 | 0 | 106 |
| OPAA | Open Porch Attached Average | 120 | 0 | 52 |

## Special Features and Yard Items

| Type | Qty | Units | Year Blt |
|---|---|---|---|
| Driv-Concret | 1 | 726 | 1972 |

## Current Year Values

Current Values Breakdown

| | |
|---|---|
| Building: | $102,500 |
| Land: | $22,800 |
| Just/Market: | $125,300 |
| Ag Credit: | $0 |
| Save Our Homes or 10% Cap: | $27,087 |
| Assessed: | $98,213 |
| Exemption(s): | $50,000 |
| Taxable: | $48,213 |

Current Year Exemption Value Breakdown

| Tax Year | Grant Year | Code | Description | Amount |
|---|---|---|---|---|
| 2019 | 2017 | 0500 | Homestead Exemption | $25,000 |
| 2019 | 2017 | 0550 | Homestead Exemption over $ 50,000 | $25,000 |

Current Year Special Assessment Breakdown

| Start Year | AssessCode | Units | Description | Amount |
|---|---|---|---|---|
| 1999 | 0041 | 1 | Fort Pierce Stormwater Charge | $69.00 |

This does not necessarily represent the total Special Assessements that could be charged against this property. The total amount charged for special assessments is reflected on the most current tax statement and information is available with the SLC Tax Collector's Office .

## Historical Values

| Year | Just/Market | Assessed | Exemptions | Taxable |
|---|---|---|---|---|
| 2019 | $125,300 | $98,213 | $50,000 | $48,213 |
| 2018 | $108,900 | $96,382 | $50,000 | $46,382 |

| Number | Issue Date | Description | Amount | Fee |
|---|---|---|---|---|
| BP2006-409 | May 30, 2006 | Roof | $8,450 | $84 |
| F96-000143 | Feb 9, 1996 | Roof | $350 | $350 |

Notice: This does not necessarily represent all the permits for this property.

Click the following link to check for additional permit data in Fort Pierce

All information is believed to be correct at this time, but is subject to change and is provided without any warranty.
© Copyright 2020 Saint Lucie County Property Appraiser. All rights reserved.

# MEMORANDUM

TO: The Honorable Mayor and Members of the City Commission

THROUGH: Nick Mimms, City Manager

FROM: Elizabeth Beck, Building Department Administrative Assistant

**SUBJECT:** **BUILDING DEPARTMENT LIEN REDUCTION**
Address: 1005 Ohio Avenue
Parcel I.D. #:2415-703-0102-000-3
Owner: Lisa M. Chase Pacheco

DATE: July 8, 2020

---

The following is a breakdown of the above property:

| | Costs (Enterprise Fund) | Interest & Penalties | Administrative Fees |
|---|---|---|---|
| CASE # 18-1524 | $23,300.00 | $.00 | $40.00 |
| | | | |
| | | | |
| TOTAL | $23,300.00 | $.00 | $40.00 |

CAN BE WAIVED (ALL COSTS) $23.340.00

**City Commission Regular Meeting** **12. a.**

**Meeting Date:** 07/20/2020

**Re:** Conditional Use - Dreamchaser Preschool - 505 N. 7th Street

**Submitted For:** Jennifer Hofmeister, Planning Director, Planning & Zoning

---

**SUBJECT:**

Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Dreamchaser Preschool, LLC, to operate a 7,126 square foot preschool at 505 N. 7th Street. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2410-601-0134-000-8.

**SUMMARY:**

- The applicant is requesting the review and approval of a Conditional Use with No New Construction to construct to allow for a preschool facility. The applicant is seeking to operate the preschool in an existing 7,126 sq. ft. structure.
- **The subject property was declared surplus by Resolution No. 16-R38 in August of 2016. The property was marketed previously and the last proposal offering of $50,000 was rejected by the City Commission in April of 2017. Staff placed a new RFP and two proposals were offered. A selection team comprised of Purchasing, Public Works, and Grants Administration reviewed the proposals and after careful review and consideration, recommended the sale be awarded to Maloma Peterkin of Dreamchaser Preschool, in the amount of $75,000 for the purpose of a preschool program. On November 19, 2018 the City Commission approved Resolution No. 18-R57 authorizing the sale of 505 7th Street to Maloma Peterkin of Dreamchaser Preschool, in the amount of $75,000 for the purpose of a preschool program. All supporting documents for Resolution N0. 18-R57 are attached.**

**RECOMMENDATION:**

The proposed use offers a provision of Daycare Centers and Childcare Facilities (Preschools) representing a limited commercial use that is compatible with the surrounding neighborhood and is generally consistent with the City's Comprehensive Plan and Land Development Code with appropriate restrictions. Therefore, Staff recommends **APPROVAL** with the following condition:

1. Pursuant to City Code Section 22-62(b)(4) Sidewalks. In order to provide continual access for pedestrians, sidewalks and sidewalk linkages shall be required to be provided by the property owner or permit applicant, when plans are submitted for condition use applications or pay a payment into the city sidewalk fund pursuant to City Code Section 22-62(g). **Please install a sidewalk along Avenue E and Cedar Place connecting to the N. 7th Street existing sidewalk or please submit payment in-lieu to the City of Fort Pierce within ninety (90) days of Conditional Use Approval.**

**ALTERNATIVES:**

- Approval with alternate conditions
- Denial

**RESPONSIBLE STAFF:**
Vennis Gilmore, Planner

**COORDINATED WITH:**
Technical Review Committee

---

## Fiscal Impact

**OTHER INFORMATION:**
N/A

**OTHER INFORMATION:**
N/A

---

## Attachments

staff presentation
Staff Report & Supporting Documents
Applicant Packet & Supporting Documents
Affidavit of Mailing & Public Notice Certification
Proof of Publication

---

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/15/2020 11:12 AM |
| City Manager | Nick Mimms | 07/15/2020 02:32 PM |

Form Started By: Vennis Gilmore
Started On: 07/08/2020 03:07 PM
Final Approval Date: 07/15/2020

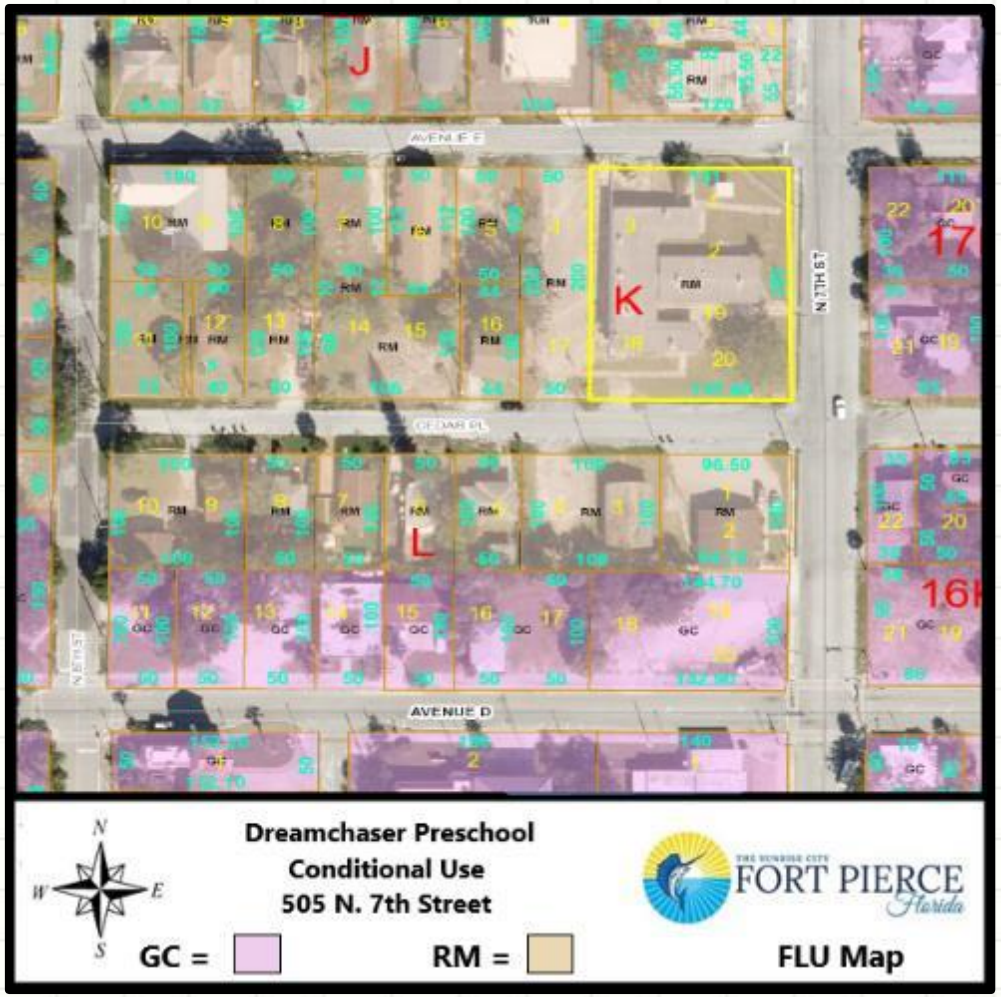
# Conditional Use

## 505 N. 7th Street

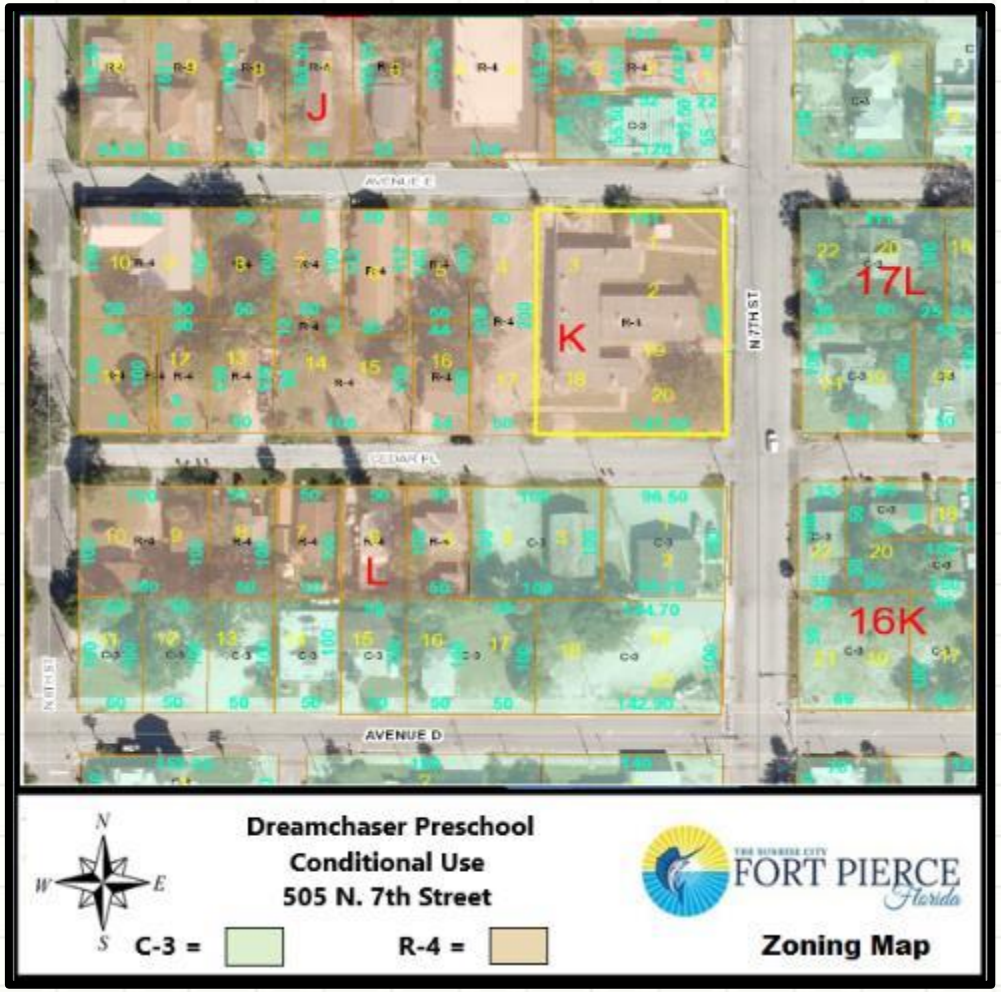
# Aerial Map

AVENUE E
CEDAR PL
AVENUE D
N 7TH ST
N
W
E
S
Dreamchaser Preschool
Conditional Use
505 N. 7th Street
FORT PIERCE
Florida
Aerial Map

# FLU Map


J
K
L
AVENUE E
AVENUE D
N 7TH ST
N 8TH ST
CEDAR PL
N
W
E
S
Dreamchaser Preschool
Conditional Use
505 N. 7th Street
GC =
RM =
FORT PIERCE
Florida
FLU Map

# Zoning Map


J
K
L
17L
16K
AVENUE E
AVENUE D
N 7TH ST
N
W
E
S
Dreamchaser Preschool
Conditional Use
505 N. 7th Street
C-3 =
R-4 =
FORT PIERCE
Florida
Zoning Map

# Dreamchaser Preschool

Consideration of  a Conditional Use With No New Construction – Preschool at 505 N. 7th Street.

- Approval of a Conditional Use to operate a 7,126 sq. ft. preschool.
- Staff recommends **APPROVAL** subject to two (2) conditions

# Synopsis for Recommendation

- Nov. 19, 2018 – CC approved Resolution No. 18-R57 authorizing the sale of 505 N. 7th Street with the proposed intent of a preschool.
- Quasi-Judicial Hearing
  - No Validated Evidence (Consistent with Code)
  - No COFP  Code Enforcement or FPPD current violations
- Conditions of Approval are being added to protect the neighborhood

# Adjacent Property Owner Responses

**64 Notifications**

**0 = In favor**

**0 = In opposition**

# CC Actions

**Possible actions of the City Commission:**

- APPROVE the proposed Conditional Use, subject to 2 Conditions and no changes
- APPROVE the proposed Conditional Use with changes
- DENY the proposed Conditional Use

# Staff Recommendation

Staff recommends **APPROVAL** subject to one condition:

1) Per City Code Section 22-62 Sidewalks. b) Applicability: In order to provide continual access for pedestrians, sidewalks and sidewalk linkages shall be required to be provided by the property owner or permit applicant when one of the following events occur: (4) Plans submitted for site plan, conditional use, PUD/PUR, and subdivision review. Please install a sidewalk along Avenue E and Cedar Place connecting to the North 7th Street existing sidewalk or submit payment in-lieu to the City of Fort Pierce Engineering Department within ninety (90) days of Conditional Use Approval.

# CC Actions

**Possible actions of the City Commission:**

- APPROVE the proposed Conditional Use, subject to 2 Conditions and no changes
- APPROVE the proposed Conditional Use with changes
- DENY the proposed Conditional Use

# Conditional Use

## 505 N. 7th Street

Dreamchaser Preschool LLC
700 S. 33rd Street
Fort Pierce, FL. 34947

**Re: Conditional Use with No New Construction – Dreamchaser Preschool – 505 N. 7th Street**

Dear Dreamchaser Preschool LLC,

The following are comments from the Planning Department's review of the application for a Conditional Use with No New Construction in the R-4, Medium Density Residential Zone (If you are planning to submit a written response and any revisions to all responsible Departments, please do so by April 3rd, 2020):

**1)** Per City Code Section 22-60. – Off-Street Parking and Loading. (j) Lighting. Prior to Certificate of Occupancy, **please provide a Lighting Plan or a Certified Letter to ensure the minimum requirement of two (2) footcandles.**

**2)** Per City Code Section 22-62 Sidewalks. b) Applicability: In order to provide continual access for pedestrians, sidewalks and sidewalk linkages shall be required to be provided by the property owner or permit applicant when one of the following events occur: (4) Plans submitted for site plan, conditional use, PUD/PUR, and subdivision review. **Please install a sidewalk along Avenue E and Cedar Place connecting to the N. 7th Street existing sidewalk or please submit payment in-lieu to the City of Fort Pierce Engineering Department within ninety (90) days of Conditional Use Approval.**

If deemed necessary, please provide a written response to each comment in order to expedite the review of any subsequent submittals. Please contact me should you have any questions regarding the project at (772) 467-3741 or by e-mail: vgilmore@cityoffortpierce.com.

Sincerely,

Vennis Gilmore
Planner

**ST. LUCIE COUNTY FIRE DISTRICT**
FIRE PREVENTION BUREAU
Office of the Fire Marshal

**Telephone:** **(772) 621-3322**
**Fax:** **(772) 621-3604**

## BUREAU OF FIRE PREVENTION

## SITE PLAN REVIEW

**TO: Site Plan Applicant**

**SITE PLAN: Dreamchasers Preschool – 505 N. 7th Street**

**REVIEW DATE: 3/6/2020**

**PLANNER: V. GILMORE**

**REVIEWED BY: Lt. Wayne Boyer**

**Site Plan Approved: _____**

**Site Plan Approved with conditions: ___X____**

**Site Plan Approval withheld pending written acknowledgement of conditions: _____**

**Site Plan Rejected: _____**

---

**The Following Revisions Are Necessary:**

1. **Please submit a completed application for Development/Site Plan Review (St. Lucie County Fire District Development & Site Plan Review Application). This form is available on-line athttp://www.slcfd.com/permits.htm**
2. **Fire District review fees are due at the time of submittal. An abbreviated fee schedule is included on the application form.**
3. **Please provide an electronic copy of the Site Plan (pdf format)**
4. **A separate review and permit is required for Underground Fire Mains connected to standpipes or sprinkler systems.**

**ST. LUCIE COUNTY FIRE DISTRICT**
FIRE PREVENTION BUREAU
Office of the Fire Marshal

**Telephone:** **(772) 621-3322**
**Fax:** **(772) 621-3604**

5. **An approved water supply capable of supplying the required fire flow for fire protection (shall be) is identified to all premises upon which facilities, buildings, or portions of buildings which are to be constructed or moved into the jurisdiction. The approved water supply shall be in accordance with NFPA 1:18.4. See "Needed NFPA Fire Flow Calculator Spreadsheet".**

6. **Fire hydrants (shall be) are provided for buildings other than detached one-and-two-family dwellings IAW both of the following 1) The maximum distance to a fire hydrant from the closest point in the building shall not exceed 400 feet. 2) The maximum distance between fire hydrants shall not exceed 500 feet. NFPA 1:18.5.3. Please provide fire flow calculations for hydrants.**

7. **Be advised: Dimensions of largest vehicle are as follows: 38 tons or 77k lbs, 47.5 ft. total length, 21.5 ft. wheel base, 10.5 ft. total width, 41.5 degree turning radius.**

**March 17, 2020**

**Project:** **Dream Chaser Pre-School**
**Subject:** **SURVEY REVIEW**
To: Vennis Gilmore
From: Rod Reed, PLS
SLC-Engineering Division

All comments are based on the current Standards of Practice, established by the Board of Professional Surveyors and Mappers, Chapter 5J-17.050 thru 5J-17.052, Florida Administrative Code, pursuant to current Section 472.027, Florida Statutes,.

SURVEY:

1) I have no comments for this Project.

Please provide a written response to all comments

***Rod Reed, County Surveyor***
*St. Lucie County, Fl.*
*2300 Virginia Avenue*
*Ft. Pierce, Fl. 34982-5652*
*www.stlucieco.org*
*Ph. (772) 462-1721*
*E-mail reedr@stlucieco.org*

## Vennis Gilmore

**From:** Grant M. Chambers <ChambersG@stlucieco.org>
**Sent:** Thursday, March 19, 2020 8:19 AM
**To:** Alicia Rosenthal
**Cc:** Brandon Creagan; Vennis Gilmore; David Hays
**Subject:** RE: TRC Comments for March Meeting

SECURITY WARNING: This email originated outside of the City of Fort Pierce systems. Please use caution when clicking links or opening attachments. For questions or concerns please contact IT immediately. .

Good Morning,

St. Lucie County Public Works does not have any comments regarding these projects at this time.

Thank you,

**Grant Chambers, P.E. | Civil Engineer | Water Quality/Land Development Division**
Ph: 772-462-1707 | Direct: 772-462-2741 | 2300 Virginia Ave. Fort Pierce 34982
facebook.com/stluciegov | twitter.com/stluciegov | instagram.com/stluciegov | youtube.com/stluciegov

---

**From:** Alicia Rosenthal [mailto:arosenthal@cityoffortpierce.com]
**Sent:** Tuesday, March 17, 2020 11:39 AM
**To:** Benjamin Balcer <BalcerB@stlucieco.org>; Grant M. Chambers <ChambersG@stlucieco.org>; David Hays <haysd@stlucieco.org>; Edward DeFini <DeFiniE@stlucieco.org>; Murriah Dekle <DekleM@stlucieco.org>; dhobley-burney@fppd.org; Yi Ding <DingY@stlucieco.org>; djohnson <djohnson@fppwd.com>; dspotts@fppd.org; FPUA <WWW_FPUA@fpua.com>; Jodi Nentwick <NentwickJ@stlucieco.org>; Jason Mittler <jmittler@fpua.com>; jcarnes@fpua.com; Javier Cisneros <jcisneros@fpua.com>; jschramm@fppd.org; Julie Bye <jbye@cityoffortpierce.com>; Karen Murphy <kmurphy@cityoffortpierce.com>; Kenny Norris <knorris@fppd.org>; Keymail FPUA <keymail@fpua.com>; Kori Benton <bentonk@stlucieco.org>; Larry Lammers <lammers@fpua.com>; Leslie Olson <OlsonL@stlucieco.org>; Linda Pendarvis <pendarvisl@stlucieco.org>; Lydia Santiago (lsantiago@fpua.com) <lsantiago@fpua.com>; Martha Kerr <mkerr@fpua.com>; Marty Sanders <Marty.Sanders@stlucieschools.org>; Mike Reals <mreals@cityoffortpierce.com>; Paul Bertram <pbertram@cityoffortpierce.com>; Paul Laguerre <plaguerre@fpua.com>; Paul Thomas <pthomas@cityoffortpierce.com>; Peggy Arraiz <parraiz@cityoffortpierce.com>; Peter Buchwald <BuchwaldP@stlucieco.org>; R Ridle <rridle@fppd.org>; Rod Reed <ReedR@stlucieco.org>; Tracy Telle <ttelle@cityoffortpierce.com>; Venetia Barnes <vbarnes@cityoffortpierce.com>; Wayne Boyer <wboyer@slcfd.org>
**Cc:** Brandon Creagan <bcreagan@cityoffortpierce.com>; Jennifer Hofmeister <jhofmeister@cityoffortpierce.com>; Maria Lewicka <mlewicka@cityoffortpierce.com>; Rebeca Guerra <rguerra@cityoffortpierce.com>; Vennis Gilmore <vgilmore@cityoffortpierce.com>
**Subject:** TRC Comments for March Meeting

# Technical Review Committee meeting

# February 20th, 2020

Case # 20-04000003

Conditional use.

Dreamchasers preschool, 505 North 7th Street.

**Comments:**

Temporary approval granted at this time but a final approval is pending until a photometric plan can be produced to indicate that property is illuminated to or beyond city code requirements.

Officer Damian Spotts

Crime Prevention Practitioner

Fort Pierce Police Department.

## Vennis Gilmore

**From:** SANDERS, MARVIN E. <marvin.sanders@stlucieschools.org>
**Sent:** Monday, March 09, 2020 9:54 AM
**To:** Vennis Gilmore
**Subject:** Conditional Use - Dreamchasers Preschool - 505 N. 7th Street 20-04000003

SECURITY WARNING: This email originated outside of the City of Fort Pierce systems. Please use caution when clicking links or opening attachments. For questions or concerns please contact IT immediately. .

The St. Lucie County School District has reviewed the above reference project and have we do not have any comments or concerns.

Please feel free to contact me if you have any questions.

Marty E. Sanders, P.E.
Growth Management, Land Acquisition & Inter-Governmental Relations
School Board of St. Lucie County
9461 Brandywine Lane, Room 2-303
Port St. Lucie, FL 34986

office 772.429.7547
cell 772.216.5755

Fort Pierce Utilities Authority
Water/Wastewater Engineering
1701 South 37th Street
Fort Pierce, FL 34947
772.466.1600 x3473

# Technical Review Committee meeting

## March 19, 2019

TECHNICAL REVIEW PROJECT # #20-04000003 (Conditional Use)

Conditional Use – Dreamchasers Preschool – 505 N. 7th Street

**Comments**

FPUA W/WW Engineering: No comment

FPUA Electric & Gas Engineering: No comment

THE SUNRISE CITY
# FORT PIERCE
*Florida*
ENGINEERING DEPARTMENT

**TO : Vennis Gilmore, Planner**

**FROM : John R. Andrews, P.E., City Engineer**

**RE : Dreamchasers Preschool – 505 N. 7th Street**
**Conditional Use Application - TRC No. 20-04000003**

RECEIVED
CITY OF FORT PIERCE
PLANNING & ZONING

**DATE : March 25, 2020**

This is to advise you that we have completed the review of the following documents as received by this office on March 23, 2020:

- [x] Conditional Use Application
- [ ] Test Reports & Related Documents
- [ ] Record Drawings
- [ ] Clearances from all applicable Local, State and Federal Agencies
- [ ] P/D Drawings
- [ ] Certificate of Completion
- [ ] Permits from applicable Local, State & Federal Agencies

Based on our reviews and appropriate site final inspection, we

- [x] Recommend
- [ ] Do Not Recommend

- [x] Conditional Use
- [ ] Building Permit
- [ ] C/O

Developer, Owner, Engineer, Contractor and other members of the Development Team must be aware, the above recommendation is based only on the construction requirements of the engineering plans and other engineering documentation approved by this department. The Development Team shall be responsible for the compliance with other City department requirements and all approved documents, as well as Local, State and Federal regulations. The development requirements for this project may necessitate additional construction requirements that are not subject to this department's review for approval.

- [ ] See attached for engineering comments

JRA/VB/vb

Q:\ENGINEERING\Site Development Projects\D\Dreamchasers Preschool\CU\CU Approval w-Conditions - 032520.docx

THE SUNRISE CITY
FORT PIERCE
CITY MANAGER'S OFFICE Florida

TO : Jennifer Hofmeister, Planning Director and Paul Thomas, Building Official

THROUGH : Nicholas C. Mimms, P.E., City Manager NCM

FROM : Audria Moore-Wells, Special Projects Coordinator AMW

RE : **505 North 7th Street Parking Lot – RFP No. 2018-049**

DATE : March 16, 2020

At the direction of City Manager Nicholas Mimms, the following permission is granted to Ms. Maloma Peterkin-Young regarding the parking lot (Parcel ID: 2410-601-0137-000-9) adjacent to 505 N. 7th Street:

- utilize this city-owned parcel for the parking needs of the business at no cost
- utilize this parcel for all required parking calculations

In addition, the City of Fort Pierce will maintain the parking lot until ownership is formally disposed.

c: Johnna Morris, Finance Director
Gelencia Carter, Purchasing Manager

N
W E
S

**Dreamchaser Preschool**
**Conditional Use**
**505 N. 7th Street**

THE SUNRISE CITY
FORT PIERCE
Florida

**Aerial Map**

N

W E

S

**Dreamchaser Preschool**
**Conditional Use**
**505 N. 7th Street**

THE SUNRISE CITY
FORT PIERCE
Florida

**GC =** **RM =**

**FLU Map**

N

W E

S

**Dreamchaser Preschool**
**Conditional Use**
**505 N. 7th Street**

THE SUNRISE CITY
FORT PIERCE
Florida

C-3 =

R-4 =

**Zoning Map**

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

# Conditional Use – No New Construction

Property address or Location 505 N 7th st, Fort Pierce Fl 34950

Parcel ID #(s)

Project description

| Property Owner(s) | Applicant/Representative, Title, Company |
|---|---|
| Maloma Peterkin-Young | Dreamchaser Preschool LLC |
| 784 SE Atlantus Ave | 700 S 33rd St |
| Street Address | Street Address |
| Port St lucie Fl 34983 | Fort Pierce Fl 34947 |
| City State Zip | City State Zip |
| 772-882-1279 | 772 489-2979 |
| Phone Number | Phone Number |
| MalomaPPeterkin@gmail.com | Dreamchaserpreschool@gmail.com. |
| Email Address | Email Address |

***Property Owner(s) Acknowledgements:*** *- This application will not be considered complete without the signature of all property owners of record, which shall serve as an acknowledgement of the submission of this application. The property owner's signature below shall also authorize the Applicant (if other than the property owner) and/or Representative to act in his/her behalf for the purposes of seeking approval for the application described herein.*

*Property Owner(s) Signature(s)*

STATE OF FLORIDA -- COUNTY

The foregoing instrument was acknowledged before me this ____ day of Aug, 2019, by Maloma Peterkin-Young who is personally known to me or has produced DL FL as identification.

Signature of Notary Shanna Gorby

(Seal)

Notary Public State of Florida
Shanna Gorby
My Commission GG 342283
Expires 06/06/2023

***INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3729***

## TO BE COMPLETED BY STAFF

| Zoning | Future Land Use | Total Acres | Historic District | Historic Designation |
|---|---|---|---|---|
| | | | | Contributing Individual<br>Non-Contributing None |

Pre-Application Meeting Date_____

Intake Planner_____

Planner Assigned_____

Approved By_____Date _____

Comments_____

Fees_____ Control #_____ B. Permit #_____

Intake Date Stamp

Michelle Franklin, CFA -- Saint Lucie County Property Appraiser -- All rights reserved.

## Property Identification

Site Address: 505 N 7th ST
Sec/Town/Range: 10/35S/40E
Map ID: 24/10N
Zoning: Med Densit

Parcel ID: 2410-601-0134-000-8
Account #: 23247
Use Type: 8900
Jurisdiction: Fort Pierce

## Ownership

DREAMCHASER PRESCHOOL LLC
784 SE Atlantus AVE
Port St Lucie, FL 34983

## Legal Description

FEE AND MAY`S RE-S/D BLK K LOTS 1, 2, 3, 18, 19 AND 20 (MAP 24/10C)

## Current Values

| | |
|---|---|
| Just/Market Value: | $341,000 |
| Assessed Value: | $244,637 |
| Exemptions: | $244,637 |
| Taxable Value: | $0 |

**Property taxes are subject to change upon change of ownership.**

- **Past taxes are not a reliable projection of future taxes.**
- **The sale of a property will prompt the removal of all exemptions, assessment caps, and special classifications.**

## Total Areas

| | |
|---|---|
| Finished/Under Air (SF): | 7,126 |
| Gross Sketched Area (SF): | 10,256 |
| Land Size (acres): | 0.68 |
| Land Size (SF): | 29,800 |

Taxes for this parcel: SLC Tax Collector's Office
Download TRIM for this parcel: Download PDF

All information is believed to be correct at this time, but is subject to change and is provided without any warranty.
© Copyright 2019 Saint Lucie County Property Appraiser. All rights reserved.

Michelle Franklin, CFA -- Saint Lucie County Property Appraiser -- All rights reserved.

## Property Identification

Site Address: Avenue E
Sec/Town/Range: 10/35S/40E
Map ID: 24/10N
Zoning: Med Densit

Parcel ID: 2410-601-0137-000-9
Account #: 23248
Use Type: 8000
Jurisdiction: Fort Pierce

## Ownership

Ft Pierce City Of
PO Box 1480
Fort Pierce, FL 34954

## Legal Description

FEE AND MAY'S RE-S/D BLK K LOTS 4 AND 17 (MAP 24/10C)

## Current Values

| | |
|---|---|
| Just/Market Value: | $16,500 |
| Assessed Value: | $16,500 |
| Exemptions: | $16,500 |
| Taxable Value: | $0 |

**Property taxes are subject to change upon change of ownership.**

- **Past taxes are not a reliable projection of future taxes.**
- **The sale of a property will prompt the removal of all exemptions, assessment caps, and special classifications.**

## Total Areas

| | |
|---|---|
| Finished/Under Air (SF): | 0 |
| Gross Sketched Area (SF): | 0 |
| Land Size (acres): | 0.23 |
| Land Size (SF): | 10,000 |

Taxes for this parcel: SLC Tax Collector's Office
Download TRIM for this parcel: Download PDF

All information is believed to be correct at this time, but is subject to change and is provided without any warranty.
© Copyright 2019 Saint Lucie County Property Appraiser. All rights reserved.

# Request for Proposal

## 505 N 7th St

## Fort Pierce, FL 34950

## Owner: City of Fort Pierce

On Behalf of

## DREAMCHASER PRESCHOOL LLC

A Florida Limited Liability Company

700 S 33rd Street

Fort Pierce, FL 34947

Table of Content

Company Overview.....

Intended Property Use.....

Renovation/Improvement after Acquisition.....

Economic Impact.....

Proof of Funds.....

Contract Documents.....

Dreamchaser Preschool, LLC

**Company Overview**

Dreamchaser Preschool LLC, is a Florida limited liability company was incorporated September 10, 2015. Company was previously operating under CANDYLAND CHILDREN CENTER LLC that was originally established on October 3, 2013. We have adopted word from Harriet Tubman to be a mission statement, *"Every great dream begins with a dreamer. Always remember, you have within you the strength, the patience, and the passion to reach for the stars to change the world."* At Dreamchaser we groom every child to reach for the star and to make a change in their community and the world. We have over one hundred and ten pupils currently at our facility. Our pupils are currently from new born to kindergarten. Our center offer childcare, VPK, after-school programs, summer camps, food service, transportation for participants. Our center is inclusive ELC participants at our center. Our facility includes fence playground, outdoor play stations in mulch covered area for pupils. Our staff is well trained and certified daycare candidates which consist of twelve fulltime and part-time employees. Our staff payroll is over $250,000 annually.

Part of our goal to acquire subject property is to aid in our facility expansion. Our future expansion is to include K-5$^{th}$ Grade pupils. This will provide increase in pupil and teacher ratio. Our expansion will add more jobs to the area, increase in tax base from additional staff and property taxes that will go towards our city budget.

The administrator and Owner, Maloma Peterkin has over 20 years working in childcare. It was out of this desire and passion that she has build a growing daycare service in the Fort Pierce community.

## Intended Property Use

The property located at 505 N. 7th Street, Fort Pierce, Florida 34950 is owned by The City of Fort Pierce. The building is zoned for school or educational building. Dreamchaser Preschool LLC acquiring subject property will continue same use in expanding company. The educational services provided by our company will match existing use and will not need to be re-zoned.

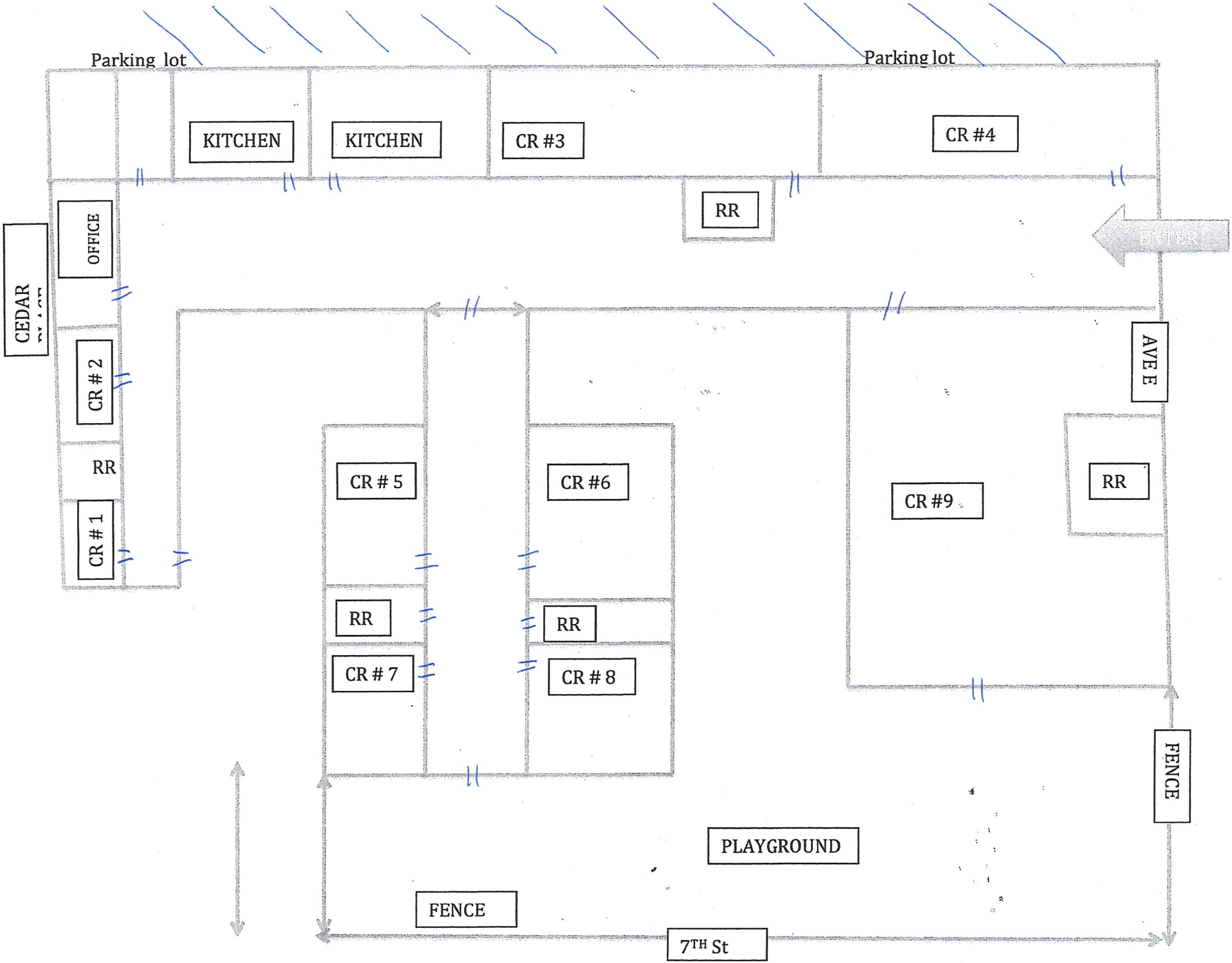
## Renovation/Improvement after Acquisition

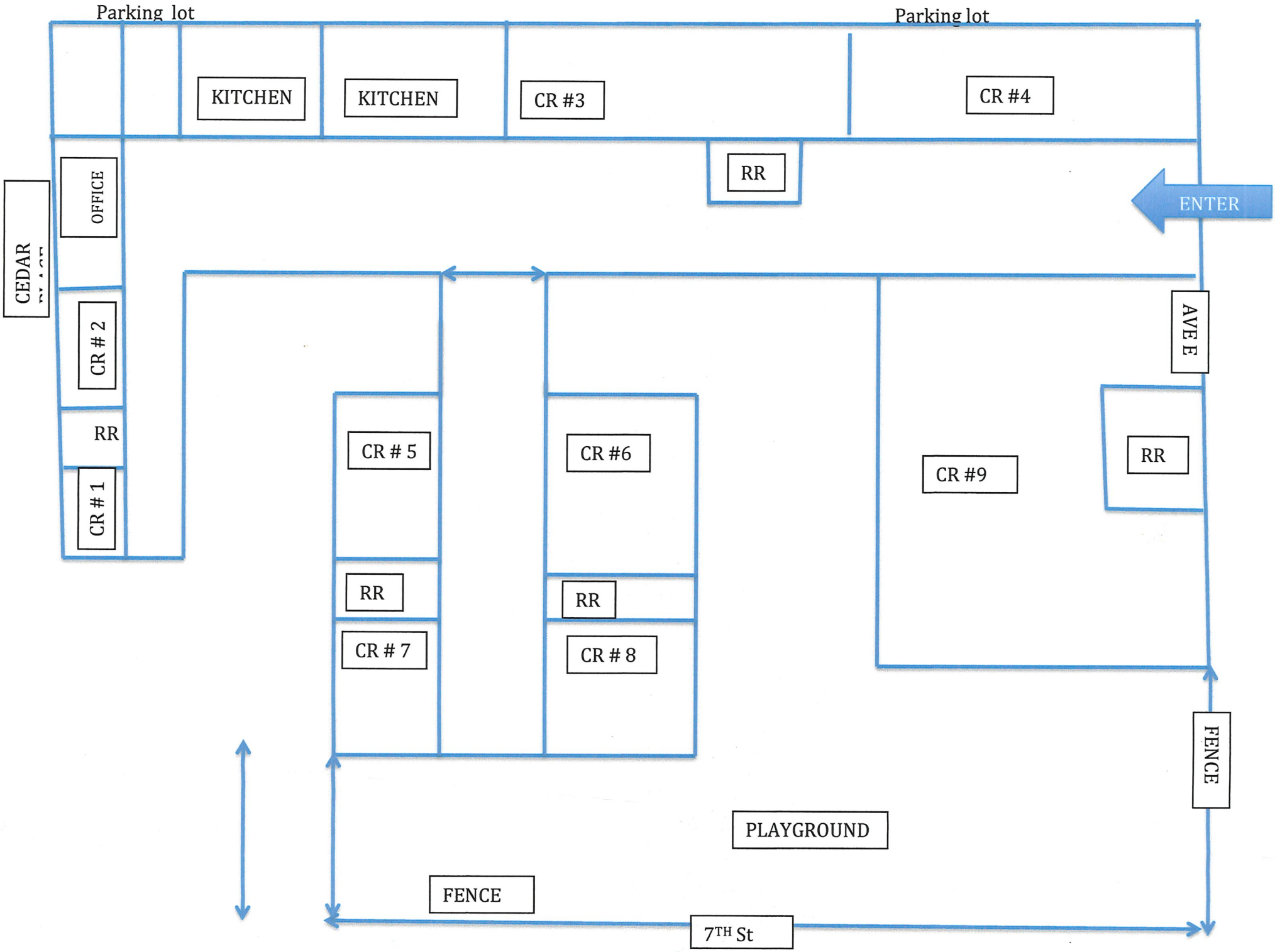
Our intent is to make a cash offer on subject property for acquisition. We are currently in the process of establishing business line of credit for renovations and improvement. Our planned renovation and improvements will include:

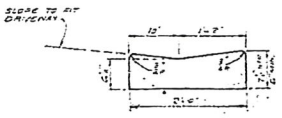
1. Replace missing or damage air condition unit
2. Fence entire compound
3. Resurface driveway and parking lot
4. Add play station for pupils with mulch covered area.
5. Re-paint building interior and exterior.
6. Repairs windows and other exterior damages
7. Refinished floors
8. Update kitchen and bathrooms
9. Refinished basements
10. Change main entry door way.
11. Update landscape to add curb appeal.
12. Install security cameras and security alarm system.
13. Install local network and cable network.

## Economic Impact

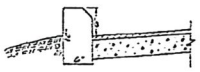
Dreamchaser Pre-School, LLC will have a positive economic impact within the City of Fort Pierce and surrounding area. Some of the impact include contributing to property tax collected by county and city for privately owned real estate. Increase job creation for area by hire 2- 5 more full and part-time employee that will increase employment taxes collect by state. We offer above minimum wages to our staff to lower staff attrition and retain dedicated and certified teachers and staff for our facility. The community will enjoy continued quality childcare and a more convenient location for child drop off and pick you.


Parking lot
Parking lot
KITCHEN
KITCHEN
CR #3
CR #4
RR
ENTER
OFFICE
CEDAR
CR # 2
RR
CR # 1
CR # 5
CR #6
CR #9
RR
AVE E
RR
RR
CR # 7
CR # 8
FENCE
PLAYGROUND
FENCE
7TH St

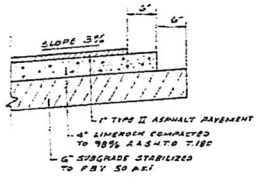

Parking lot
Parking lot
KITCHEN
KITCHEN
CR #3
CR #4
RR
ENTER
OFFICE
CEDAR
CR # 2
RR
CR # 1
AVE E
CR # 5
CR #6
CR #9
RR
RR
RR
CR # 7
CR # 8
FENCE
PLAYGROUND
FENCE
7TH St



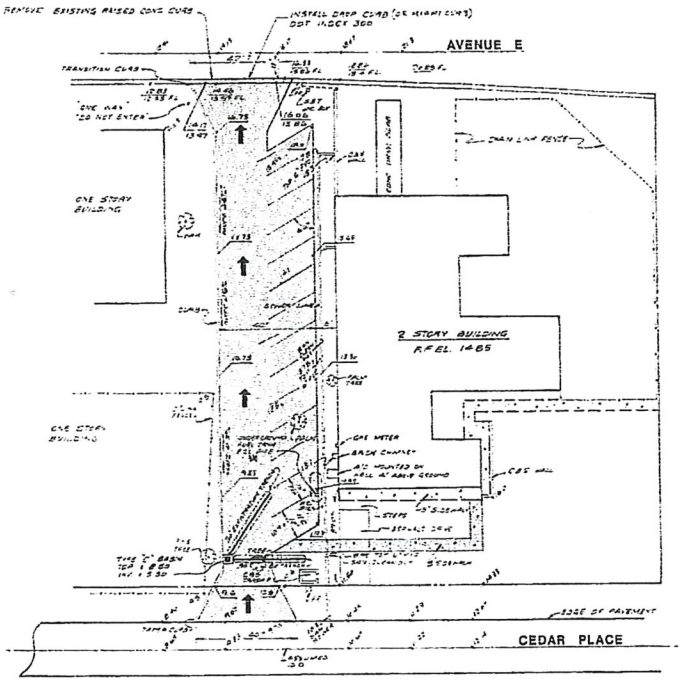

DROP CURB DETAIL

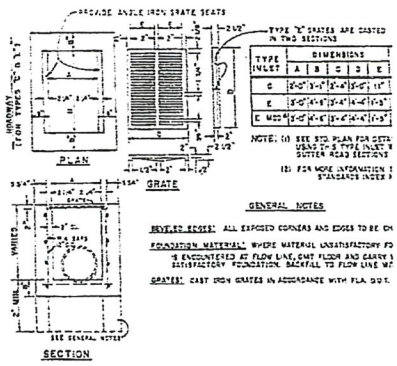



CURB DETAIL

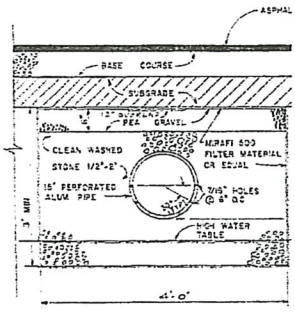



TYPICAL PAVEMENT DETAIL




CATCH BASIN DETAIL




EXFILTRATION TRENCH DETAI

PAVING AND DRAINAGE NOTES

1. All construction to be in accordance with the Florida Department of Transportation and/or City of Fort Pierce requirements and specifications, as applicable (Ord. 81-93).

2. Signing shall be "engineer grade", in accordance with the Florida Department of Transportation Standard Specifications, and shall be Uniform Traffic Control Devices and City of Fort Pierce requirements. Stop signs shall be 30" x 30".

3. Concrete for structures, curbs, inlet aprons, and sidewalks shall have minimum 28 day compressive strength of 3000 psi. Concrete for paving and loading zones shall also have a minimum of 28 day compressive strength of 3000 psi.

4. The engineer and the City of Fort Pierce shall be notified for inspection of subgrade, base and asphalt, at least 24 hours in advance of subsequent construction.

5. Upright depressed slope to be provided at all handicapped parking spaces, in accordance with the Manual on Uniform Traffic Control Devices and the City of Fort Pierce requirements.

6. The Florida Department of Transportation approved local pressure regulator shall serve as an approved alternative to riserance.

7. Aluminum corrugated metal pipe shall meet the requirements of AASHTO M-196 and the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, 1991 Edition, Section 943. Field joints shall meet the Florida Department of Transportation Standard Specifications Section 430-9.

8. Sidewalks to have rough broom finish perpendicular to normal direction of pedestrian movement.

9. The Contractor is to protect existing water and sewer services for reuse.

NOTE:
X EXTEND FILL PIPE AND PROTECT W/TRAFFIC METAL VALVE BOX MARKED "FUEL" OR "GAS"

LEGEND
XX.XX EXISTING ELEVATIONS
XX.X PROPOSED ELEVATIONS

For Pe

CULPEPPER & TERPENING, INC.
CONSULTING ENGINEERS
LAND SURVEYORS
FORT PIERCE, FLORIDA

HEAD

PAVING &

DRAWN BY | CHECKED BY
DMW

DATE | SCALE
1-5-98 | 1" = 20'

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

## PUBLIC NOTIFICATION CERTIFICATION

**PROJECT NAME:** Conditional Use - Dreamchaser Preschool - 505 N. 7th Street

**NOTICES PROVIDED PURSUANT TO:** City Code Section 22-143. Public Hearings A,B,C, & D

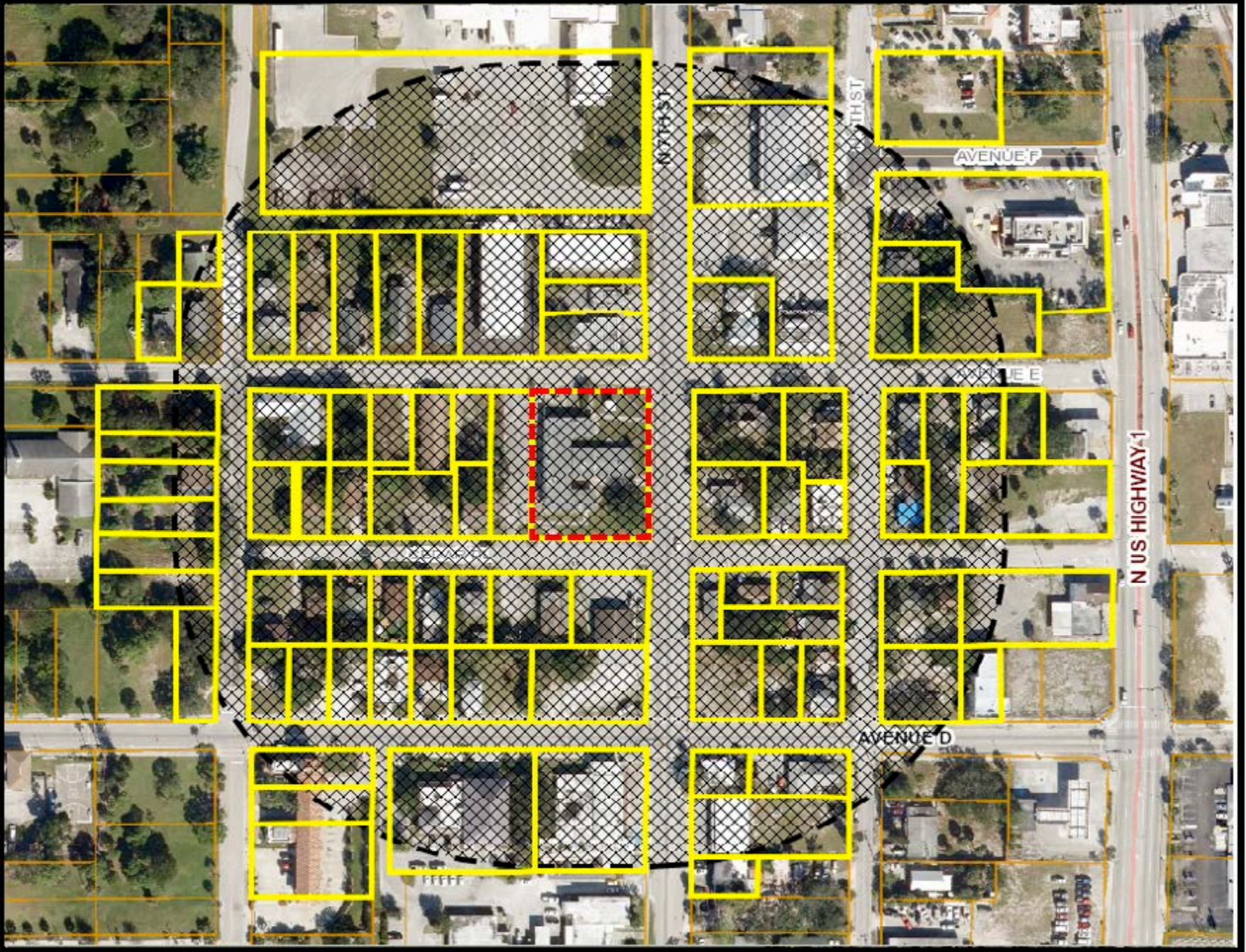
**NOTICE BY NEWSPAPER:** July 5th, 2020

**NOTICE BY MAIL:** July 2nd, 2020

**NOTICE BY SIGNS:** july 9th, 2020

**VERIFIED BY:** Vennis Gilmore **TITLE:** Planner

**SIGNATURE:** **DATE:** July 9th, 2020




**Location Map**

**505 N. 7th Street**

**Dreamchaser Preschool**

THE SUNRISE CITY
FORT PIERCE
Florida

1
Housing Auth City Of Ft Pierce
511 Orange Ave
Fort Pierce; FL 34950-4278

2
KHK Properties LLC
221 Garden Ave
Fort Pierce; FL 34950

3
McDonalds Corp
PO Box 182571
Columbus; OH 43218-2571

4
Ignaco Rueda
606 N 6th St
Fort Pierce; FL 34950-3033

5
Lesly Prophete
6453 NW Fontana ST
Port St Lucie; FL 34986-3765

6
5 Star Car Repair LLC
6014 Cassia DR
Fort Pierce; FL 34982-3782

7
Cephus W Cruickshank
2312 N 44th St
Fort Pierce; FL 34946

8
Ring Holdings LLC
950 Peninsula Corporate DR; Unit Ste 1013
Boca Raton; FL 33487-1358

9
Luis Moris Cabezas
507 N 6th ST
Fort Pierce; FL 34950-3093

10
Barbara Nowell
505 N 6th St
Fort Pierce; FL 34950

11
Willie A Lockhart
1296 10th Ave SW
Vero Beach; FL 32962

12
BRICK HOUSE ENTITIES LLC
118 S US Highway 1
Fort Pierce; FL 34950-4251

13
Yates N 4th Street LLC
1058 12th St
Okeechobee; FL 34974-0201

14
Luc Guillaume
12811 Griffing Blvd
North Miami; FL 33161

15
Joy A Scott (TR)
1222 Dayman AVE
Fort Pierce; FL 34950-6529

16
Maria Prows
15046 Hamlin BLVD
Loxahatchee; FL 33470-5615

17
Jose Garcia
603 Avenue E
Fort Pierce; FL 34950-3084

18
Catalina Ponce
602 Cedar Pl Apt A
Fort Pierce; FL 34950-3070

19
Anthony Jacques
2461 62nd Ave E; Unit Apt 44-302
Fife; WA 98424-2251

20
Roosevelt Nelson (TR)
1502 Avenue O
Fort Pierce; FL 34950-2169

21
Cecelia Gutierrez
5601 Palmetto Dr
Fort Pierce; FL 34982-7447

22
Hamid Slimane
614 N 7th St
Fort Pierce; FL 34950-3139

23
Diana L Myers
604 N 7th ST
Fort Pierce; FL 34950-3139

24
Fifer Partners 1 LLC
165 Anchor DR
Vero Beach; FL 32963-2957

25
Doris Johnson
304 N 32nd St
Fort Pierce; FL 34947-3353

26
Harry J Shaw
402 N 30th St
Fort Pierce; FL 34947-3362

27
Delores L Daniels
4705 35th Ave
Vero Beach; FL 32967-1158

28
Mildred A Smith
1103 Hemlock Cir
Fort Pierce; FL 34947-7237

29
Lilly M Gamble
804 Avenue E
Fort Pierce; FL 34950-8248

30
Ronald Gilbert
605 N 8th ST
Fort Pierce; FL 34950-3144

31
JoZEB Inc
501 Silverside RD; Unit Ste 105
Wilmington; DE 19809-1376

32
United Range Line LLC
7892 Saddlebrook DR
Port St Lucie; FL 34986-3100

33
Cecelia A Smith (Est)
712 Avenue E
Fort Pierce; FL 34950-8246

34
Kim Jolly
7481 NW 35th St
Lauderhill; FL 33319

35
Nora Smith
2101 Florida AVE
Fort Pierce; FL 34950-6224

36
Christine M Robinson (LF EST)
PO Box 1844
Haines City; FL 33845-1844

37
Willie O Bostick (EST)
720 Avenue E
Fort Pierce; FL 34950

38
DREAMCHASER PRESCHOOL LLC
784 SE Atlantus AVE
Port St Lucie; FL 34983-3944

39
Ft Pierce City Of
PO Box 1480
Fort Pierce; FL 34954-1480

40
Bessie L Gollett
622 Bending Oak Trl
Winter Garden; FL 34787

41
MCELHANEY INVESTMENTS INC
1531 SW 63rd TER
North Lauderdale; FL 33068-4401

42
Raymondo Edwards
1860 NW 24th Ter
Fort Lauderdale; FL 33311-4520

43
Carrie King
716 Cedar Place
Fort Pierce; FL 34950

44
Humble Zion Missionary Baptist Church
515 N 15th St
Fort Pierce; FL 34950-7917

45
Walter J Pierce Jr
4005 Heath Cir N
West Palm Beach; FL 33407-3138

46
Frank Aiken
728 Cedar PL
Fort Pierce; FL 34950-8244

47
SANDERS SAVINGS LLC
2701 Essex CT
Fort Pierce; FL 34946-1146

48
W A Palmer (Est)
PO Box 3777
Fort Pierce; FL 34948-3777

49
Shirley Garvin
710 Cedar PL
Fort Pierce; FL 34950-8244

50
Larry Tullis
3004 Avenue J
Fort Pierce; FL 34947-2438

51
Monique Benjamin
709 Cedar PL
Fort Pierce; FL 34950-8245

52
George H Shaw Jr
6317 NW Lykes LN
Port St Lucie; FL 34983-3311

53
Tonya Turner
713 Cedar St
Fort Pierce; FL 34950-8245

54
Joseph L King (EST)
715 Cedar Pl
Fort Pierce; FL 34950-8245

55
Cedar Investments And Properties LLC
3669 Park Ln
Coconut Grove; FL 33133

56
GGH 15 LLC
18305 Biscayne Blvd Ste 400
Aventura; FL 33160-2172

57
Sarah`S Legacy Inc
PO Box 3588
Fort Pierce; FL 34954

58
David Hall
PO Box 9342
Port St Lucie; FL 34985-9342

59
Longshoremen Of Slc Inc
503 N 7th St
Fort Pierce; FL 34950-8229

60
St Lucie County/Mgt & Budget
2300 Virginia Ave
Fort Pierce; FL 34982-5632

61
SLC Ft Pierce Fire Dist
5160 NW Milner Dr
Port St Lucie; FL 34983-3392

62
Jon Neprud (TR)
PO Box 3862
Fort Pierce; FL 34948-3862

63
NuView IRA
1064 Greenwood BLVD; Unit Ste 312
Lake Mary; FL 32746-5420

64
Fire Equipment Serv St Lucie
434 N 7th St
Fort Pierce; FL 34950-2972

# Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

St Lucie News Tribune
1801 U.S. 1, Vero Beach, FL 32960
**AFFIDAVIT OF PUBLICATION**

**CITY OF FORT PIERCE**
100 N. U.S. 1

**FORT PIERCE, FL 34950**

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he/she is a legal clerk of the St Lucie News Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St Lucie News Tribune in the following issues below. Affiant further says that the said St Lucie News Tribune is a newspaper published in Fort Pierce in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St Lucie News Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

RECEIVED
JUL 14 2020
FINANCE DEPT.

**07/05/2020**

Subscribed and sworn to before on July 5, 2020:

Tara Mondloch

Notary, State of WI, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

My commission expires August 6, 2021

Publication Cost: $171.60
Ad No: 0004264829
Customer No: 1330883
PO #:

# of Affidavits 1

CITY OF FORT PIERCE
NOTICE OF PUBLIC HEARING

The City Commission of the City of Fort Pierce, Florida, pursuant to Section 22-143 of the Code of Ordinances of the City of Fort Pierce, will on Monday, July 20, 2020 hold Public Hearings in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida, at their meeting which begins at 6:30 p.m., to consider review and approval of the following:

1. Approval of a Conditional Use with no new construction submitted by applicant, Michelle Longarzo on behalf of Michael D. Robbins, property owner, to operate a Vacation Rental at 1014 S. 7th Street, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Single-Family Intermediate Density Zone (R-2), Parcel ID: 2415-601-0254-000-0.
2. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wright-Ofeimu, a Vacation Rental at 715 S. Ocean Drive, Unit E, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-504-0001-000.
3. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wood, a Vacation Rental at 1123 Hernando Street, Apt. B, offering lodging for less than six (6) months. The minimum rental period is identified as one (1) day. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-811-0018-000-6.
4. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Dreamchaser Preschool, LLC, to operate a 7,126 square foot preschool at 505 N. 7th Street. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2410-601-0134-000-8.

All interested parties may appear at the meeting and be heard with respect to the Applications. Said applications will be available for inspection in the City Clerk's Office, City Hall, 100 North U.S. #1, Fort Pierce, Florida.

ANY PERSON SEEKING TO APPEAL THE DECISION OF THE CITY COMMISSION AS TO THE FOREGOING IS ADVISED THAT A RECORD OF PROCEEDINGS IS REQUIRED IN ANY SUCH APPEAL AND THAT SUCH PERSON MAY NEED TO INSURE THAT A VERBATIM RECORD OF PROCEEDINGS IS MADE INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772)

467-3065 at least 48 hours prior to the meeting.

/s/ Linda W. Cox, City Clerk
Publish: 7/5/20

Pub July 5th 2020
TCN4264829

**City Commission Regular Meeting** **12. b.**

**Meeting Date:** 07/20/2020

**Re:** Conditional Use - Wood Vacation Rental - 1123 Hernando Street, Apt. B

**Submitted For:** Jennifer Hofmeister, Planning Director, Planning & Zoning

---

**SUBJECT:**

Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wood, a Vacation Rental at 1123 Hernando Street, Apt. B, offering lodging for less than six (6) months. The minimum rental period is identified as one (1) day. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-811-0018-000-6.

**SUMMARY:**

- The applicant is requesting the review and approval of a Conditional Use to operate a Vacation Rental at 1123 Hernando Street, Apt. B.
- The subject single-story duplex's Apartment B is a four (4)-bedroom and three (3)-bathroom unit with approximately 1,852 square feet. The total square footage of both apartments (A&B) is approximately 2,564 gross square feet.
- The proposed Conditional Use will offer lodging of less than six (6) months with a minimum stay of 1 day to guests.
- **The property previously received a Conditional Use Approval to operate a dwelling unit B for over 31 days on February 21, 2017 by the City Commission. The current application is to rent dwelling unit B for less than 30 days with a minimum stay of one day.**

**RECOMMENDATION:**

The proposed use presents the provision of transient lodging accommodations to the general public, representing a limited commercial use that is compatible with the surrounding neighborhood, and is generally consistent with the City's Comprehensive Plan and Land Development Code with appropriate restrictions. Therefore, Staff recommends **APPROVAL** with the following five conditions:

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4. There shall be a limitation of no more than no two (2) vehicles at the site.

5. The City of Fort Pierce Business Tax License number shall be included on all advertising.

**ALTERNATIVES:**

- Approval with alternate conditions
- Denial

**RESPONSIBLE STAFF:**

Vennis Gilmore, Planner

**COORDINATED WITH:**

Technical Review Committee

---

## Fiscal Impact

**OTHER INFORMATION:**

N/A

---

## Attachments

Staff Presentation
Staff Report & Supporting Documents
Applicant Packet & Supporting Documents
Affidavit of Mailing & Public Notice Certification
Proof of Publication

---

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/15/2020 11:10 AM |

Form Started By: Vennis Gilmore
Started On: 07/08/2020 02:22 PM
Final Approval Date: 07/15/2020

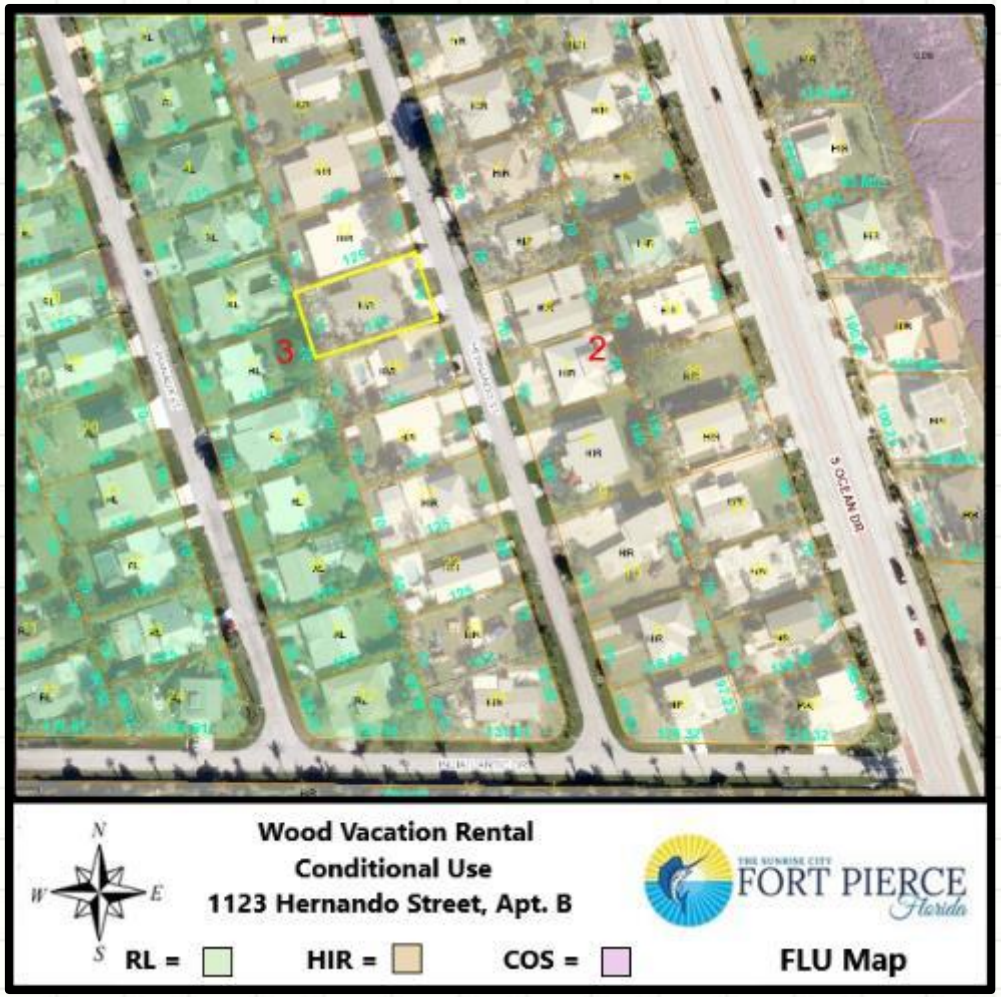
# Conditional Use

## 1123 Hernando Street, Apt. B

# Aerial Map

Hernando Street
South Ocean Drive
FORT PIERCE
Florida
Wood Dwelling Rental – Aerial
1123 Hernando Street

# FLU Map


3
2
S OCEAN DR
N
W
E
S
Wood Vacation Rental
Conditional Use
1123 Hernando Street, Apt. B
FORT PIERCE
Florida
RL =
HIR =
COS =
FLU Map

# Zoning Map

Hernando Street
South Ocean Drive
Indiatlantic Drive
Single-Family Intermediate Density zone (R-2).
H. Island Medium Density Residential (R-4A)
Gen. & Recreational Open Space Zone (OS-1)
FORT PIERCE
Wood Dwelling Rental – Zoning Map
1123 Hernando Street

# Wood Vacation Rental

Consideration of  a Conditional Use With No New Construction – Wood Vacation Rental at 1123 Hernando Street, Apt. B.

- Approval of a Conditional Use to operate a Vacation Rental, offering lodging for less than six months. The minimum rental period is identified as one days.

- Staff recommends **APPROVAL** subject to five (5) conditions

# Synopsis for Recommendation

- Ordinance K-114 passed in 2001 establishing Dwelling Rentals as Conditional Uses in the Zoning Code
- FL Legislature - 2011
  - Prohibits cities from denying STR rights
  - Conditional uses are allowed
- Quasi-Judicial Hearing
  - ➢ No Validated Evidence (Consistent with Code)
  - ➢ No COFP  Code Enforcement or FPPD current violations
- Conditions of Approval are being added to protect the neighborhood

# Adjacent Property Owner Responses

**75 Notifications**

**0 = In favor**

**0 = In opposition**

# CC Actions

**Possible actions of the City Commission:**

- APPROVE the proposed Conditional Use, subject to 5 Conditions and no changes
- APPROVE the proposed Conditional Use with changes
- DENY the proposed Conditional Use

# Staff Recommendation

Staff recommends **APPROVAL** subject to five (5) conditions:

1) The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2) Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3) The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4) There shall be a limitation of no more than no two (2) vehicles at the site.

5) The City of Fort Pierce Business Tax License number shall be included on all advertising.

# CC Actions

**Possible actions of the City Commission:**

- APPROVE the proposed Conditional Use, subject to 5 Conditions and no changes
- APPROVE the proposed Conditional Use with changes
- DENY the proposed Conditional Use

# Conditional Use

## 1123 Hernando Street, Apt. B

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

| | |
|---|---|
| **TO:** | Nick C. Mimms, P.E., ICMA-CM, City Manager |
| **THROUGH**: | Jennifer Hofmeister, AICP, LCAM, Planning Director |
| **FROM:** | Vennis Gilmore, Planner |
| **RE:** | **Conditional Use Approval - Wood Vacation Rental**<br>**1123 Hernando Street, Apt. B** |
| **BOARD DATE:** | July 20, 2020 |

## STAFF REPORT

| | |
|---|---|
| **Owner/Applicant:** | **Tiffany and David Wood**<br>**1123 Hernando Street**<br>**Fort Pierce, FL 34949** |
| **Applicant's Request:** | Approval of a Conditional Use to operate a Vacation Rental, offering lodging for less than 30 days. The minimum rental period is identified as one day. |
| **Location(s):** | 1123 Hernando Street, Apt. B |
| **Parcel ID:** | 2401-811-0018-000-6 |
| **Future Land Use:** | Hutchinson Island Residential (HIR) |
| **Current Zoning:** | Hutchinson Island Medium Density Residential Zone (R-4A) |

**Surrounding FLU:**

| North | East | South | West |
|---|---|---|---|
| HIR | HIR | HIR | RL |

**Surrounding Zoning:**

| North | East | South | West |
|---|---|---|---|
| R-4A | R-4A | R-4A | R-2 |

| | |
|---|---|
| **Utilities:** | Fort Pierce Utility Authority (FPUA) |

**Staff Analysis:**
In accordance with Sections 22-22 and 22-76 of the City Code, the applicant is requesting the review and approval of a Conditional Use to operate a Vacation Rental at 1123 Hernando Street, Apt. B. The subject single-story duplex's Apartment B is a four (4)-bedroom and three (3)-bathroom unit with approximately 1,852 square feet. The total square footage of both apartments (A&B) is approximately 2,564 gross square feet. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A). The proposed Conditional Use will offer lodging of less than six (6) months with a minimum stay of 1 day to guests.

The property is within the South Beach neighborhood, generally situated west of South Ocean Drive and approximately one hundred feet north of Mariner Bay. The subject site is surrounded by a duplex situated to the north, a single-family home and duplex to the east, single-family homes to the west, and a single-family home to the south. The subject property has a Future Land Use designation of Hutchinson Island Residential (HIR) with a compatible zoning classification of Hutchinson Island Medium Density Residential (R-4A).

The property previously received a Conditional Use Approval to operate a dwelling unit B for over 31 days on February 21, 2017 by the City Commission. The current application is to rent dwelling unit B for less than 30 days with a minimum stay of one day.

<u>Dwelling Rentals</u>
Pursuant to City Code Section 22-3. – Definitions - Generally, the rental of any dwelling unit for less than six months, is classified as a "Dwelling Rental (dwelling unit)," and defined as follows: "One or more rooms

connected together in a building, constituting a separate, independent housekeeping establishment, other than a motel/hotel, for purposes of rental on a daily, weekly or longer basis."

The State of Florida provides further classification of a dwelling that is rented for periods of less than one month. Pursuant to Florida State Statute 509.242, declaring the use a "Vacation Rental," defines such use as any unit that is also a transient public lodging establishment but that is not a timeshare project, which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less or which is advertised or held out to the public as a place regularly rented to guests. A dwelling rental, as locally defined, is also a "Vacation Rental" if the duration of stays are less than 30 days. The rental of a dwelling for periods at a minimum of 31 days, but less than six months, is a "Dwelling Rental," but not a "Vacation Rental."

Table 1 presents general characteristics to clarify Dwelling Rentals and the transitioning threshold for Vacation Rentals.

**Table 1 – Dwelling & Vacation Rental Definitions**

| | **Dwelling Rental** | **Vacation Rental** |
|---|---|---|
| ***Length of Stay*** | Less than 6 months | 30 days or less |
| ***Lodging Type(s)*** | Non-Transient<br>(more than 30 days) | Transient Lodging |
| ***State License Requirement*** | If rented 30 days or less<br>(Vacation Rental) | Division of Hotels &<br>Restaurants – Vacation |
| ***Public lodging establishment (ADA & Misc. Regulations)*** | If rented 30 days or less<br>(Vacation Rental) | Public lodging establishment |

**Future Land Use and Zoning**

The purpose and intent of the R-4A zoning district is to establish height and density regulations for lands located within the city which are situated east of the Indian River. The R-4A zone is compatible with the Medium Density Residential Hutchinson Island designation in the comprehensive plan. Permitted gross residential densities in this district may not generally exceed eight (8) units per acre. Bonus density of up to one additional unit per acre is available as provided for in this section. This district is established because Hutchinson Island is a sensitive barrier island which presents development considerations which are either unique to the area or are of added concern, such as environmental fragility, beach erosion, and hurricane evacuation.

**Parking**

Pursuant to City Code Section 22-60 (d)b, motels, hotels and resort hotels shall provide 1.6 spaces for each unit 500 square feet or larger.

**Conditional Use**
As stated in City Code Section 22-74, the purpose of the Conditional Use process is to allow, when desirable, uses that would not be appropriate generally or without restriction throughout a particular zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would not adversely affect the public health, safety, comfort, good order, appearance, convenience, and the general welfare.

**Technical Review Committee**
All affected departments have reviewed the proposed Conditional Use with regards to the requirements of the City Code. Findings from the review by corresponding departments and the associated responses by the applicant are provided.

***Property Owner Response Summary***
A total of 75 notifications of the proposal were mailed to the owners of property located within 500 feet of the subject property. An update will be provided to the City Commission at the public hearing.

***Planning Board Recommendation***
The Planning Board, at their June 9th, 2020 meeting, voted 3-2 to recommend **Approval** of the request.

**Staff Recommendation**
The proposed use presents the provision of transient lodging accommodations to the general public, representing a limited commercial use that is compatible with the surrounding neighborhood, and is generally consistent with the City's Comprehensive Plan and Land Development Code with appropriate restrictions. Therefore, Staff recommends **APPROVAL** with the following five conditions:

1) The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2) Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3) The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4) There shall be a limitation of no more than no two (2) vehicles at the site.

5) The City of Fort Pierce Business Tax License number shall be included on all advertising.

THE SUNRISE CITY
FORT PIERCE
Florida
ENGINEERING
DEPARTMENT

RECEIVED

**TO : Brandon Creagan, Planner**

**FROM : John R. Andrews, P.E., City Engineer**

CITY OF FORT PIERCE
PLANNING & ZONING

**RE : Wood Vacation Rental – 1123 Hernando Street**
**Conditional Use**
**TRC No. 19-04000014**

**DATE : October 21, 2019**

This is to advise you that we have completed the review of the following documents as received by this office on October 21, 2019:

- [x] Conditional Use
- [ ] Test Reports & Related Documents
- [ ] Record Drawings
- [ ] Clearances from all applicable Local, State and Federal Agencies
- [ ] P/D Drawings
- [ ] Certificate of Completion
- [ ] Permits from applicable Local, State & Federal Agencies

Based on our reviews and appropriate site final inspection, we

- [x] Recommend
- [ ] Do Not Recommend

- [x] Approval of CU
- [ ] Building Permit
- [ ] C/O

Developer, Owner, Engineer, Contractor and other members of the Development Team must be aware, the above recommendation is based only on the construction requirements of the engineering plans and other engineering documentation approved by this department. The Development Team shall be responsible for the compliance with other City department requirements and all approved documents, as well as Local, State and Federal regulations. The development requirements for this project may necessitate additional construction requirements that are not subject to this department's review for approval.

- [ ] See attached for engineering comments

JRA/tst

Q:\ENGINEERING\Site Development Projects\W\Wood Vacation Rental\1123 Hernando Street\CU Approval - 102119.docx

THE SUNRISE CITY
FORT PIERCE
BUILDING DEPARTMENT Florida

# BUILDING DEPARTMENT
# TECHNICAL REVIEW COMMITTEE (TRC)
# COMMENT FORM

| | |
|---|---|
| **Meeting Date:** | November Planning Board Meeting |
| **Property Address:** | 1123 Hernando Street |
| **Property Name:** | Cond. Use – Wood Vacation Rental |
| **Planner:** | Brandon Creagan |

***Please be advised that the project may trigger the requirements indicated below:***

☐ 1. Building Official or his representative has no comment at the time of this meeting, but reserves submission of comments upon completion of the official plan review.

☐ 2. Pre-construction meeting with the City's Building Department is requested.

☑ 3. Any construction will need to meet the requirements of the Florida Building Code 6th Edition.

☐ 4. Means of egress is required.

☐ 5. Means of ingress is required.

☐ 6. Must meet the following Accessibility requirements:

- ☑ Accessible route
- ☑ Handicapped parking spaces
- ☑ Means of egress

☑ 7. Change of Use required

- ☑ to include a signed and sealed Life Safety Plan
- ☐ to include a signed and sealed detailed comprehensive building plan.

☐ 8. Property exists in Special Flood Hazard Area. All Federal and State requirements shall be addressed.

☐ 9. Flood Development Permit required.

☑ 10. Building Permit required.

☑ 11. Signed and sealed construction drawings required.

☑ 12. Will need to meet the Fire Code.

☑ 13. Sprinkler system is required.

☐ 14. Smoke alarm system is required.

☐ 15. Other

**Additional Comments/Requirements:**

Building Official's or Representative's Signature Frank Suarez Date: 10/25/19

Fort Pierce Utilities Authority
Water/Wastewater Engineering
1701 South 37th Street
Fort Pierce, FL 34947
772.466.1600 x3473

# Technical Review Committee

TECHNICAL REVIEW PROJECT # 19-04000014

Conditional Use – Wood Vacation Rental – 1123 Hernando Street

**Comments**

FPUA W/WW Engineering: Approved

FPUA Electric & Gas Engineering: No comment

# D R A F T

CITY OF FORT PIERCE

PLANNING BOARD

**Planning Board Minutes**

**OF THE REGULAR MEETING OF THE FORT PIERCE CITY PLANNING BOARD HELD ON TUESDAY, JUNE 9, 2020, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.**

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Mr. Burdge entered the meeting at 1:27 PM.

Present: **Patricia Diaz**; **Tim O'Connell**; **Michael Broderick**; **Bob Burdge**; **Frank Creyaufmiller**, **Chairman**

Absent: **Solomon Lee**; **Gloria Johnson-Scott**

Staff Present: **Jennifer Hofmeister**, **Planning Director**
**Tanya Earley**, **Assistant City Attorney**
**Rebeca Guerra**, **Assistant Planning Director**
**Brandon Creagan**, **Planner**
**Vennis Gilmore**, **Planner**
**Alicia Rosenthal**, **Executive Assistant**

**4. CONSIDERATION OF ABSENCES**

**Motion was made by Michael Broderick, and seconded by Patricia Diaz to approve the absences of Ms. Johnson Scott and Mr. Lee.**

AYE: **Tim O'Connell**, **Michael Broderick**, **Bob Burdge**, **Patricia Diaz**, **Chairman Frank Creyaufmiller**

Passed

**5. APPROVAL OF MINUTES**

a. Minutes from the March 10, 2020 meeting

**Motion was made by Michael Broderick, and seconded by Patricia Diaz to approve the minutes from the March 10, 2020 meeting.**

AYE: **Tim O'Connell**, **Michael Broderick**, **Patricia Diaz**, **Chairman Frank Creyaufmiller**
Passed

## 6. NEW BUSINESS

### a. Annexation - Osipchuk Residence - 4114 Poinsetta Avenue

Mr. Creagan gave an overview of the application and answered questions from the Board on improvements to the property and structure located on the site. Mr. Creagan explained that half of the property is the city limits and the other half of the property is located in St. Lucie County.

**Motion was made by Michael Broderick, and seconded by Tim O'Connell to forward a recommendation of approval for the annexation located at 4114 Poinsetta Avenue.**

AYE: **Michael Broderick**, **Patricia Diaz**, **Tim O'Connell**, **Chairman Frank Creyaufmiller**
Passed

### b. Conditional Use - Dreamchaser Preschool - 505 N. 7th Street

Mr. O'Connell stated he owns property a block and a half away.

Mr. Gilmore gave an overview of the application and answered questions from the Board on the sidewalk. Mr. Gilmore noted that the lighting condition will be handled by the City of Fort Pierce.

Ms. Hofmeister explained the applicant has not expressed interest in the sidewalk payment-in-lieu option so the city anticipates the sidewalk construction will take place.

Claude Facey, applicant representative, stated the applicant is going to move forward with the sidewalks.

The Board applauded the applicant for the impressive packet and step in the right direction.

**Motion was made by Tim O'Connell, and seconded by Patricia Diaz to approve the Conditional Use with the following two conditions.**

1. **Per City Code Section 22-60.- Off-Street Parking and Loading. (j) Lighting. Prior to Certificate of Occupancy, please provide a Lighting Plan or a Certified Letter to ensure the minimum requirement of two (2) footcandles.**
2. **Per City Code Section 22-62 Sidewalks. b) Applicability: In order to provide continual access for pedestrians, sidewalks and sidewalk linkages shall be required to be provided by the property owner or permit applicant when one of the following events occur: (4) Plans submitted for site plan, conditional use, PUD/PUR, and subdivision review. Please install a sidewalk along Avenue E and Cedar Place connecting to the North 7th Street existing sidewalk or submit payment in-lieu to the City of Fort Pierce Engineering Department within ninety (90) days of Conditional Use Approval.**

AYE: **Michael Broderick**, **Bob Burdge**, **Patricia Diaz**, **Tim O'Connell**, **Chairman Frank Creyaufmiller**
Passed

c. **Conditional Use - Wood Vacation Rental - 1123 Hernando Street, Apt. B**

Mr. Gilmore gave an overview of the application and answered questions from the Board on renting out both sides of the duplex, sidewalk installation, parking and other rentals on the street.

Ms. Hofmeister stated the Technical Review Committee comments regarding the requirements of a sprinkler system and signed and sealed life safety plan are from the previous application and no longer apply. Ms. Hofmeister said the city's position on those matters have since changed due to a ruling from the Florida Building Code Commission.

Ms. Hofmeister explained there was a general statement made by the City Commission that a maximum of two cars are allowed for short term rentals because too many cars create a nuisance and incompatibility with the neighborhood.

Tiffany Wood, applicant, stated she will pay the sidewalk payment-in-lieu fee. Ms. Wood explained that in the nine years of renting their has been approximately two cars per renter. Ms. Wood said there are two units in the duplex and one unit is used as a studio and for storage of personal belongings.

Ms. Hofmeister explained to the Board what was learned from the recent ruling. She stated that the Planning departments role is to review the short term rentals based on the city code and to make sure the applicant is meeting the conditions of approval. She noted the enforcement arm is handled by Code Enforcement and anything in the interior of the home is handled by the Building department and the annual updates and inspections are done by the state Department of Business and Professional Regulations (DBPR).

Chairman Creyaufmiller asked the city attorney to comment if a motion was made in opposition to the application.

Ms.Earley stated the Board consider all the information and if a motion is to deny that there be sufficient discussion and analysis provided by the Board to determine the basis for the decision. Ms. Earley said there needs to be a record showing substantial competent evidence for denial.

Ms. Hofmeister commented that the ADA accessibility and fire codes still apply but not at the Planning stage. She said the state requires minimum design criteria and there is an overlapping of agency review.

The Board asked if a condition be added that states the business tax receipt cannot be issued until all staff conditions have been met.

Ms. Earley advised the Board that the conditions may not be supported by the Code of Ordinances and she will need to look into it further.

The Board asked the Assistant City Attorney to follow up on the issue.

Ms. Wood stated she met all the conditions of approval in 2017 and she will pay for the sidewalk payment-in-lieu fee if it has not been paid.

Ms. Diaz stated the Board can give a better recommendation to the City Commission if the neighbors were notified by mail prior to the Planning Board meeting.

Ms. Hofmeister noted there would need to be a change made to the Code of Ordinances and

the notification is part of the code amendment rewrite the department is currently working on.

Board discussion ensued on receiving payment from the applicant on the Sidewalk Payment-in-lieu fee from 2017 prior to moving forward to City Commission.

Ms. Earley stated the Business Tax Receipt will not be issued until the Planning Department signs off.

**Motion was made by Michael Broderick, and seconded by Bob Burdge to forward a recommendation of APPROVAL with the following six conditions and that condition # 6 is clarified and the information is brought forward to the Planning department prior to the City Commission meeting so the information can be presented to the City Commission for finalization.**

1. **The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.**
2. **Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.**
3. **The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.**
4. **There shall be a limitation of no more than no two (2) vehicles at the site.**
5. **The City of Fort Pierce Business Tax License number shall be included on all advertising.**
6. **Per City Code Section 22-62 Sidewalks. b) Applicability: In order to provide continual access for pedestrians, sidewalks and sidewalk linkages, the property owner or permit applicant shall provide within thirty-one (31) days of Conditional Use approval a permit for the installation of a sidewalk along the property line that abuts Hernando Street and or a payment in lieu of construction if one of these items was not previously completed with the last Conditional Use approval from February 2017 for the dwelling rental of 31 days or more.**

AYE: **Michael Broderick**, **Bob Burdge**, **Chairman Frank Creyaufmiller**
NAY: **Patricia Diaz**, **Tim O'Connell**
Passed

d. **Conditional Use - Wright-Ofeimu Vacation Rental -715 S. Ocean Drive, Unit E**

Mr. Gilmore gave an overview of the application and answered questions from the Board on the limitation of the number of occupants, parking, HOA regulations and change of use.

Chairman Creyaufmiller asked if the link had been added to the city website showing the listing of property manager's contact information for approved short term rentals.

Ms. Hofmeister stated she was not aware of the list but she will look into it.

Tiffany Wright Ofeimu, owner, provided information to the Board on the property manager, property reputation and the HOA rental regulations.

**Motion was made by Patricia Diaz**, **and seconded by Michael Broderick to forward a recommendation of APPROVAL with the following five conditions:**

1. **The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.**
2. **Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.**
3. **The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.**
4. **There shall be a limitation of no more than no two (2) vehicles at the site.**
5. **The City of Fort Pierce Business Tax License number shall be included on all advertising.**

AYE: **Tim O'Connell**, **Michael Broderick**, **Bob Burdge**, **Patricia Diaz**, **Chairman Frank Creyaufmiller**

Passed

e. **Conditional Use - Robbins Vacation Rental - 1014 S. 7th Street**

Ms. Hofmeister gave an overview of the application and answered questions from the Board.

Chairman Creyaufmiller stated the Board heard the case twice before but this case contains new information.

Ms. Hofmeister explained the building department submitted Technical Review Committee comments and will also be reviewing the Business Tax Receipt application along with the ADA requirements. The Board asked that the building official provide clarification regarding ADA requirements for short term rentals.

Mr. O'Connell and Ms. Diaz stated there hands are tied with short term rentals and this is worse than a hotel. Board discussion ensued on the frustration of not having any control over short term rentals.

Ms.Hofmeister highlighted that every year the property is inspected by the Department of Business and Professional Regulations (DBPR) for life safety, cleanliness and the interior of the home.

Mr. Broderick stated the Board is in the position to make short term rentals more manageable.

Michelle Longarzo, applicant, disagreed with the comments being made. Ms. Longarzo spoke about property rights and she stated she has been in regular contact with Paul Thomas, City of Fort Pierce Building Official and Captain Paul Langel from the St. Lucie County Fire department. Ms. Longarzo read an e-mail she received from Captain Langel stating that fire sprinklers are not required for this single family home. Ms. Longarzo also stated that the DBPR does not require fire sprinklers. Ms. Longarzo sugested the Board embrace the changes because tourism brings money to the area. Ms. Longarzo noted the property manager vets the client and will be on call 24 hours a day.

Marcia Baker, Clay Yates and William R. Bond sent in letters of opposition and they were read at the meeting.

Ms. Longarzo said the former denial is no longer relevant based on DBPR regulations and ADA requirements.

Chairman Creyaufmiller stated the Planning Board is an advisory Board and they do not operate under a Quasi-Judicial hearing. Chairman Creyaufmiller mentioned that eight properties around this home were not homesteaded.

Ms. Diaz recused herself because her colleague, Mr. Yates, submitted a letter in opposition.

**Motion was made by Michael Broderick, and seconded by Bob Burdge to forward a recommendation of APPROVAL with the following six (6) conditions:**

1. **The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.**
2. **Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.**
3. **The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.**
4. **There shall be a limitation of no more than no two vehicles at the site.**
5. **The City of Fort Pierce Business Tax License number shall be included on all advertising.**
6. **Pave the required parking spaces per City Code Section 22-60(c)(6) Surface Material:a.Required parking spaces, access drives, and loading areas must be paved and maintained with concrete, asphalt or similar material of enough thickness and consistency to support anticipated traffic volumes and weights.b.Alternative paving materials or parking surfaces (including pervious surfaces) may be approved by the city engineer if such materials or surfaces are demonstrated to exhibit equivalent wear resistance and load bearing characteristics as concrete or asphalt.**

AYE: **Michael Broderick**, **Bob Burdge**, **Chairman Frank Creyaufmiller**
NAY: **Tim O'Connell**
Other: **Patricia Diaz** (ABSTAIN)
Passed

f. **Preliminary Plat - Culverhouse - Thumbpoint Subdivision - Block 1, Portion of Lot 28 and all of Lots 29 and 30**

Ms. Guerra gave an overview of the Plat and answered questions from the Board on frontage requirements, square footage requirements, existing structure setbacks and maximum lot coverage for the building.

William Stoddard, property owner agent, made himself available for questions.

Ms. Earley inquired of Mr. Fee. lawyer representing the owner, about the conversation with the city attorney regarding some pending litigation and she asked Mr. Fee to bring the Board up to speed on the issue.

Ms. Diaz recused herself because she is a colleague of Mr. Fee.

Speedy Fee, lawyer representing the owner, explained the property has been in litigation for an extended period of time for two mortgage loans. Mr. Fee noted that PNC Bank owns the loans and is attentive to and receptive of the application because it would provide the wherewithal through sales to pay off the loan and move it out of litigation. Mr. Fee stated the bank has

signed off on the plat and all the issues with the city have been resolved.

**Motion was made by Michael Broderick, and seconded by Bob Burdge to forward a recommendation of APPROVAL of the request with the following one (1) Condition:**

1. **The applicant will supply two (2) Mylars for appropriate signatures and then the plat is recorded with St. Lucie County Clerk of Courts in accordance with Florida State Statute 177.111.**

AYE: **Bob Burdge**, **Tim O'Connell**, **Chairman Frank Creyaufmiller**, **Michael Broderick**
Other: **Patricia Diaz** (ABSTAIN)
Passed

g. **Preliminary Plat - Granada Street Cottages - Portion of Block 7 & 8 (Palm Haven Subdivision)**

Ms. Guerra gave an overview of the plat and answered questions from the Board on fee simple ownership and Granada Street road improvements.

Chairman Creyaufmiller asked for clarification on the lots being undersized.

Ms. Guerra explained that the original plat was plotted with 10 lots instead of 5 lots and it did not meet the minimum design standards. Ms. Guerra stated the new plat meets the state and city requirements.

Ms. Guerra highlighted that Granada Street is on the city's Capital Improvements Plan so the city will be making the road improvements.

**Motion was made by Michael Broderick, and seconded by Patricia Diaz to forward a recommendation of APPROVAL of the request with the following one (1) Condition:**

1. **The applicant will supply two (2) Mylars for appropriate signatures and then the plat is recorded with St. Lucie County Clerk of Courts in accordance with Florida State Statute 177.111**

AYE: **Bob Burdge**, **Patricia Diaz**, **Tim O'Connell**, **Michael Broderick**, **Chairman Frank Creyaufmiller**
Passed

7. **COMMENTS FROM THE PUBLIC**

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Chair, as this section of the Agenda is limited to thirty minutes. The Planning Board will not be able to take any official actions under Comments from the Public. Speakers will address the Board and the Public with respect. Inappropriate language will not be tolerated.

There were no comments from the public.

8. **DIRECTOR'S REPORT**

There was no Director's Report.

## 9. BOARD COMMENTS

Chairman Creyaufmiller thanked the United States government, the City Commission, the mayor, the departments and employees of the City of Fort Pierce for the great job and the decisions being made during the pandemic. Chairman Creyaufmiller also thanked the police department for doing a great job in how they are responding to the protest and he thanked the general public and how they are handling the protest situation.

Ms. Diaz stated she wished the laws that conferred property rights also conferred social responsibility and being a good neighbor.

Mr. Broderick asked about the status on the meeting notification mailing prior to Planning Board.

Ms. Hofmeister stated that staff is taking apart the code in sections and the notification process is part of the review. She said currently the city is reducing fees due to the pandemic so there will have to be some discussion in putting the burden on the petitioner.

Mr. Burdge read a November 27, 2017 memo from the previous Planning Director, Rebecca Grohall, to the mayor and city commission that talks about the follow up of site plan and redevelopment notification. Ms. Grohall indicated the subject had been debated several times in the past and the direction was to not send notices about the Planning Board meeting. The deciding factor was the additional cost to the applicant and may also be due to the interpretation of the previous legal team in regards to the Public Hearing. The Public Hearing is held at City Commission. The Planning Board ask if anyone in the public would like to speak but does not hold public hearings. Mr. Burdge said the memo goes on to talk about the increase cost and the only notice the Planning Board has to give is a posted sign.

Board discussion ensued on notifications.

Mr. Broderick discussed coming up with a process for neighbors being able to notify property management for short term rentals without having to go online or go to the city clerk's office. Mr. Broderick suggested discussing this as an agenda item at the next meeting because the Boards need to make sure the conditions being put on short term rentals are working.

Chairman Creyaufmiller suggested putting together a committee to discuss the short term rentals.

Ms. Diaz suggested having a workshop on the operation of the short term rentals and invite the public. Ms. Diaz suggested giving the police department the contact list of property managers for short term rentals.

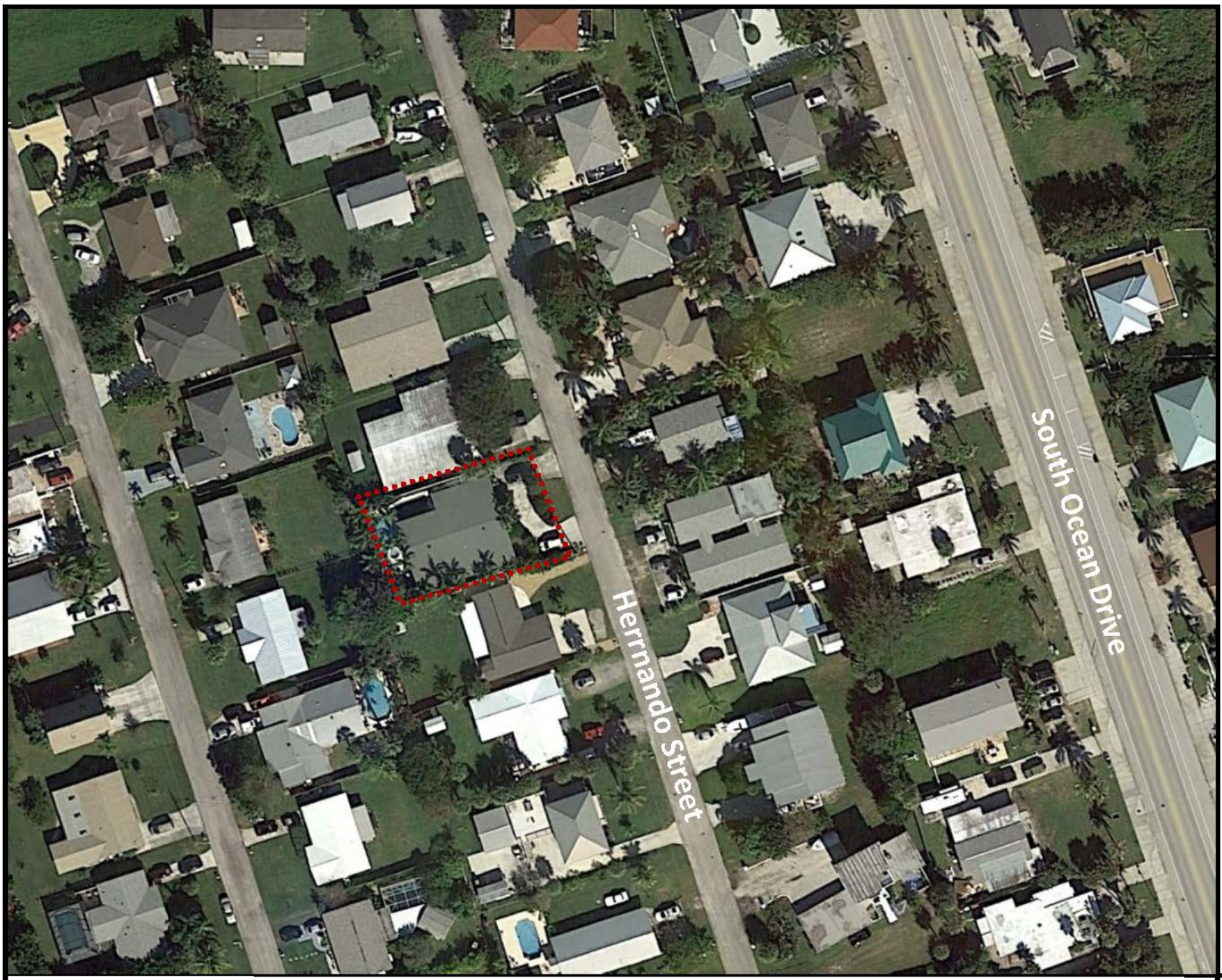
Ms. Hofmeister recommended making conditions tougher and not so vague.

Mr. Broderick suggested that the building department put a maximum occupancy load on the Business Tax Receipt.

Chairman Creyaufmiller discussed the Planning Board packets being electronic moving forward. The chairman asked for a package of drawings to be available in the Planning department for review. Mr. Burdge requested a hard copy packet for the Planning Board meetings.

Ms. Earley clarified that the Board does have the right to deny a short term rental application for Conditional Use as long as there is competent substantial evidence that the use requested is inconsistent with the health, safety and welfare.

## 10. ADJOURNMENT




THE SUNRISE CITY
FORT PIERCE
Florida

# Wood Dwelling Rental – Aerial

1123 Hernando Street

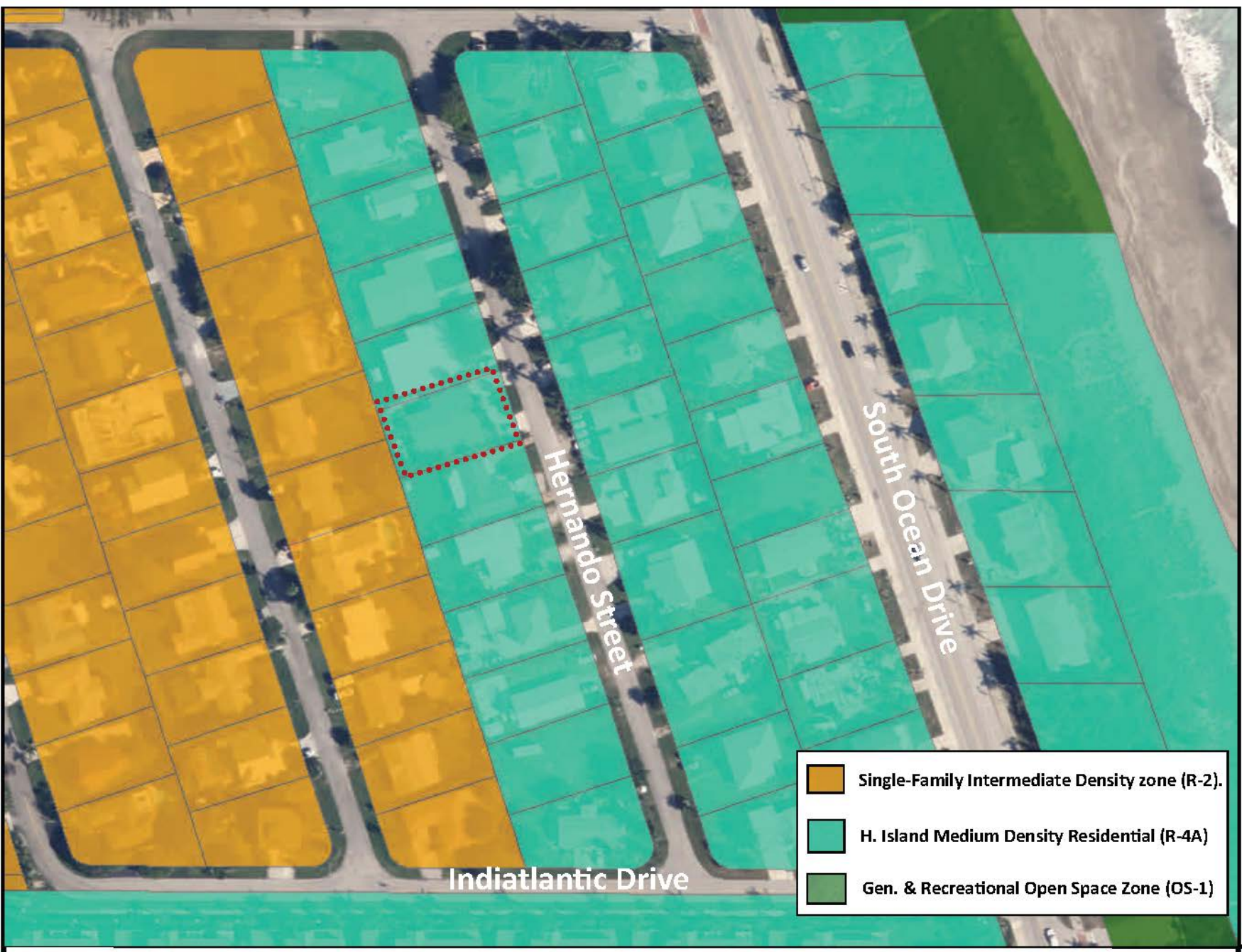
N
W E
S

**Wood Vacation Rental**
**Conditional Use**
**1123 Hernando Street, Apt. B**

THE SUNRISE CITY
FORT PIERCE
Florida

RL = HIR = COS =

**FLU Map**




THE SUNRISE CITY
FORT PIERCE
Florida

# Wood Dwelling Rental – Zoning Map

1123 Hernando Street

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

# Conditional Use – No New Construction

Property address or Location 1123 Hernando Street

Parcel ID #(s) 2401-811-0018-00-6

Project description Request tp amend existing monthly CUP license to less than 30 day rentals

| | |
|---|---|
| Tiffany & David Wood | Tiffany Wood |
| **Property Owner(s)** | **Applicant/Representative, Title, Company** |
| 1123 Hernando Street | 1123 Hernando Street |
| Street Address | Street Address |
| Fort Pierce FI 34949 | Fort Pierce FI 34949 |
| City State Zip | City State Zip |
| 352-586-9260 | 352-586-9260 |
| Phone Number | Phone Number |
| sirdone@msn.com | sirdone@msn.com |
| Email Address | Email Address |

***Property Owner(s) Acknowledgements:*** *- This application will not be considered complete without the signature of all property owners of record, which shall serve as an acknowledgement of the submission of this application. The property owner's signature below shall also authorize the Applicant (if other than the property owner) and/or Representative to act in his/her behalf for the purposes of seeking approval for the application described herein.*

Tiffany Wood

*Property Owner(s) Signature(s)*

STATE OF FLORIDA – COUNTY

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ who is personally known to me or has produced _____ as identification.

See Attached Acknowledgment

_____

Signature of Notary (seal)

***INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3729***

**TO BE COMPLETED BY STAFF**

| Zoning | Future Land Use | Total Acres | Historic District | Historic Designation |
|---|---|---|---|---|
| | | | | Contributing Individual<br>Non-Contributing None |

Pre-Application Meeting Date_____ Fees_____ Control #_____ B. Permit #_____

Intake Planner_____

Planner Assigned_____

Approved By_____ Date _____

Comments_____

Intake Date Stamp

# California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

**State of California**

**County of** Orange S.S.

On May 08 2020 before me, Daniela Chavez - Notary Public,
Name of Notary Public, Title

personally appeared Tiffany WOOD
Name of Signer (1)

David WOOD
Name of Signer (2)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

BCT3 DANIELA CHAVEZ COMM...2300791 NOTARY PUBLIC-CALIFORNIA ORANGE COUNTY My Term Exp. August 9, 2023 BCT3

WITNESS my hand and official seal.

Daniela Chavez
Signature of Notary Public

Seal

## OPTIONAL INFORMATION

*Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.*

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

### Additional Information

**Method of Signer Identification**

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

**Other**

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

© 2009-2015 Notary Learning Center - All Rights Reserved You can purchase copies of this form from our web site at www TheNotarysStore com

THE SUNRISE CITY
FORT PIERCE
BUILDING DEPARTMENT Florida

# Vacation Rental Policy Adjustment
# April 1, 2020

Vacation rentals properties, including transient rentals, shall be regulated through the DBPR, Florida Statute 509.242(c), Florida Administrative Code 61A-43 and will be amended by any future legislation or directives from the State of Florida. A change of use is required if converting to a transient use (rental for 30 days or less), which may trigger the requirements of the Florida Accessibility Code. The requirement for fire sprinklers will be deferred to chapter 633 of the National Fire Prevention Code. All vacation rental properties shall comply with the minimum safety requirements found in the DBPR Form HR 5025-753.

1. **New Construction Designated to be a Transient Vacation Rental.**
   Per the Florida Building Code, this Occupancy is either R-1 or R-2 and is required to be fully sprinkled per Chapter 9 of the Florida Building Code.

2. **Conversion of an Existing Apartment Building (R-2 Primarily Non-Transient) to Transient Apartment Building:** Florida Statute 509.242(e) **Transient Apartment:** *A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.*
   Thus, an apartment building/complex would maintain an R-2 Primarily Non-Transient classification until more than 25% of the units are utilized for transient rentals. Exceeding the 25% threshold will trigger the occupancy classification to be changed from R-2 to R-1. The applicant that exceeds the 25% threshold assumes the responsibility of obtaining a change of occupancy for the building and to satisfy the requirements of Chapter 10 of the Existing Building Code; Chapter 9 of the Florida Building Code; FBC Accessibility and the National Fire Prevention Code. The above-mentioned code requirements will apply to the entire building, not just an individual unit within the building.

3. **Transient Rental of a Single Family Dwelling: Florida Statute 509.242(c) Vacation rental.**—*A vacation rental is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.*
   The transient rental of a single family dwelling triggers a change of use to R-2, per the requirements of chapter 10 of the FBC Existing Building Code and may trigger the requirements of the Florida Building Code Accessibility. The requirement for sprinklers is deferred to the SLC Fire Marshal per the Florida Administrative Code 69A-43.

August 13, 2019

Tiffany Wood
1123 Hernando
Ft. Pierce, Florida

Re: Hernando Vacation Rental

This letter shall be considered our proposal and if accepted, our agreement for Architectural services related to the project. The project consists of Architectural Services as required for Change of Use for residence to vacation rental. Which consists of the Conditional Use Process, As-built floor plan renovation floor plan with ADA and Life Safety improvements.

**Agreement** between **Architectonic Inc** (Architect) and Tiffany Wood (Owner).

## I. Scope of Work

1. Field measure as required to prepare as-built floor plan and elevations.
2. Prepare presentation drawings of renovations (ADA and Life Safety ).
3. Submit applications, plans and attend Conditional Use (TRC, Planning Board, & Commission meetings).
4. Completion of drawings for bidding and permit submittal.

## II. Payments and Compensation to the Architect

| The contract sum shall be as follow: | |
|---|---|
| Retainer/ As-built floor plan | $2,000.00 |
| Renovation / ~~Presentation~~ drawings / Conditional Use Submittal | $2,000.00 |
| Completion of Permit Sets | $ 500.00 |
| **Total Fee** | **$4,500.00** |

1. When revisions to Construction Drawings are requested, and are inconsistent with approvals or instructions previously given, and are due to causes beyond the control of the Architect, such revisions will be considered additional services and will be computed at the rate of $150.00 per hour for principal/ architect and $75.00 per hour for support staff.
2. Proposed fee is valid for 30 days from the date of this document. Proposals held beyond this time limit, may be subject to adjustment. Three (3) preliminaries are included with the fee proposed. More than three may be subject to additional fees. Projects put on hold by the client for more than three (3) months, may be subject to a fee adjustment.

Architectonic Inc. can begin work under this agreement within two – three weeks, if this document meets your approval. Your signature below and receipt of your retainer will constitute such acceptance and approval.

Thank you for the opportunity and we look forward to working with you to make your project a success.

Sincerely,

Mike Menard

Michael Menard
Principal
Architectonic Inc

_____
Owner's Printed Name

_____
Owner's Signature

_____
Date Signed

806 Delaware Avenue
Fort Pierce, Florida 34950
Tel: 772 460 7751
Fax: 772 460 4244
www.architectonicinc.com
FL Reg #AA26003348

# *Fire Equipment Services of East Coast*

861 S Kings HWY.
Ft. Pierce, Florida 34945

**Office: (772) 466-6330**

**Fax: (772) 461-4265**

## Proposal

| PROPOSAL SUBMITTED TO | | PHONE | DATE |
|---|---|---|---|
| Wood Family House | | 772-467-3197 | 08/12/2019 |
| STREET | | JOB NAME | |
| 1123 Hernando Street | | | |
| CITY, STATE AND ZIP CODE | | JOB LOCATION | |
| Fort Pierce, Florida 34949 | | | |
| POINT OF CONTACT | DATE OF PLANS | | JOB PHONE |
| Tiffany Wood | | sirdone@msn.com | |

We hereby submit specifications and estimates for:

**Fire Sprinkler Installation**

This fire sprinkler quote is for the installation of a fire sprinkler system as per NFPA 13D and local authority requirements. Sprinkler heads shall be installed throughout the facility except in the attic space, bathrooms and closets that do not exceed size requirements requiring protection. Sprinkler heads shall be semi recessed quick response.

The fire system shall be connected to the existing home water supply providing the water flow is sufficient to provide the water flow rates required. If the home's water supply is insufficient and the connection needs to be made to the city water main at the street there will be an additional charge.

We have excluded the installation of and the wiring to the fire alarm system located in the facility.

**Includes the following:**

All materials, taxes and labor required.

System design, permitting and final inspection by the local Fire Marshall.

**Note: If the quote is acceptable please fax it back to our office and we will contact you to schedule the install , work shall meet NFPA 13 and local fire code requirements.

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of:

Twelve Thousand Eight Hundred Fifty and 00/100_____($12,850.00 )

Payment to be made as follows

$2,000.00 Upon Contract acceptance, $7,000 upon material delivery to site and $3850.00 upon final inspection with the Fire Marshall._____

All material is guaranteed to be as specified. All work to be completed in a workmanlike Manner according to standard practices. Any alteration or deviation from above specifications Involving extra cost will be executed only upon written orders , and will become an extra charge

Authorized Signature

Over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond Our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully Covered by Workers Compensation Insurance.

NOTE: This proposal may be withdrawn by us if not accepted within 30 days

**Acceptance of Proposal** – I am the owner of the property being serviced or have the right to represent the owner. I authorize the work set fourth herein to be done, or products to be supplied. I agree that Fire Equipment Services of East Coast, Inc. is not responsible for loss or damage in case of fire, theft or any cause beyond its control or for any delays caused by unavailability of parts or delays in part shipments by the supplier or transporter. Pursuant to Section 713.58 of the Florida Statues, until payment is made Fire Equipment Services of East Coast, Inc. has a lien upon and right to possession of any personal property upon which authorized work is performed. Any payment not made when due shall bear an interest at the annual rate of 18%. Reasonable attorneys' fees and costs, including for any appeal, incurred by Fire Equipment Services of East Coast, Inc; in collection of any sums due hereunder or for any claims or disputes concerning this proposal or invoice shall be paid by the customer.

Signature_____ Signature

Date of Acceptance_____ Date of Acceptance

# City of Fort Pierce

## BUSINESS TAX RECEIPT

*Please post in a conspicuous place or keep on person.*

| Business Name / Mailing Address: | Owner: |
|---|---|
| WOOD, TIFFANY<br>9 CURL DR<br><br>CORONA DEL MAR CA 92625 | WOOD, TIFFANY |

**Business Location*:** 1123 HERNANDO ST

***This business tax receipt is valid at this location only.**

| Date Issued | Expiration Date | Control Number |
|---|---|---|
| August 09, 2019 | September 30, 2020 | 0046451 |

**The business stated above may be engaged in the following business, profession or occupation at the location above-described.**

| BTR # | Classification | Restrictions |
|---|---|---|
| 20-00029039 | MOTELS | SHORT TERM RENTAL-GREATER THAN 30 DAYS |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

| | |
|---|---|
| **Tax Amount** | $5.00 |
| **New/Renewal Fee** | $0.00 |
| **Penalty** | $0.00 |
| **Total** | $5.00 |

Linda W. Cox

Linda W. Cox, City Clerk (SEAL)

CITY OF FORT PIERCE CORPORATE SEAL ST. LUCIE COUNTY, FLORIDA

THIS IS A RECEIPT FOR TAX PAID AND IS NOT REGULATORY IN NATURE. This receipt does not warrant that the receipt holder is competent to perform in the business, but that the hold has paid the required tax and provided the necessary documentation (if required) for this business. Valid only when all state and local regulated trade licenses/competency cards are valid for the current fiscal year as required by law. This receipt becomes null and void if business name, classification, ownership or address is changed.

THE SUNRISE CITY FORT PIERCE Florida

24799

**STATE OF FLORIDA**
**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

DIVISION OF HOTELS AND RESTAURANTS
2601 BLAIR STONE ROAD
TALLAHASSEE FL 32399-1011

850-487-1395

AVALARA MYLODE TAX
WOOD RENTAL
PO BOX 3089
GREENWOOD VILLAGE CO 80155

Congratulations! With this license you become one of the nearly one million Floridians licensed by the Department of Business and Professional Regulation. Our professionals and businesses range from architects to yacht brokers, from boxers to barbeque restaurants, and they keep Florida's economy strong.

Every day we work to improve the way we do business in order to serve you better. For information about our services, please log onto **www.myfloridalicense.com**. There you can find more information about our divisions and the regulations that impact you, subscribe to department newsletters and learn more about the Department's initiatives.

Our mission at the Department is: License Efficiently, Regulate Fairly. We constantly strive to serve you better so that you can serve your customers. Thank you for doing business in Florida, and congratulations on your new license!

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

DWE6602302 ISSUED: 03/13/2019

COLL VACATION RENTAL-DWEL-2007
WOOD TIFFANY
WOOD RENTAL

IS LICENSED under the provisions of Ch.509 FS.
Expiration date : APR 1, 2020 L1903130000465

DETACH HERE

RON DESANTIS, GOVERNOR

HALSEY BESHEARS, SECRETARY

**STATE OF FLORIDA**
**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**
**DIVISION OF HOTELS AND RESTAURANTS**

| LICENSE NUMBER | |
|---|---|
| DWE6602302 | NBR. OF UNITS: 1 |

The COLL VACATION RENTAL-DWEL-2007
Named below IS LICENSED
Under the provisions of Chapter 509 FS.
Expiration date: APR 1, 2020

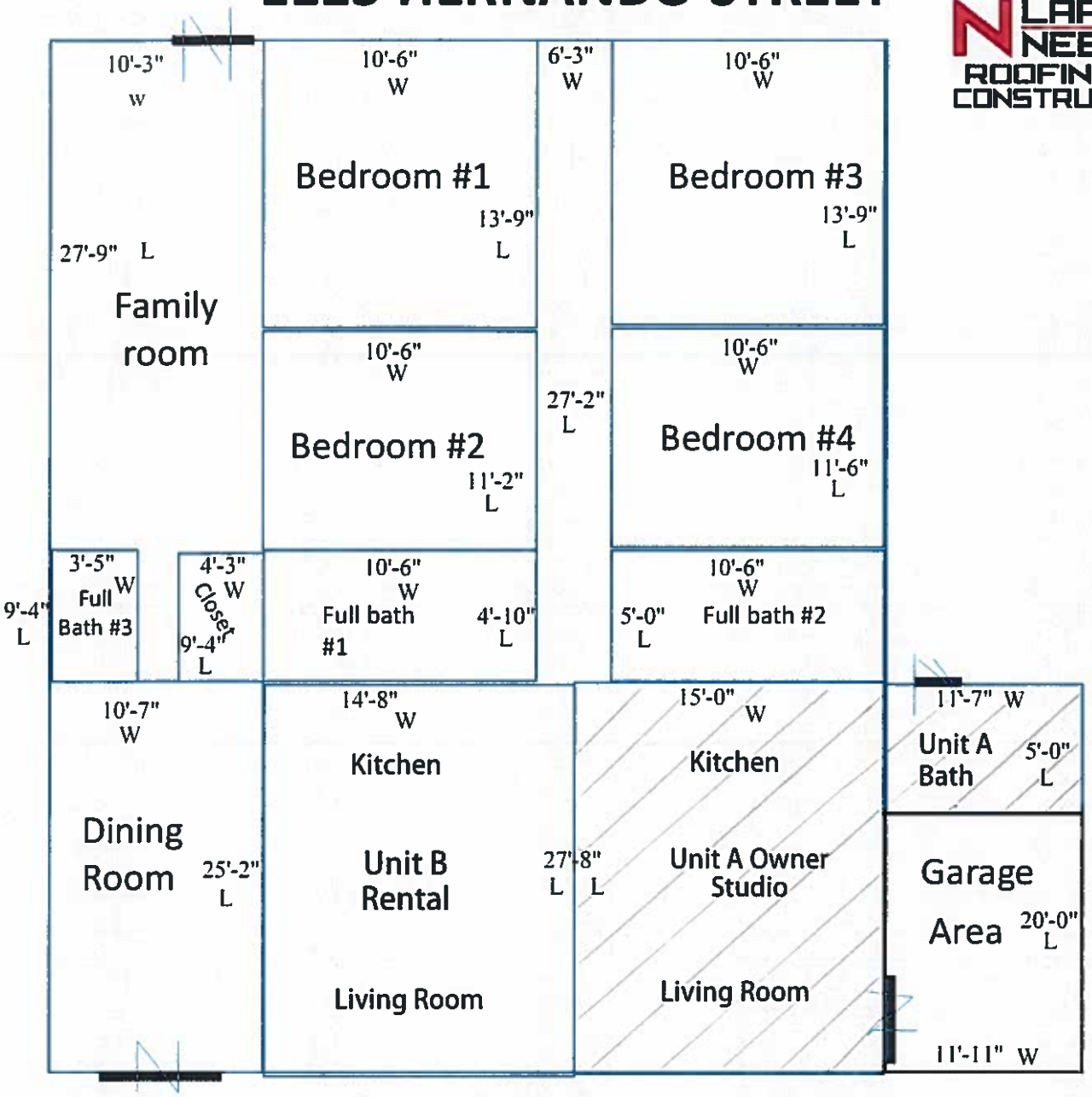
. NON- .
. TRANSFERABLE .

WOOD TIFFANY
WOOD RENTAL
1123 HERNANDO ST
FORT PIERCE FL 34949

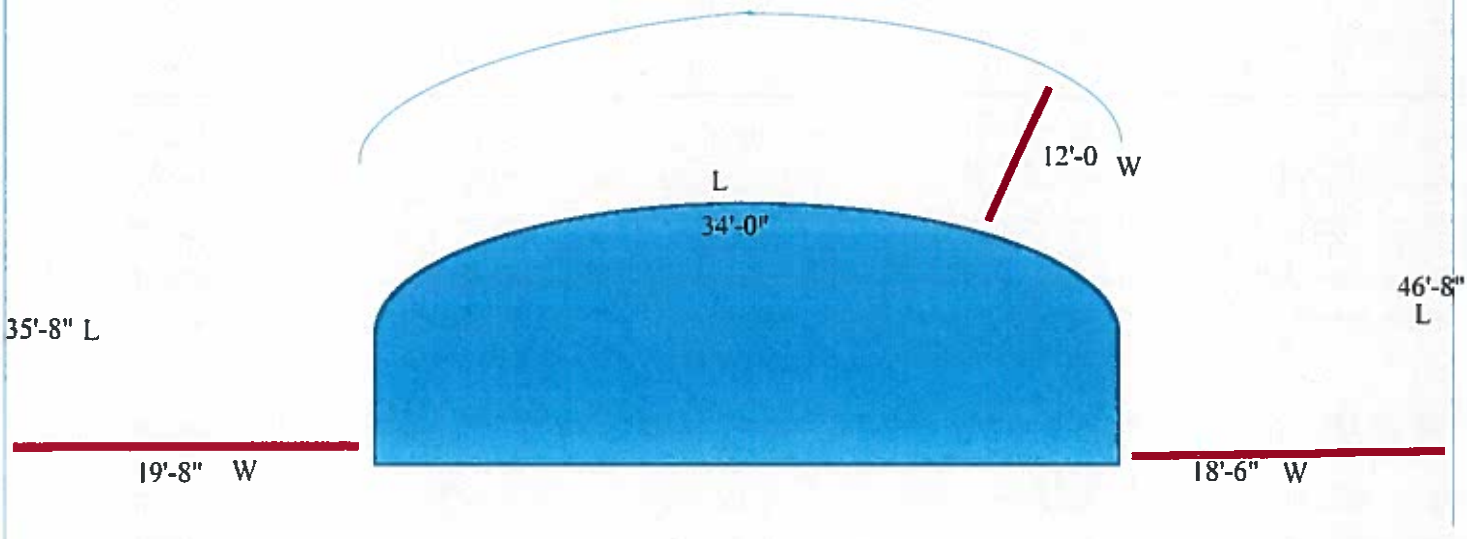
ISSUED: 03/13/2019 DISPLAY AS REQUIRED BY LAW SEQ # L1903130000465

# 1123 HERNANDO STREET

LARRY NEESE LLC
ROOFING & CONSTRUCTION




2325 Total Finished/Under Air Square Footage
1852 sq. ft. Unit B Rental / 473 sq. ft. Unit A Owner Studio
2564 Gross Square Footage



**SQUARE FOOTAGE BREAKDOWN**

**1123 Hernando Street**

| **Unit B Rental** | | **Unit A Owner Studio** | |
|---|---|---|---|
| 406 | kitchen/LR | 415 | kitchen/LR |
| 266 | dining room | 58 | Unit A bath |
| 284 | familyroom | 473 | Total A Unit Sq Ft |
| 144 | bedroom #1 | | |
| 117 | bedroom #2 | | |
| 144 | bedroom #3 | 1852 | Unit B |
| 121 | bedroom #4 | 473 | Unit A |
| 170 | hallway | 2325 | Combined Finished Sq Ft |
| 51 | full bath #1 | 238 | Garage |
| 53 | full bath #2 | 2563 | Gross Square Footage |
| 96 | bath & closet off dr | | |
| 1852 | Total B Unit Sq Ft | | |

**SHORT TERM RENTAL AGREEMENT**

This Short Term Rental Agreement (the "*Agreement*") is made by and between __Tiffany Wood_ ("*Homeowner*") and ___(Name)_____ ("*Guest*") as of the date last set forth on the signature page of this Agreement. For good and valuable consideration, the sufficiency of which is acknowledged, the parties hereby agree as follows:

1. Property. The property is located at:

   1123 Hernando Street, Fort Pierce, Florida 34949_____ _____ _

The property is furnished and includes _fully stocked home (see attached itemized list).

2. Rental Party: The rental party shall consist of Guest and the following persons:

_____

_____

3. Maximum Occupancy: The maximum number of 'primary' guests is limited to 8

   The beach home is limited to a maximum number of 8 people due to the size of the home, pool, and property. This allows us to keep the rental costs down, and to not pass on the fees of our pool and cleaning contractors to you. For this reason, we will charge $300 per day for **any additional** occupants found.

4. Term of the Lease. The lease begins at 3:00 p.m. on (DATE) 2020 (the "*Check-in Date*") and ends at 11:00 a.m. on (DATE), 2020 (the "*Checkout Date*").

5. Rental Rules: Guest agrees to abide by the **Rental Rules** attached as **Exhibit A** at all times while at the property and shall require all members of the rental party and any Guest permitted on the property to abide by the following rules at all times while at the property.

6. Access: Guest shall allow Homeowner access to the property for purposes of repair and inspection. Homeowner shall exercise this right of access in a reasonable manner.

7. Rental Rate and Fees

   a. Deposit: A reservation/security deposit of $500 is due upon making the reservation.

The deposit is for reserving the date as well as security and shall be refunded within 7 days of the Checkout Date provided no deductions are made due to:

i. damage to the property or furnishings.
ii. excessive cleaning; or
iii. any other cost incurred by Homeowner due to Guest's stay.

***If the premise appears dirty or damaged upon Check-in, Guest shall inform Managing Agent or Homeowner immediately.***

8. Cancellation Policy: If Guest wishes to cancel his/her reservation, the $500 reservation/security deposit will be refunded as follows:

0% penalty if cancelling greater than 60 days prior to the Check-in Date
50% penalty if cancelling within 60 days prior to the Check-in Date
100% penalty if cancelling within 30 days prior to the Check-in Date

9. Insurance: We encourage all renters to purchase traveler insurance.

10. Payment: Acceptable methods of payment are via credit cards (Mastercard, Visa, Discover and American Express. You will receive an invoice from Squareup.com reservation deposit payment. Please fill out your credit card information to process payment.

By my signature below, I hereby give permission to charge my credit card for the amounts above. I agree that all rental monies are non-refundable per cancellation policy above. I have read my rights to purchase travel insurance.

The parties agree to the terms of this Short-Term Rental Agreement, as evidenced by the signatures set forth below.

| Homeowner | Guest: |
|---|---|
| *Tiffany Wood* | _____ |
| Name (print) _____ | Name (print): _____ |
| Date: 05/06/20 | Date: _____ |
| Phone # (during stay): | Phone # (during stay): |
| 352-586-9260 | _____ |

**Exhibit A**

**RENTAL RULES**

1. **NO SMOKING** in the home at any time. You are welcome to smoke outside only.

2. People other than those in the Guest party set forth above may not stay overnight in the property. Any other person on the property is the sole responsibility of Guest.

3. This home is privately owned; the owners are not responsible for any accidents, injuries or illness that occurs while on the premises or its facilities. The Homeowners are not responsible for the loss of personal belongings or valuables of the guest. By accepting this reservation, it is agreed that all guests are expressly assuming the risk of any harm arising from their use of the premises or others whom they invite to use the premise.

4. Keep the property and all furnishings in good order.

5. Only use appliances for their intended use.

6. Pets: Dogs ***only*** permitted on premises with prior homeowner approval and with the ***Pet Addendum*** completed.

7. Parking: Vehicles are to be parked in designated parking areas only. Parking on the road is not permitted. Any illegally parked cars are subject to towing; applicable fines/towing fees are the sole responsibility of the vehicle owner.

8. Housekeeping: There is no daily housekeeping service. While linens and bath towels are included in the unit, daily maid service is not included in the rental rate. We do not permit towels or linens to be taken from the units.

**9.** Hot Tub: No children under the age of 18 permitted in hot tub without adult supervision. When using the hot tub, remember there is a certain health risk associated with this facility. Use at your own risk. **DO NOT STAND, JUMP FROM or use the hot tub in any position other than seated.**

**10.** Pool Equipment – we have had the pool serviced every Thursday by the same company for several years. Due to the sensitivity of the pool equipment, should there be any tampering with ANY of the equipment, heaters, filters, buttons, timers, etc other than what is authorized, there will be a $75 service charge reduced from security to have the pool company come out and reset the equipment – so please no tampering.

**11.** Keys Returned – there is a $50 fee for any keys that are not returned at the end of your stay.

**12.** The property is limited to a maximum number of 8 people due to the size of the home, pool, and property. This allows us to keep the rental costs down, and not have to pass on the fees of our pool and cleaning contractors to you. For this reason, we will charge $300 per day for **any additional** occupants found.

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

TO: Nicholas Mimms, PE, City Manager

THROUGH: Rebecca Grohall, AICP, Planning Director

FROM: Kori Benton, Senior Planner

RE: Wood Rental - Application for Conditional Use
Dwelling Rental
1123 Hernando Street

DATE: February 10, 2017

## STAFF REPORT

Owner/Applicant: David & Tiffany Wood
1123 Hernando St
Fort Pierce, FL 34949

Requested Action: Approval of a Conditional Use to operate a Dwelling Rental, offering lodging for less than six months.

Location: 1123 Hernando Street

Parcel ID: 2401-811-0018-000-6

Current Zoning: Hutchinson Island Medium Density Residential Zone (R-4A)

Future Land Use: Hutchinson Island Residential (HlR).

Surrounding Zoning:

| North | East | South | West |
|---|---|---|---|
| R-4A | R-4A | R-4A | R-2 |

Site Size: .27 acres

Utilities: Located within the FPUA Retail Service Area

Staff Analysis:

*Request*

In accordance with Sections 22-22, and 22-76 of the City Code, the applicant is requesting the review and approval of a Conditional Use to operate a Dwelling Rental at 1123 Hernando Street, offering non-transient lodging with minimum stays of one (1) month. The subject single-story duplex features a finished floor area of 2,509 square feet, and contains one owner occupiable unit. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A).

The property is located one street west of South Ocean Drive, a few hundred feet north of Mariner Bay. A duplex is situated to the north, a single-family home and duplex to the east, single-family homes to the west, and a single-family home to the south. This site features a circular concrete driveway with parking designated for each unit.

Hernando Street does not feature any sidewalk connections along this segment of the roadway. A bicycle rack is required to facilitate multimodal options for guests.

The application presents operational guidelines such as screening of potential renters, a near-site manager (owner's relative), and minimum stays of one (1) month. The application details specific limits on vehicle parking locations on-site. There are notification requirements for pets on premises. The provided documents note a maximum occupancy of six (6) guests, with a notable surcharge for any additional guests. The applicant has been advised that the current floor plan acknowledged by the City would limit the occupancy of the unit for rental to 5 guests, based upon the finished floor area and minimum occupancy requirements per City Code Section 8.5-43. Such limitation should be accounted for by the applicant in operational guidelines, or until said time that an expanded floor plan is verified with the Building Department.

*Dwelling Rentals*

Pursuant to City Code Section 22-3. - Definitions—Generally, the rental of any dwelling unit for less than six (6) months, is classified as a "Dwelling rental (dwelling unit)", and defined as follows: One or more rooms connected together in a building, constituting a separate, independent housekeeping establishment, other than a motel/hotel, for purposes of rental on a daily, weekly or longer basis, though less than what is otherwise provided for a dwelling, physically separated from any other rooms or dwelling units which may be in the building, and containing sleeping and sanitary facilities and one kitchen.

The State of Florida provides further classification if a dwelling is rented for periods of less than thirty (30) days, declaring the use a "Vacation rental", and defined such use as any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

A dwelling rental, as locally defined, is also a Vacation Rental if the duration of stays is less than thirty (30) days. The rental of a dwelling for periods greater than thirty (30) days, but less than six (6) months is a dwelling rental, but not a Vacation Rental.

Table 1, below, presents general characteristics to clarify Dwelling Rentals, and the transitioning threshold for Vacation Rentals.

Table 1 – Dwelling & Vacation Rentals

| | Dwelling Rental | Vacation Rental |
|---|---|---|
| *Length of Stay* | Less than 6 months | 30 days or less |
| *Lodging Type(s)* | Non-Transient (more than 30 days) & Transient Lodging (Vacation Rental) | Transient Lodging |
| *State License Requirement* | If rented 30 days or less (Vacation Rental) | Division of Hotels & Restaurants – Vacation Rental License |
| *Public lodging establishment (ADA & Misc. Regulations)* | If rented 30 days or less (Vacation Rental) | Public lodging establishment |

The rental of residential properties for short-term occupancy by tourists is a rapidly expanding sector of the hospitality industry. Short-term vacation rentals offer an alternative to traditional hotel or bed and breakfast accommodations, generally offering unique amenities, and a higher capacity to accommodate families or more guests than a single hotel room. The benefits of increased tourism and economic activity related to short term rentals are discernable; however the necessity to regulate and guide the location for this use is well documented.

Vacation rentals have the capacity result in incompatible adverse impacts on neighborhoods including, but not limited to, increased noise, litter, traffic, and the uncertainty or instability of the identity of occupants of neighboring properties. The short-term vacation rental use and longer term residential use may be incompatible, due to the rapid turnover associated with short-term vacation rental use, therefore provisions such as maximum guests, parking restrictions, property manager registration, and guide booklets for renters regarding local rules and resources should be considered to minimize conflicts. The applicant is seeking to offer non-transient lodging, with safeguarding parameters to further assimilation with the surrounding medium density residential neighborhood.

The applicant has verified that the operation would strictly limit stays to a minimum period of one (1) month. This operational approach ensures that the lodging provided is "non-transient", seeking to provide a more compatible use for the surrounding neighborhood. Input garnered from neighboring property owners has described adverse impacts from short term, weekly rentals at the subject site.

In addition to the provision of greater stability, and less frequent turn over in occupants, the enactment of minimum stays of one (1) month, or more, helps to diversify the use to provide a complementary lodging

option which does not overlap with offerings of local hotels or commercial venues of public accommodation. Longer term stays, with a base line of one month, seek to not only reduce the potential conflict of a high turnover, commercial use, but also reduce competition to established hotels and motels.

*Zoning & Land Use*

The subject site is located within the Hutchinson Island Medium Density Residential Zone (R-4A) which is designed to facilitate residential and compatible development on Hutchinson which account for the unique characteristics of Hutchinson Island and concerns of environmental fragility, beach erosion, and hurricane evacuation. Furthermore, the site has a land use designation of Hutchinson Island Residential (HIR).

The Hutchinson Island Residential (HIR) designation is intended for parcels that are best suited for residential development on Hutchinson Island. This future land use category allows single-family detached and attached units, duplexes and multifamily residences at densities ranging up to 8 dwelling units per acre. Limited public uses and commercial uses that are *compatible* with the surrounding development shall also be allowed.

The presented use of the property represents a limited commercial use, with defined parameters of intensity or impact. The presentation of guest capacity for the single (1) unit limits the quantity of vehicles, additional traffic and noise from the proposal. The use is limited in comparison to a typical commercial use, or hotel/motel, especially with parameters in place to advance compatibility with the neighborhood. Limitation of guests is necessary to comply with City Code section 8.5-43.

## Technical Review Committee

All affected departments have reviewed the proposed Conditional Use with regards requirements of the City Code, and conditionally approved the request.

## Planning Board

The Planning Board, at their January 10th meeting, voted 8-2 to recommend approval of the request with the conditions guided by staff.

## Staff Recommendation:

The proposed use presents the provision of non-transient lodging accommodation to the general public, on a limited scale, that is compatible with the surrounding neighborhood of this location, and is generally consistent with the City's Land Development Code and Comprehensive Plan with appropriate restriction therefore; Staff recommends the approval with the following conditions:

1. Strict adherence to minimum rental periods of one (1) month.
2. Limitation of occupancy to 5 guests based upon City Code Section 8.5-43, unless verification of interior renovation permits for expansion of the southern unit is provided by the Building Department;

3. Registration of a local property manager, and secondary property manager, accessible at all times to resolve complaints or violations of City Code;
4. Issuance of guide booklets for renters regarding local rules and public service resources to minimize conflicts;
5. Installation of a sidewalk connection, or payment in-lieu of construction, along the Hernando Property line;
6. Installation of a bicycle rack for guests; and
7. The applicant files for and obtains St. Lucie County & City of Fort Pierce Business Tax Licenses within fourteen (14) days of Conditional Use approval.

THE SUNRISE CITY
FORT PIERCE
CITY CLERK'S OFFICE
Florida

February 27, 2017

David and Tiffany Wood
1123 Hernando St
Fort Pierce, FL 34949

Dear Mr. and Mrs. Wood:

At their meeting on Tuesday, February 21, 2017, the City Commission considered an application for Conditional Use, submitted by Property Owner, David and Tiffany Wood to establish a Dwelling Rental, offering lodging for less than six months located at 1123 Hernando Street, Fort Pierce, FL. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A) (Parcel ID 2401-811-0018-000-6).

The Commission approved the application with the following conditions:

1. Strict adherence to minimum rental periods of one (1) month.
2. Limitation of occupancy to 5 guests based upon City Code Section 8.5-43, unless verification of interior renovation permits for expansion of the southern unit is provided by the Building Department;
3. Registration of a lead property manager, and secondary property manager, accessible at all times to resolve complaints or violations of City Code;
4. Issuance of guide booklets for renters regarding local rules and public service resources to minimize conflicts;
5. Installation of a sidewalk connection, or payment in-lieu of construction, along the Hernando Property line;
6. Installation of a bicycle rack for guests; and
7. The applicant files for and obtains St. Lucie County & City of Fort Pierce Business Tax Licenses within fourteen (14) days of Conditional Use approval.
8. Retention of a state licensed property manager whose business is located within the city limits of Fort Pierce.

Very truly yours,

Linda W. Cox
City Clerk

cc: Rebecca Grohall, Planning Director

Mr. Creagan gave an overview of the application and answered questions from the Board on the anticipated timeframe of the planned development and designation of public transportation.

Lee Dobbins, applicant representative from the Dean Mead Law Firm, clarified that the applicant is not proposing additional transit stops and the feedback from the St. Lucie County traffic analysis is still being reviewed.

**Motion was made by Tim O'Connell, and seconded by Gloria Johnson-Scott to approve the Future Land Use Map Amendment for Misty Creek Preserve.**

AYE: **Michael Broderick, Gloria Johnson-Scott, Tim O'Connell, Chairman Frank Creyaufmiller**

Passed

## 7. NEW BUSINESS

### a. Conditional Use - The Manor Assisted Living Facility - 4201 S. 25th Street

Ms. Lewicka explained that the project was previously approved in 2018 for 32 units and the applicant is requesting an additional ten units. Ms. Lewicka said the footprint is shrinking slightly and the development is proposed in two phases. Ms. Lewicka answered questions from the Board on the traffic study and parking requirements.

No one spoke for or against the project.

**Motion was made by Michael Broderick, and seconded by Gloria Johnson-Scott to forward a recommendation of approval to the City Commission.**

AYE: **Gloria Johnson-Scott, Tim O'Connell, Michael Broderick, Chairman Frank Creyaufmiller**

Passed

### b. Conditional Use - Wood Vacation Rental - 1123 Hernando Street

Mr. Creagan gave an overview of the application and answered questions from the Board on rental and handicap parking. Mr. Creagan explained that condition number six is being deleted because the wording is duplicated in condition number ten. Mr. Creagan stated the applicant is diligently working with the building official on the state ADA requirements. Mr. Creagan added that the conditions of approval are similar to the existing Conditional Use on the property, except for the required handicap parking space and the business tax license being required on all advertising.

Mr. Broderick provided the Board a VRBO advertisement for the Wood vacation rental on the Trip Advisor website that showed the home sleeps 8 with a 1 night minimum rental. Mr. Broderick stated the rental rules provided in the packet allow a maximum of 10 people, which is a violation of the current approved dwelling rental Conditional Use for over 31 days. Mr. Broderick expressed concerns with relying on neighbors to police the neighborhood.

Tiffany Wood, owner, explained that reconfiguring of the parking spaces will be handled by her design engineer, and she only contracts with the Home Away website, and not the sister websites. Ms. Wood stated she has had no complaints from her neighbors and there were advertising mistakes made on the vacation rental websites. Ms. Wood noted that the information in the packet is from her 2017 Conditional Use approval and the dimensions of the house have increased.

Board discussion ensued on increased occupants and parking.

Bill Piant, resident, spoke in opposition of the project and asked the Board if any vacation rentals have been approved for less than 31 days and if a motel is allowed in R4A zoning. Mr. Piant expressed concerns with the possibility of cars being parked in the front yard and the unmanageable enforcement.

Ms. Hofmeister stated that most of the vacation rentals that were not approved were in the R2 zoning classification.

William Fearn, resident, spoke in opposition of the project. Mr. Fearn said he has felt the negative impacts of the short term rentals in the area. Mr. Fearn stated he likes the community the way it is and there is no need to make exceptions to the zoning rules.

Charlene Adair, resident, explained she is a volunteer researcher for the City of Fort Pierce Code Enforcement department, and she has been keeping data on short term rentals since 2015. Ms. Adair highlighted that Vacation Rentals, VRBO and Home Away websites are one company and the ads are carbon copies of one another for those three websites. Ms. Adair stated that this address did not have a business tax receipt on record for 27 months and had been advertising for less than 31 days, which is a violation of the present Conditional Use on the property. Ms. Adair expressed concerns with permitting and safety. She said there is a difference from someone who rents one day compared to 30 days. Ms. Adair highlighted the Conditional Use is supposed to enhance and protect the neighborhood, not have a negative impact.

Mr. Sweeney explained that processes are being put into place all over the state of Florida, due to the internet making it easy to advertise a vacation or short term rental.

Ms. Hofmeister stated that a corrected layout, parking plan and occupant load will need to be provided prior to the project going to City Commission.

Ms. Wood noted that Mr. Roseberry from the building department recommended she not move forward with the life safety plan until her application has been approved by City Commission.

Board discussion ensued on moving forward to the City Commission with the lack of difinitive information and accurate plans.

Mr. Sanders suggested the applicant to use conceptual planning because it is inexpensive and it can show how parking and the ADA requirements fit it.

Ms. Hofmesiter stated once an accurate layout is received the conditions can be revised prior to going to City Commission.

Mr. O'Connell said he is not in favor of the vacation rental because of the compatibility issue with the neighborhood, and both Code Enforcement and the Police department cannot control the parking issues.

**Motion was made by Tim O'Connell, and seconded by Gloria Johnson-Scott to disapprove of the application.**

AYE: **Tim O'Connell, Michael Broderick, Gloria Johnson-Scott**

NAY: **Chairman Frank Creyaufmiller**

Passed

## 8. COMMENTS FROM THE PUBLIC

Any person who wishes to comment on any subject may be heard at this time. Please limit your comments to three (3) minutes or less, as directed by the Chair, as this section of the Agenda is limited to thirty minutes. The Planning Board will not be able to take any official actions under Comments from the Public. Speakers will address the Board and the Public with respect. Inappropriate language will not be tolerated.

## 9. BOARD COMMENTS

Mr. Broderick stated a modification of the conditional use process for vacation rental needs to be addressed because the Board clearly needs more information. Chairman Creyaufmiller asked staff to add this as an agenda item so it can be discussed among the Board. Mr. Sanders suggested that the Board and staff look at appropriate places that are compatible for vacation rentals.

Chairman Creayaufmiller asked for an update on the review of the alcohol beverage ordinance and Bed and Breakfast regulations.

## 10. ADJOURNMENT

GO TO PREVIOUS PAGE GO TO THE TOP OF THE PAGE

W3C WAI-AA WCAG 2.0

AgendaQuick ©2005 - 2020 Destiny Software Inc. All Rights Reserved.

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

## PUBLIC NOTIFICATION CERTIFICATION

**PROJECT NAME:** Conditional Use - Wood Vacation Rental - 1123 Hernando Street, Apt. B

**NOTICES PROVIDED PURSUANT TO:** City Code Section 22-143. Public Hearings A,B,C, & D

**NOTICE BY NEWSPAPER:** July 5th, 2020

**NOTICE BY MAIL:** July 2nd, 2020

**NOTICE BY SIGNS:** july 9th, 2020

**VERIFIED BY:** Vennis Gilmore **TITLE:** Planner

**SIGNATURE:** **~~DATE:~~** July 9th, 2020

**Location Map**

**1123 Hernando Street, Apt. B**

**Wood Vacation Rental**

THE SUNRISE CITY
FORT PIERCE
Florida

1
Tr Int Imp Trust Fund
3900 Commonwealth Blvd
Tallahassee; FL 32399-3000

2
Maurice Kodsi (TR)
6525 3rd ST; Unit Ste 409
Rockledge; FL 32955-5756

3
Manny Sanchez
5287 SW Orchid Bay Dr
Palm City; FL 34990

4
Ayesha A Kareem
5141 Hawkhurst AVE
Southwest Ranches; FL 33331-2814

5
James M Fields
511 NE 24th ST
Wilton Manors; FL 33305-1128

6
Jonathan D Jura
1122 S Ocean DR
Fort Pierce; FL 34949-3384

7
Keith Danks Jr
1136 S Ocean DR
Fort Pierce; FL 34949-3339

8
Cheryl Shores Apartments LLC
1144 S Ocean DR; Unit Apt D
Fort Pierce; FL 34949-3324

9
Selina D Winter
3320 Compass WAY
Alpharetta; GA 30004-0626

10
Phillip Hartnett
101 Avenue D
Fort Pierce; FL 34950-3058

11
Brian H Mallonee
1110 Hernando St
Fort Pierce; FL 34949

12
Paul Skoblicki
1112 Hernando ST
Fort Pierce; FL 34949-3321

13
Nathan Albers
3640 SE Silver CT
Stuart; FL 34997-6905

14
JoeJohn M McVey
578 Washington BLVD; Unit # 138
Marina del Rey; CA 90292-5442

15
Anthony LaScala
1128 Hernando ST
Fort Pierce; FL 34949-3352

16
Shawn A Dufault
1138 Hernando ST
Fort Pierce; FL 34949-3351

17
Robin A Whisnant
PO Box 211523
Royal Palm Beach; FL 33421-1523

18
Joseph F Butkovic
1142 Hernando ST
Fort Pierce; FL 34949-3321

19
Sabrina Ann Brown
1906 Indiatlantic DR
Fort Pierce; FL 34949-3322

20
BarbaraAnne Dubree
9719 SW Scory LN
Stuart; FL 34997-8917

21
Stephanne Joseph Berthold Moise
1103 S Ocean DR
Fort Pierce; FL 34949-3335

22
Garth T Henshaw
1107 S Ocean DR
Fort Pierce; FL 34949-3335

23
James J Green
PO Box 954
Sparta; NC 28675-0954

24
Barry S Mazza
1111 S Ocean DR
Fort Pierce; FL 34949-3335

25
Roberto Gonzalez
2288 NE Patrician ST
Jensen Beach; FL 34957

26
Napoles Suites Corp
11021 SW 28th CT
Davie; FL 33328-1528

27
Anworth Properties Inc
1299 Ocean AVE; Unit FL 2
Santa Monica; CA 90401-1036

28
David C Fillmore
1117 S Ocean DR
Fort Pierce; FL 34949-3335

29
Orestes Gomez
1119 S Ocean DR
Fort Pierce; FL 34949-3335

30
Kermit A Brown
382 May ST
Worcester; MA 01602-1834

31
Stephen D Pearson
9050 SW 69 Court
Miami; FL 33156-1608

32
Christine Coke
1110 Granada St
Fort Pierce; FL 34949

33
William R Hooker
1112 Granada ST
Fort Pierce; FL 34949-3319

34
Sarah M Mallonee
1116  Granada St
Fort Pierce; FL 34949

35
Robert Gentile
1120 Granada ST
Fort Pierce; FL 34949-3319

36
John Golden
1124 Granada St
Fort Pierce; FL 34949-3319

37
Kenneth W Perla
268 N Country Club DR
Lake Worth; FL 33462-1114

38
Sharon A Scalone
1132 Granada ST
Fort Pierce; FL 34949-3319

39
Garrison M Dundas
1136 Granada St
Fort Pierce; FL 34949-3319

40
Heather N Jones
1140 Granada ST
Fort Pierce; FL 34949-3319

41
A J Ramas
1850 SW 2nd Ave
Miami; FL 33129

42
Martha J Murray (LF EST)
1148 Granada St
Fort Pierce; FL 34949-3319

43
Lisa M Cataline
1831 Crestview DR; Unit Apt A
Fort Pierce; FL 34949-3392

44
Thomas K Perona
2006 Cypress Ave
Fort Pierce; FL 34949

45
Gini L Bartolac (TR)
1111 Hernando ST
Fort Pierce; FL 34949-3320

46
Daniel Castillo
5287 SW North Delwood Dr
Port St Lucie; FL 34988

47
Stephen Bodnar
5110 SW 89th TER
Cooper City; FL 33328-3646

48
David C Wood
1123 Hernando St
Fort Pierce; FL 34949-3343

49
Corey Sandin
1127 Hernando ST
Fort Pierce; FL 34949-3344

50
HANFORD PROPERTIES LLC
125 Ella Vita CT
Durango; CO 81301-4562

51
Anthony J Jennings
1135 Hernando ST
Fort Pierce; FL 34949-3320

52
Phillip J Oates III
1139 Hernando ST
Fort Pierce; FL 34949-3346

53
James M Nole (TR)
1147 Hernando ST
Fort Pierce; FL 34949-3347

54
William R Fearn Jr
1110 Fernandina ST
Fort Pierce; FL 34949-3374

55
Charles M Costolo
1116 Fernandina ST
Fort Pierce; FL 34949-3374

56
Martha G Schulte
1120 Fernandina St
Fort Pierce; FL 34949-3374

57
Peter J Tesch
1124 Fernandina ST
Fort Pierce; FL 34949-3374

58
Leslie D Clegg
1128 Fernandina St
Fort Pierce; FL 34949-3374

59
Charles A Gordils
1136 Fernandina ST
Fort Pierce; FL 34949-3374

60
Steven Snure
1140 Fernandina ST
Fort Pierce; FL 34949-3374

61
Stanley J Tomaszewski
P O Box 937
Kotzebue; AK 99752-0937

62
Gail C Eddy
1148 Fernandina St
Fort Pierce; FL 34949-3374

63
Dorothy A Huff
1101 Granada St
Fort Pierce; FL 34949-3318

64
Kevin Smith
62 Harrison AVE
New Canaan; CT 06840-5801

65
Ronald C Poppell
1111 Granada ST
Fort Pierce; FL 34949-3318

66
Christine King
1115 Granada ST
Fort Pierce; FL 34949-3318

67
Jerry L Still
1119 Granada St
Fort Pierce; FL 34949-3318

68
Clive R Daem
3725 Laurette RD
Merritt Island; FL 32952-6144

69
Michael Broderick
1127 Granada St
Fort Pierce; FL 34949

70
Julie M Pouliotte
1131 Granada ST
Fort Pierce; FL 34949-3318

71
Gregory Mihalak
542 Knollwood Dr
Lake Orion; MI 48362

72
Edward R Curley
1139 Granada ST
Fort Pierce; FL 34949-3318

73
Alan C James
1141 Granada ST
Fort Pierce; FL 34949-3318

74
Robert G Hall Jr
1143 Granada St
Fort Pierce; FL 34949-3318

75
Mariner Bay Association Inc
835 20th Pl
Vero Beach; FL 32960-5357

# Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

St Lucie News Tribune
1801 U.S. 1, Vero Beach, FL 32960
**AFFIDAVIT OF PUBLICATION**

**CITY OF FORT PIERCE**
100 N. U.S. 1

**FORT PIERCE, FL 34950**

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he/she is a legal clerk of the St Lucie News Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St Lucie News Tribune in the following issues below. Affiant further says that the said St Lucie News Tribune is a newspaper published in Fort Pierce in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St Lucie News Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

RECEIVED
JUL 14 2020
FINANCE DEPT.

**07/05/2020**

Subscribed and sworn to before on July 5, 2020:

Tara Mondloch

Notary, State of WI, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

My commission expires August 6, 2021

Publication Cost: $171.60
Ad No: 0004264829
Customer No: 1330883
PO #:

# of Affidavits 1

CITY OF FORT PIERCE
NOTICE OF PUBLIC HEARING

The City Commission of the City of Fort Pierce, Florida, pursuant to Section 22-143 of the Code of Ordinances of the City of Fort Pierce, will on Monday, July 20, 2020 hold Public Hearings in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida, at their meeting which begins at 6:30 p.m., to consider review and approval of the following:

1. Approval of a Conditional Use with no new construction submitted by applicant, Michelle Longarzo on behalf of Michael D. Robbins, property owner, to operate a Vacation Rental at 1014 S. 7th Street, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Single-Family Intermediate Density Zone (R-2), Parcel ID: 2415-601-0254-000-0.
2. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wright-Ofeimu, a Vacation Rental at 715 S. Ocean Drive, Unit E, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-504-0001-000.
3. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wood, a Vacation Rental at 1123 Hernando Street, Apt. B, offering lodging for less than six (6) months. The minimum rental period is identified as one (1) day. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-811-0018-000-6.
4. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Dreamchaser Preschool, LLC, to operate a 7,126 square foot preschool at 505 N. 7th Street. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2410-601-0134-000-8.

All interested parties may appear at the meeting and be heard with respect to the Applications. Said applications will be available for inspection in the City Clerk's Office, City Hall, 100 North U.S. #1, Fort Pierce, Florida.

ANY PERSON SEEKING TO APPEAL THE DECISION OF THE CITY COMMISSION AS TO THE FOREGOING IS ADVISED THAT A RECORD OF PROCEEDINGS IS REQUIRED IN ANY SUCH APPEAL AND THAT SUCH PERSON MAY NEED TO INSURE THAT A VERBATIM RECORD OF PROCEEDINGS IS MADE INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772)

467-3065 at least 48 hours prior to the meeting.

/s/ Linda W. Cox, City Clerk
Publish: 7/5/20

Pub July 5th 2020
TCN4264829

**City Commission Regular Meeting** **12. c.**

**Meeting Date:** 07/20/2020

**Re:** Conditional Use - Wright-Ofeimu Vacation Rental - 715 S. Ocean Drive, Unit E

**Submitted For:** Jennifer Hofmeister, Planning Director, Planning & Zoning

---

**SUBJECT:**

Quasi-Judicial Hearing - Review and Approval of an application for Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wright-Ofeimu, a Vacation Rental at 715 S. Ocean Drive, Unit E, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-504-0001-000.

**SUMMARY:**

- The applicant is requesting the review and approval of a Conditional Use to operate a Vacation Rental at Unit E of the Boardwalk Condominiums, located at 715 S. Ocean Drive.
- The subject condominium is a one (1)-bedroom and one (1)-bathroom unit with approximately 680 square feet.
- The proposed Conditional Use will offer lodging of less than six (6) months with a minimum stay of 2 days to guests.

**RECOMMENDATION:**

The proposed use presents the provision of transient lodging accommodations to the general public, representing a limited commercial use that is compatible with the surrounding neighborhood, and is generally consistent with the City's Comprehensive Plan and Land Development Code with appropriate restrictions. Therefore, Staff recommends **APPROVAL** with the following five conditions:

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4. There shall be a limitation of no more than no two (2) vehicles at the site.

5. The City of Fort Pierce Business Tax License number shall be included on all advertising.

**ALTERNATIVES:**

- Approval with alternate conditions
- Denial

**RESPONSIBLE STAFF:**
Vennis Gilmore, Planner

**COORDINATED WITH:**
Technical Review Committee

---

## Fiscal Impact

**OTHER INFORMATION:**
N/A

---

## Attachments

Staff Presentation
Staff Report & Supporting Documents
Applicant Packet & Supporting Documents
Applicant Presentation
Affidavit of Mailing & Public Notice Certification
Proof of Publication

---

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/15/2020 11:11 AM |

Form Started By: Vennis Gilmore
Started On: 07/08/2020 02:56 PM
Final Approval Date: 07/15/2020

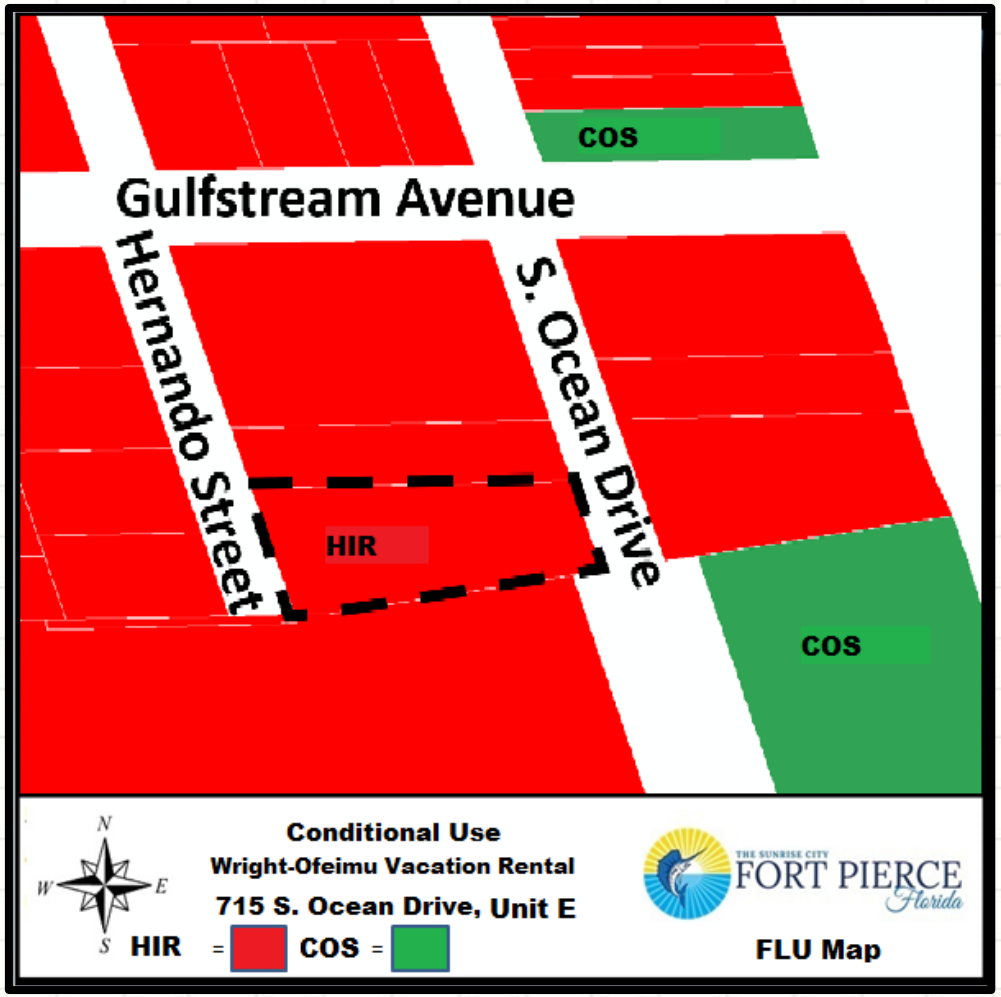
# Conditional Use

## 715 S. Ocean Drive, Unit E

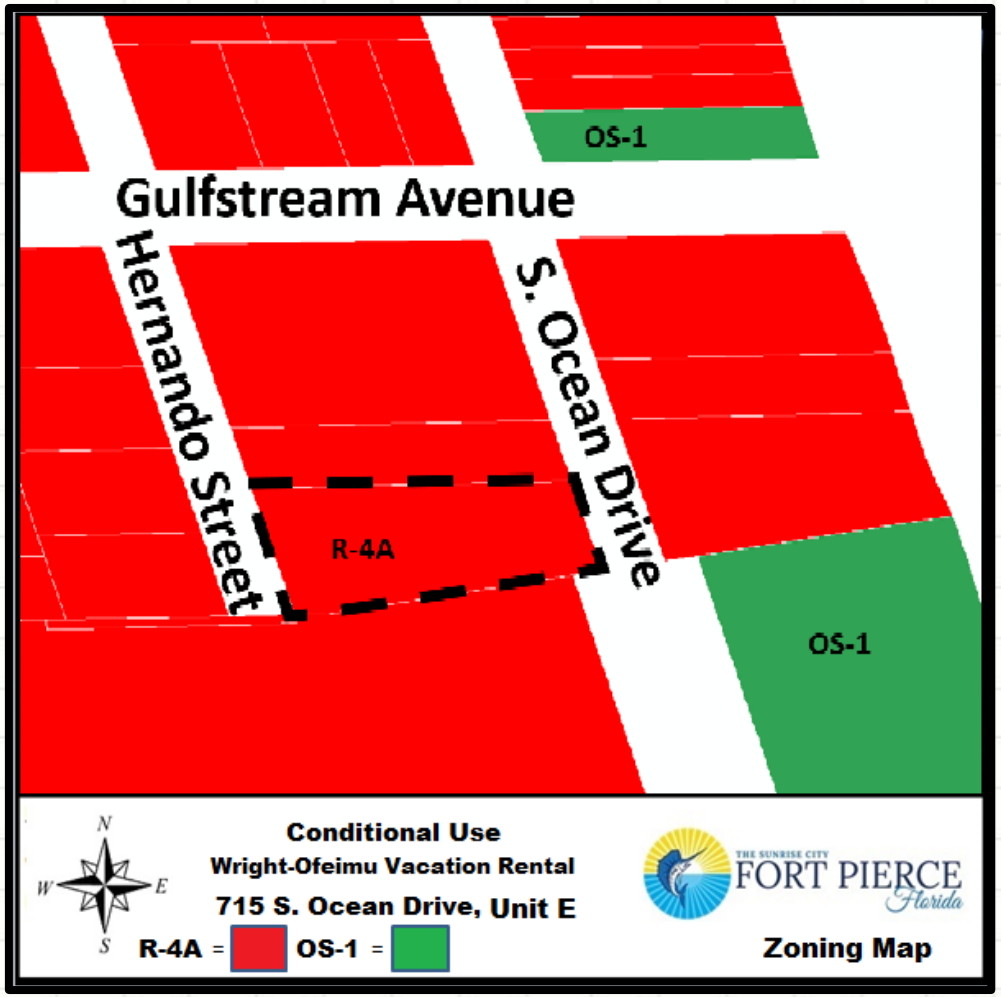
# Aerial Map

Wright-Ofeimu Vacation Rental
715 S. Ocean Dr., Unit E
Aerial Map
N
W
E
S
FORT PIERCE
Florida

# FLU Map


COS
Gulfstream Avenue
Hernando Street
S. Ocean Drive
HIR
COS
N
W
E
S
Conditional Use
Wright-Ofeimu Vacation Rental
715 S. Ocean Drive, Unit E
HIR = COS =
THE SUNRISE CITY
FORT PIERCE
Florida
FLU Map

# Zoning Map


OS-1
Gulfstream Avenue
Hernando Street
S. Ocean Drive
R-4A
OS-1
N
W
E
S
Conditional Use
Wright-Ofeimu Vacation Rental
715 S. Ocean Drive, Unit E
R-4A =
OS-1 =
THE SUNRISE CITY
FORT PIERCE
Florida
Zoning Map

# Wright-Ofeimu Vacation Rental

Consideration of  a Conditional Use With No New Construction – Wright-Ofeimu Vacation Rental at 715 S. Ocean Drive, Unit E.

- Approval of a Conditional Use to operate a Vacation Rental, offering lodging for less than six months. The minimum rental period is identified as two days.

- Staff recommends **APPROVAL** subject to five (5) conditions

# Synopsis for Recommendation

- Ordinance K-114 passed in 2001 establishing Dwelling Rentals as Conditional Uses in the Zoning Code
- FL Legislature - 2011
  - Prohibits cities from denying STR rights
  - Conditional uses are allowed
- Quasi-Judicial Hearing
  - ➢ No Validated Evidence (Consistent with Code)
  - ➢ No COFP  Code Enforcement or FPPD current violations
- Conditions of Approval are being added to protect the neighborhood

# Adjacent Property Owner Responses

**158 Notifications**

**0 = In favor**

**0 = In opposition**

# CC Actions

**Possible actions of the City Commission:**

- APPROVE the proposed Conditional Use, subject to 5 Conditions and no changes
- APPROVE the proposed Conditional Use with changes
- DENY the proposed Conditional Use

# Staff Recommendation

Staff recommends **APPROVAL** subject to five (5) conditions:

1) The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2) Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3) The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4) There shall be a limitation of no more than no two (2) vehicles at the site.

5) The City of Fort Pierce Business Tax License number shall be included on all advertising.

# CC Actions

**Possible actions of the City Commission:**

- APPROVE the proposed Conditional Use, subject to 5 Conditions and no changes
- APPROVE the proposed Conditional Use with changes
- DENY the proposed Conditional Use

# Conditional Use

## 715 S. Ocean Drive, Unit E

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

| | |
|---|---|
| **TO:** | Nick C. Mimms, P.E., ICMA-CM, City Manager |
| **THROUGH**: | Jennifer Hofmeister, AICP, LCAM, Planning Director |
| **FROM:** | Vennis Gilmore, Planner |
| **RE:** | **Conditional Use Approval – Wright-Ofeimu Vacation Rental**<br>**715 S. Ocean Drive, Unit E** |
| **BOARD DATE:** | July 20, 2020 |

## STAFF REPORT

| | |
|---|---|
| **Owner:** | **Tiffany Wright Ofeimu & Nelson Ofeimu**<br>**3122 Winchester Road**<br>**West Bloomfield, MI 48322** |
| **Applicant:** | **Sarah Saffron**<br>**7402 Santa Rosa Parkway**<br>**Fort Pierce, FL 34951** |
| **Applicant's Request:** | Approval of a Conditional Use to operate a Vacation Rental, offering lodging for less than 30 days. The minimum rental period is identified as two days. |
| **Location(s):** | 715 S. Ocean Drive, Unit E |
| **Parcel ID:** | 2401-504-0005-000-9 |
| **Future Land Use:** | Hutchinson Island Residential (HIR) |
| **Current Zoning:** | Hutchinson Island Medium Density Residential Zone (R-4A) |

**Surrounding FLU:**

| North | East | South | West |
|---|---|---|---|
| HIR | HIR | HIR | HIR |

**Surrounding Zoning:**

| North | East | South | West |
|---|---|---|---|
| R-4A | R-4A | R-4A | R-4A |

| | |
|---|---|
| **Utilities:** | Fort Pierce Utility Authority (FPUA) |

**Staff Analysis:**
In accordance with Sections 22-22 and 22-76 of the City Code, the applicant is requesting the review and approval of a Conditional Use to operate a Vacation Rental at Unit E of the Boardwalk Condominiums, located at 715 S. Ocean Drive. The subject condominium is a one (1)-bedroom and one (1)-bathroom unit with approximately 680 square feet. The proposed Conditional Use will offer lodging of less than six (6) months with a minimum stay of 2 days to guests.

The property is within the South Beach neighborhood, generally situated at the southwest corner South Ocean Drive and Gulfstream Avenue. The subject site is surrounded by multi-family residences to the north, west, east, and south. The subject property has a Future Land Use designation of Hutchinson Island Residential (HIR) with a compatible zoning classification of Hutchinson Island Medium Density Residential (R-4A).

Dwelling Rentals
Pursuant to City Code Section 22-3. – Definitions - Generally, the rental of any dwelling unit for less than six months, is classified as a "Dwelling Rental (dwelling unit)," and defined as follows: "One or more rooms connected together in a building, constituting a separate, independent housekeeping establishment, other than a motel/hotel, for purposes of rental on a daily, weekly or longer basis."

The State of Florida provides further classification of a dwelling that is rented for periods of less than one month. Pursuant to Florida State Statute 509.242, declaring the use a "Vacation Rental," defines such use as any unit that is also a transient public lodging establishment but that is not a timeshare project, which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less or which is advertised or held out to the public as a place regularly rented to guests.

A dwelling rental, as locally defined, is also a "Vacation Rental" if the duration of stays are less than 30 days. The rental of a dwelling for periods at a minimum of 31 days, but less than six months, is a "Dwelling Rental," but not a "Vacation Rental."

Table 1 presents general characteristics to clarify Dwelling Rentals and the transitioning threshold for Vacation Rentals.

**Table 1 – Dwelling & Vacation Rental Definitions**

| | **Dwelling Rental** | **Vacation Rental** |
|---|---|---|
| ***Length of Stay*** | Less than 6 months | 30 days or less |
| ***Lodging Type(s)*** | Non-Transient<br>(more than 30 days) | Transient Lodging |
| ***State License Requirement*** | If rented 30 days or less<br>(Vacation Rental) | Division of Hotels & Restaurants – Vacation |
| ***Public lodging establishment (ADA & Misc. Regulations)*** | If rented 30 days or less<br>(Vacation Rental) | Public lodging establishment |

**Future Land Use and Zoning**
The purpose and intent of the R-4A zoning district is to establish height and density regulations for lands located within the city which are situated east of the Indian River. The R-4A zone is compatible with the Medium Density Residential Hutchinson Island designation in the comprehensive plan. Permitted gross residential densities in this district may not generally exceed eight (8) units per acre. Bonus density of up to one additional unit per acre is available as provided for in this section. This district is established because Hutchinson Island is a sensitive barrier island which presents development considerations which are either unique to the area or are of added concern, such as environmental fragility, beach erosion, and hurricane evacuation.

**Parking**
Pursuant to City Code Section 22-60 (d)b, motels, hotels and resort hotels shall provide 1.6 spaces for each unit 500 square feet or larger.

**Conditional Use**
As stated in City Code Section 22-74, the purpose of the Conditional Use process is to allow, when desirable, uses that would not be appropriate generally or without restriction throughout a particular zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would not adversely affect the public health, safety, comfort, good order, appearance, convenience, and the general welfare.

**Technical Review Committee**
All affected departments have reviewed the proposed Conditional Use with regards to the requirements of the City Code. Findings from the review by corresponding departments and the associated responses by the applicant are provided.

***Property Owner Response Summary***
A total of 158 notifications of the proposal were mailed to the owners of property located within 500 feet of the subject property. An update will be provided to the City Commission at the public hearing.

***Planning Board Recommendation***
The Planning Board, at their June 9th, 2020 meeting, voted unanimously to recommend **Approval** of the request.

**Staff Recommendation**
The proposed use presents the provision of transient lodging accommodations to the general public, representing a limited commercial use that is compatible with the surrounding neighborhood, and is generally consistent with the City's Comprehensive Plan and Land Development Code with appropriate restrictions. Therefore, Staff recommends **APPROVAL** with the following five conditions:

1) The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2) Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3) The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4) There shall be a limitation of no more than no two (2) vehicles at the site.

5) The City of Fort Pierce Business Tax License number shall be included on all advertising.

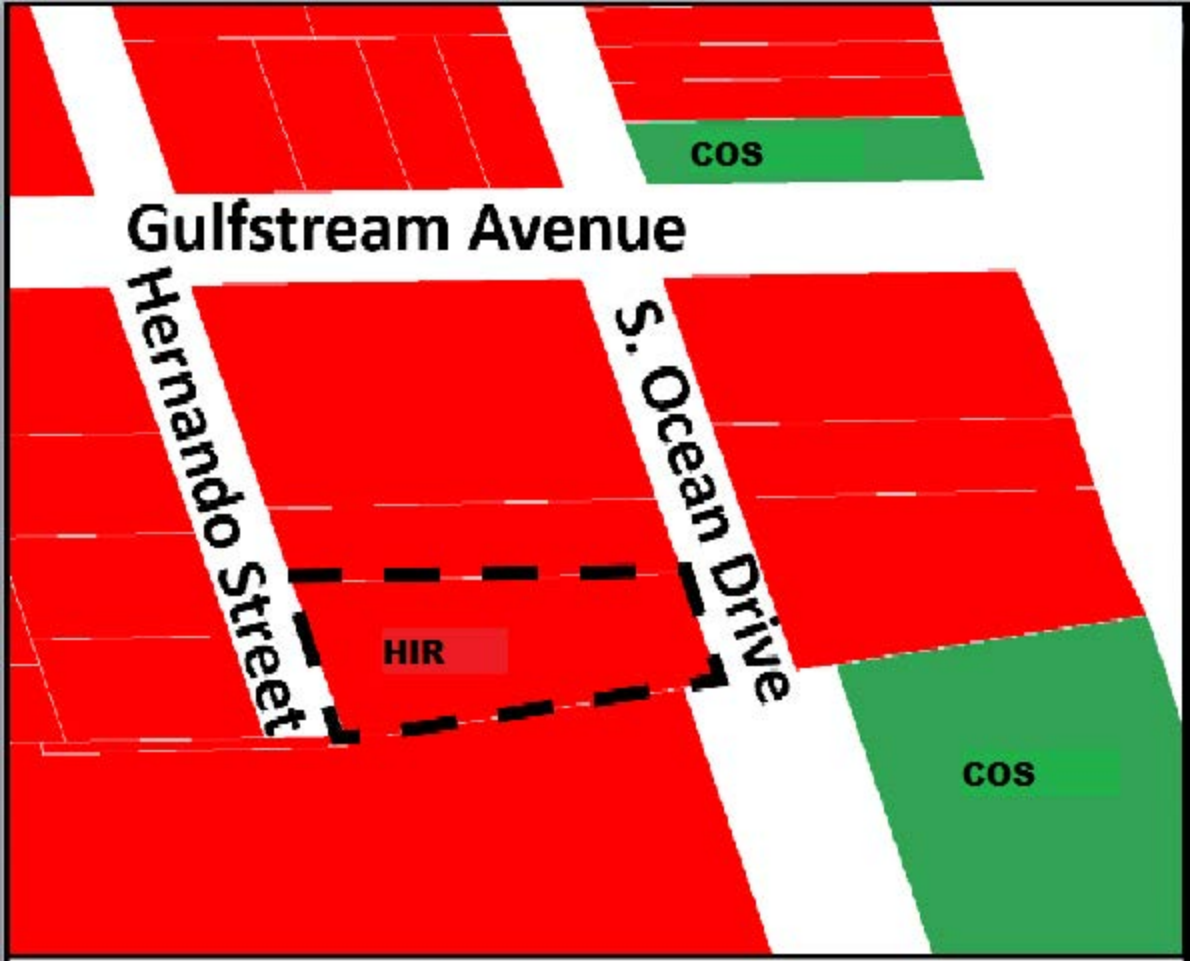
N
W E
S

**Wright-Ofeimu Vacation Rental**

# 715 S. Ocean Dr., Unit E

## Aerial Map

THE SUNRISE CITY
FORT PIERCE
Florida




N
W E
S

**Conditional Use**

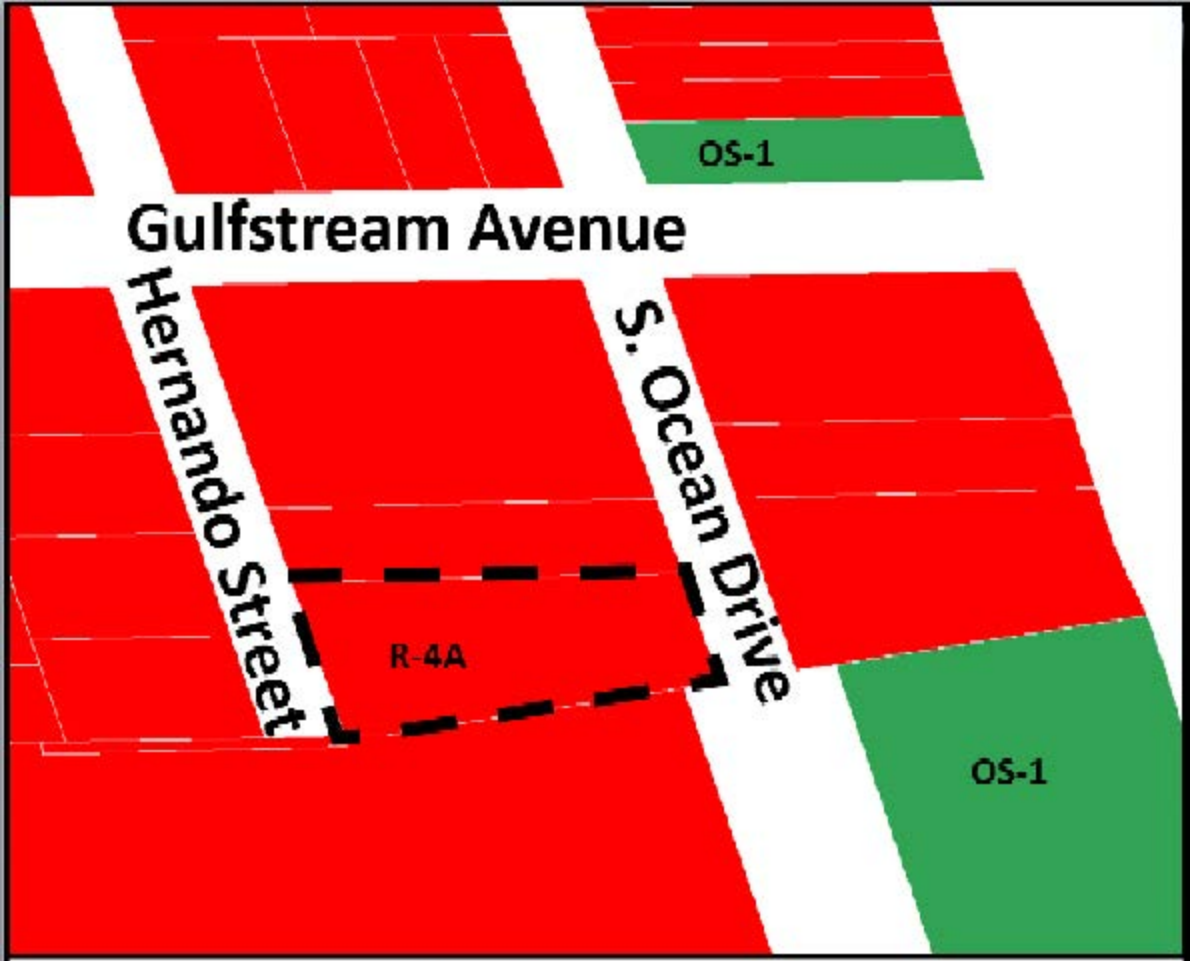
**Wright-Ofeimu Vacation Rental**

**715 S. Ocean Drive, Unit E**

**HIR** = **COS** =

THE SUNRISE CITY
FORT PIERCE
Florida

**FLU Map**




N
W E
S

**Conditional Use**

**Wright-Ofeimu Vacation Rental**

**715 S. Ocean Drive, Unit E**

**R-4A =** **OS-1 =**

THE SUNRISE CITY
FORT PIERCE
Florida

**Zoning Map**

Fort Pierce Utilities Authority
Water/Wastewater Engineering
1701 South 37th Street
Fort Pierce, FL 34947
772.466.1600 x3473

# Technical Review Committee Meeting

## May 21, 2020

TECHNICAL REVIEW PROJECT # 20-04000005

Conditional Use – Wright Ofeimu Vacation Rental – 715 S. Ocean Drive, Unit E

**Comments**

FPUA W/WW Engineering: Approved

FPUA Electric & Gas Engineering: No comment

THE SUNRISE CITY
FORT PIERCE
Florida
ENGINEERING
DEPARTMENT

**TO : Vennis Gilmore, Planner**

**FROM : John R. Andrews, P.E., City Engineer**

**RE : Wright Ofeimu Vacation Rental – 715 S. Ocean Drive, Unit E**
**Conditional Use Application - TRC No. 20-04000005**

**DATE : May 20, 2020**

This is to advise you that we have completed the review of the following documents as received by this office on May 11, 2020:

- [x] Conditional Use Application
- [ ] Test Reports & Related Documents
- [ ] Record Drawings
- [ ] Clearances from all applicable Local, State and Federal Agencies
- [ ] P/D Drawings
- [ ] Certificate of Completion
- [ ] Permits from applicable Local, State & Federal Agencies

Based on our reviews and appropriate site final inspection, we

- [x] Recommend
- [ ] Do Not Recommend

- [ ] Conditional Use
- [ ] Building Permit
- [ ] C/O

Developer, Owner, Engineer, Contractor and other members of the Development Team must be aware, the above recommendation is based only on the construction requirements of the engineering plans and other engineering documentation approved by this department. The Development Team shall be responsible for the compliance with other City department requirements and all approved documents, as well as Local, State and Federal regulations. The development requirements for this project may necessitate additional construction requirements that are not subject to this department's review for approval.

- [ ] See attached for engineering comments

JRA/VB/vb

Q:\ENGINEERING\Site Development Projects\Addresses\715 S. Ocean\CU\Unit E\CU Approval - 052020.docx

# Technical Review Committee meeting

## May 21st, 2020

Case # 20-0400005

Planner: Vennis Gilmore

Conditional Use.

Wright – Ofeimu vacation rental, 715 South Ocean Dr., Unit E, Ft. Pierce

**Comments:**

No comments at this time.

Officer Damian Spotts

Crime Prevention Practitioner

Fort Pierce Police Department.

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

May 20, 2020

Michelle Longarzo
Slice of Paradise
sliceofparadiseflorida@gmail.com

**Subject: 715 S. Ocean Avenue Unit E TRC Comments for May 21, 2020 conference call**

Dear Michelle,

Below please find a summary of the comments for the City of Fort Pierce Pre-App meeting.

Fort Pierce Planning Department

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of Conditional Use approval.

4. There shall be a limitation of no more than no two vehicles at the site.

5. The City of Fort Pierce Business Tax License number shall be included on all advertising.

6. The maximum occupancy of the home shall ensure compliance with City Code Section 8.5-43. - Required space in dwelling units, based upon the size of each unit.

Fort Pierce Engineering Department

1. No comment.

Fort Pierce Building Department

1. Vacation rental properties, including transient rentals, shall be regulated through the DBPR, Florida Statute 509.242(c), Florida Administrative Code 61A-43 and will be amended by any future legislation or directives from the State of Florida.

2. A change of use may be required if converting to a transient use (rental for 30 days or less), which may trigger the requirements of the Florida Accessibility Code.

3. The requirement for fire sprinklers will be enforced by the Fire Marshall per chapter 633 of the National Fire Prevention Code. All vacation rental properties shall comply with the minimum safety requirements found in DBPR Form HR 5025-753.

Fort Pierce Police Department

1. No comment.

Fort Pierce Utility Authority

1. No comment.

St. Lucie County Public Works

1. No comment.

THE SUNRISE CITY
# FORT PIERCE
PLANNING DEPARTMENT *Florida*

## Conditional Use – No New Construction

Property address or Location 715 S. Ocean Dr, Unit E, Fort Pierce, Florida 34949

Parcel ID #(s) 2401-504-0005-000-9

Project description Short term vacation rental permit with 2 day minimum

---

Tiffany M Wright Ofeimu & Nelson Ofeimu
Property Owner(s)

3122 Winchester Rd
Street Address

West Bloomfield, Michigan 48322
City State Zip

(248) 508-9297
Phone Number

twright ofeimu@yahoo.com
Email Address

Sarah Saffron
Applicant/Representative, Title, Company

7402 Santa Rosa Parkway
Street Address

Fort Pierce Florida 34951
City State Zip

(561) 507-9778
Phone Number

Sarah.marie.saffron@gmail.com
Email Address

***Property Owner(s) Acknowledgements:*** *- This application will not be considered complete without the signature of all property owners of record, which shall serve as an acknowledgement of the submission of this application. The property owner's signature below shall also authorize the Applicant (if other than the property owner) and/or Representative to act in his/her behalf for the purposes of seeking approval for the application described herein.*

Tiffany M Wright Ofeimu  Nelson Ofeimu
*Property Owner(s) Signature(s)*

STATE OF ~~FLORIDA~~ MI COUNTY Oakland

The foregoing instrument was acknowledged before me this 9th day of April, 2020, by Tiffany M. Wright Ofeimu & Nelson Ofeimu who is personally known to me or has produced _____ as identification.

DENISE L SHELTON-JACKSON
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Apr 3, 2026
ACTING IN COUNTY OF Oakland

_____
Signature of Notary (seal)

***INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3729***

---

**TO BE COMPLETED BY STAFF**

| Zoning | Future Land Use | Total Acres | Historic District | Historic Designation |
|---|---|---|---|---|
| | | | | Contributing Individual<br>Non-Contributing None |

Pre-Application Meeting Date_____ Fees_____ Control #_____ B. Permit #_____
Intake Planner_____
Planner Assigned_____
Approved By_____Date _____
Comments_____
_____
_____
_____

Intake Date Stamp

# ❑ CONDITIONAL USE: NO NEW CONSTRUCTION

***Submit one original, seven (7) hard copies and one (1) CD of the following for initial submittal, subsequent submittals will be required:***

- ❑ *If no site improvements are required:*
  - ❑ As-built survey
  - ❑ Floor plan of existing building(s)
- ❑ *If parking and drainage improvements are required:*
  - ❑ As-built survey;
  - ❑ Site plan, to scale, including existing improvements and proposed parking, driveways, landscaping & storm drainage;
  - ❑ Lighting plan
- ❑ Complete, notarized application

*Application Type:*

- ☒ Conditional Use: No new construction with no site improvements
- ❑ Conditional Use: No new construction with parking and drainage improvements

***Site Information:***

Building Size 6805q ft Parking Spaces: 1+8 guest spots

Surrounding Uses: *(i.e. single family home, retail, industrial, etc.)*

| North | South | East | West |
|---|---|---|---|
| home | home | home | home |

The application for conditional use with the application for site plan review, when not exempt in accordance with the requirements of section 22-75, shall be reviewed as a unit in accordance with the requirements of section 22-58 except that:

(1) The city commission shall hold a public hearing in accordance with the provisions of section 22-143 prior to acting on the application for conditional use.

(2) In the event the city planning board disapproved the application for conditional use or in case of a protest against said application signed by twenty (20) per cent of the owners within five hundred (500) feet of the area included in said application, such application shall not be approved except by a four-fifths vote by the city commission.

(3) In permitting a conditional use or the modification of an existing conditional use, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

**Application Outlook**

Michelle Franklin, CFA -- Saint Lucie County Property Appraiser -- All rights reserved.

## Property Identification

| | |
|---|---|
| Site Address: | 715 S OCEAN DR E |
| Parcel ID: | 2401-504-0005-000-9 |
| Account #: | 15012 |
| Map ID: | 24/01G |
| Use Type: | 0400 |
| Zoning: | HI Medium |
| City/County: | Fort Pierce |

## Ownership

Tiffany Wright Ofeimu
Nelson Ofeimu

3122 Winchester RD
W Bloomfield, MI 48322

## Total Areas

| | |
|---|---|
| Finished/Under Air (SF): | |
| Gross Sketched Area (SF): | |
| Land Size (acres): | |
| Land Size (SF): | |

## Legal Description

BOARDWALK CONDOMINIUM UNIT E

## Current Values

| | |
|---|---|
| Just/Market Value: | $85,000 |
| Assessed Value: | $78,540 |
| Exemptions: | $0 |
| Taxable Value: | $78,540 |

**Property taxes are subject to change upon change of ownership.**

- **Past taxes are not a reliable projection of future taxes.**
- **The sale of a property will prompt the removal of all exemptions, assessment caps, and special classifications.**

Taxes for this parcel: SLC Tax Collector's Office □
Download TRIM for this parcel: Download PDF □

## Sale History

| | |
|---|---|
| Date: | Oct 3, 2019 |
| Book/Page: | 4332 / 0009 |
| Sale Code: | 0001 |
| Deed: | WD |
| Grantor: | Lees Linda |
| Price: | $109,000 |
| Date: | Feb 11, 2019 |
| Book/Page: | 4232 / 0810 |
| Sale Code: | 0001 |
| Deed: | WD |
| Grantor: | Moulton Gary |
| Price: | $86,500 |
| Date: | Oct 13, 2016 |
| Book/Page: | 3921 / 2880 |
| Sale Code: | 0111 |
| Deed: | PB |

| | |
|---|---|
| Grantor: | Moulton Jr (EST) William E |
| Price: | $0 |
| Date: | Oct 16, 1998 |
| Book/Page: | 1178 / 2515 |
| Sale Code: | XX00 |
| Deed: | WD |
| Grantor: | Matthew Badalamenti |
| Price: | $48,800 |
| Date: | Mar 5, 1998 |
| Book/Page: | 1130 / 1513 |
| Sale Code: | XX00 |
| Deed: | WD |
| Grantor: | Roger J Hites |
| Price: | $48,000 |
| Date: | May 1, 1985 |
| Book/Page: | 0465 / 1625 |
| Sale Code: | XX02 |
| Deed: | CV |
| Grantor: | |
| Price: | $455,000 |

## Building Information (1 of 1)

Finished Area: 680 SF

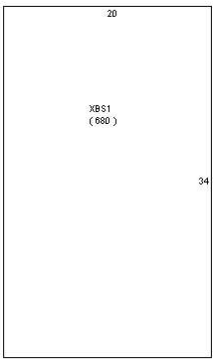
Gross Sketched Area: 680 SF

Exterior Data

| | | |
|---|---|---|
| View: | Roof Cover: | Roof Structure: |
| Building Type: X019 | Year Built: 1982 | Frame: |
| Grade: X19B | Effective Year: 1982 | Primary Wall: CB Stucco |
| Story Height: 1 Story | No. Units: 1 | Secondary Wall: |

Interior Data

| | | |
|---|---|---|
| Bedrooms: 1 | Electric: | Primary Int Wall: |
| Full Baths: 1 | Heat Type: | Avg Hgt/Floor: 0 |
| Half Baths: 0 | Heat Fuel: | Primary Floors: |
| A/C %: 0% | Heated %: 0% | Sprinkled %: 0% |



## Special Features and Yard Items

## Current Year Values

Current Values Breakdown

| | |
|---|---|
| Building: | $85,000 |
| Land: | $0 |
| Just/Market: | $85,000 |
| Ag Credit: | $0 |
| Save Our Homes or 10% Cap: | $6,460 |
| Assessed: | $78,540 |
| Exemption(s): | $0 |
| Taxable: | $78,540 |

Current Year Exemption Value Breakdown

Current Year Special Assessment Breakdown

| Start Year | AssessCode | Units | Description | Amount |
|---|---|---|---|---|
| 1999 | 0041 | 0.6 | Fort Pierce Stormwater Charge | $41.40 |

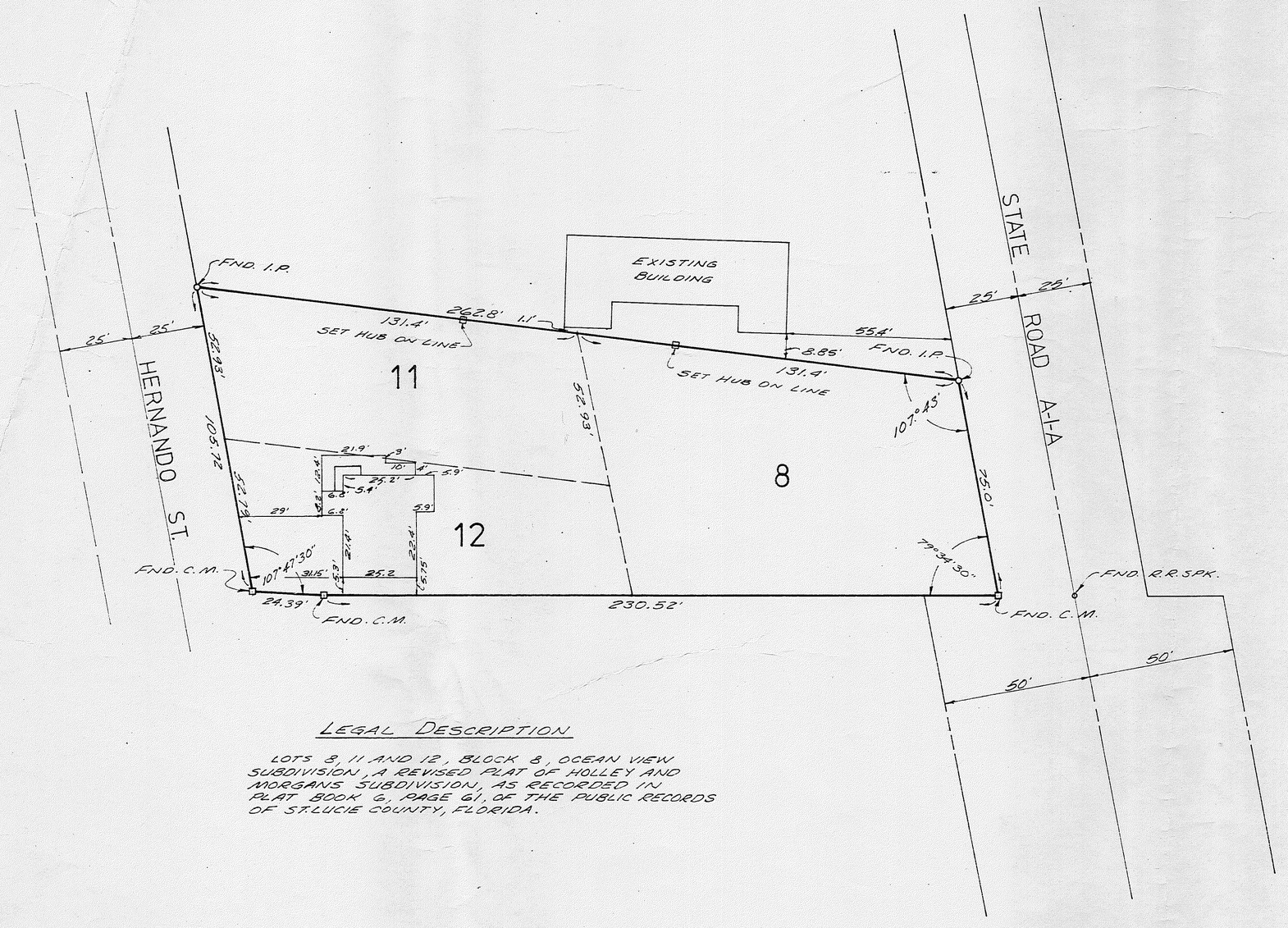
This does not necessarily represent the total Special Assessements that could be charged against this property. The total amount charged for special assessments is reflected on the most current tax statement and information is available with the SLC Tax Collector's Office .

## Historical Values

## Permits

Notice: This does not necessarily represent all the permits for this property.
Click the following link to check for additional permit data in Fort Pierce

All information is believed to be correct at this time, but is subject to change and is provided without any warranty.
© Copyright 2020 Saint Lucie County Property Appraiser. All rights reserved.




ZZ

SCALE: 1" = 30'

## LEGAL DESCRIPTION

LOTS 8, 11 AND 12, BLOCK 8, OCEAN VIEW SUBDIVISION, A REVISED PLAT OF HOLLEY AND MORGANS SUBDIVISION, AS RECORDED IN PLAT BOOK 6, PAGE 61, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.

I HEREBY CERTIFY THAT THE PLAT SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY, MADE UNDER MY DIRECTION, AND THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN.

ALFREDO M. TEJEDA AGUILAR
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATE NO. 2052

SURVEY MADE FOR:
K.M. BROOKS AND L.M. SPARKS

**SURVEYING SERVICES OF FLORIDA, INC.**
LAND SURVEYORS
FORT PIERCE, FLORIDA

| | | | |
|---|---|---|---|
| SCALE | 1" = 30' | DATE | 3-30-77 |
| FIELD | R.E. | BK. | PG. |
| OFFICE | A.L.A. | FILE NO. | |
| DR'N. | D.F. | JOB NO. | 383 |

# Narrative of Property Objectives
# 715 South Ocean Drive Unit E, Fort Pierce, Florida 34949

1) Short term rentals of a minimum of two days to promote tourism in Fort Pierce and increase revenue to the city.

2) Short-term of 31 days or more during season to promote tourism in Fort Pierce and increase revenue to the city.

3) Offer gratis to national charities for respite care or fundraising.

4) Owner use of property for vacations

## RULES & REGULATIONS of 715 South Ocean Drive Unit D, Fort Pierce, Florida 34949:

-Remove all trash and dispose of in the dumpster located in the back-parking lot

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in assigned parking space labeled “D” or “Guest”

-Do not litter

-Wash sand off at the front hose to prevent drain clogs.

-Do not leave air conditioning on with windows open.

-Return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to condo except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the condo with the sand washed of prior to condo entry.

- Do not give out assigned door code to any party not staying in the condo.

-No Running in common areas or stairwells.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-Use pedestrian crosswalks to cross the street to the beach.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

# Are there any exceptions to the requirement that a Florida property manager have a broker's license?

YES. For example, if a property owner employs someone to manage their property, and that employee is paid a salary, as opposed to being paid a commission or on a transactional basis, a broker's license is not required.

For more information about these and other Florida property management requirements and exceptions, please contact the Florida Real Estate Commission.

Before hiring a property manager to manage your Florida rental property, you should always check that he or she is licensed appropriately. You can check the license status of Florida property managers at the Florida Department of Business and Professional Regulation's Licensee Search webpage.

# Florida Community Association Manager License Requirements

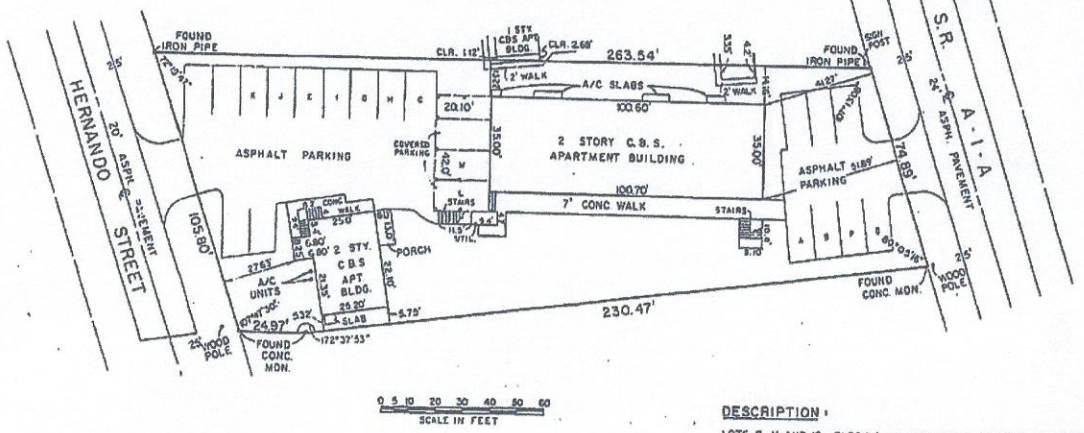
Florida community association manager licensing requirements include:

- Age: Must be at least 18 years of age
- Education: Must complete at least 18 hours of pre-licensure education from an approved provider
- Trustworthiness: Must be of good moral character; must have a background check and submit fingerprints
- Exam: Pass the CAM exam. The exam fee is $73.00
- License fee: $105
- Application: Complete and submit CAM license application which is available online

For more information about these and other Florida licensing requirements, please contact the Florida Real Estate Commission.

NOTES:

1. ALL IMPROVEMENTS SHOWN ARE EXISTING.
2. ALL AREAS OUTSIDE OF CONDOMINIUM UNIT BOUNDARIES ARE COMMON AREAS OR LIMITED COMMON AREAS.




## BOARDWALK CONDOMINIUM

EXHIBIT B(1) TO THE DECLARATION OF CONDOMINIUM OF BOARDWALK CONDOMINIUM

**DESCRIPTION:**

LOTS 9, 11 AND 12, BLOCK 8, OCEAN VIEW, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 61, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.

**CERTIFICATION**

THE UNDERSIGNED, A SURVEYOR, DULY AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA HEREBY CERTIFIES THAT THE CONSTRUCTION OF THE IMPROVEMENTS DESCRIBED IS COMPLETE SO THAT SUCH MATERIAL, I.E. EXHIBIT B (1), TOGETHER WITH THE PROVISIONS OF DECLARATION, DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

ARTHUR V STROCK & ASSOCIATES, INC.

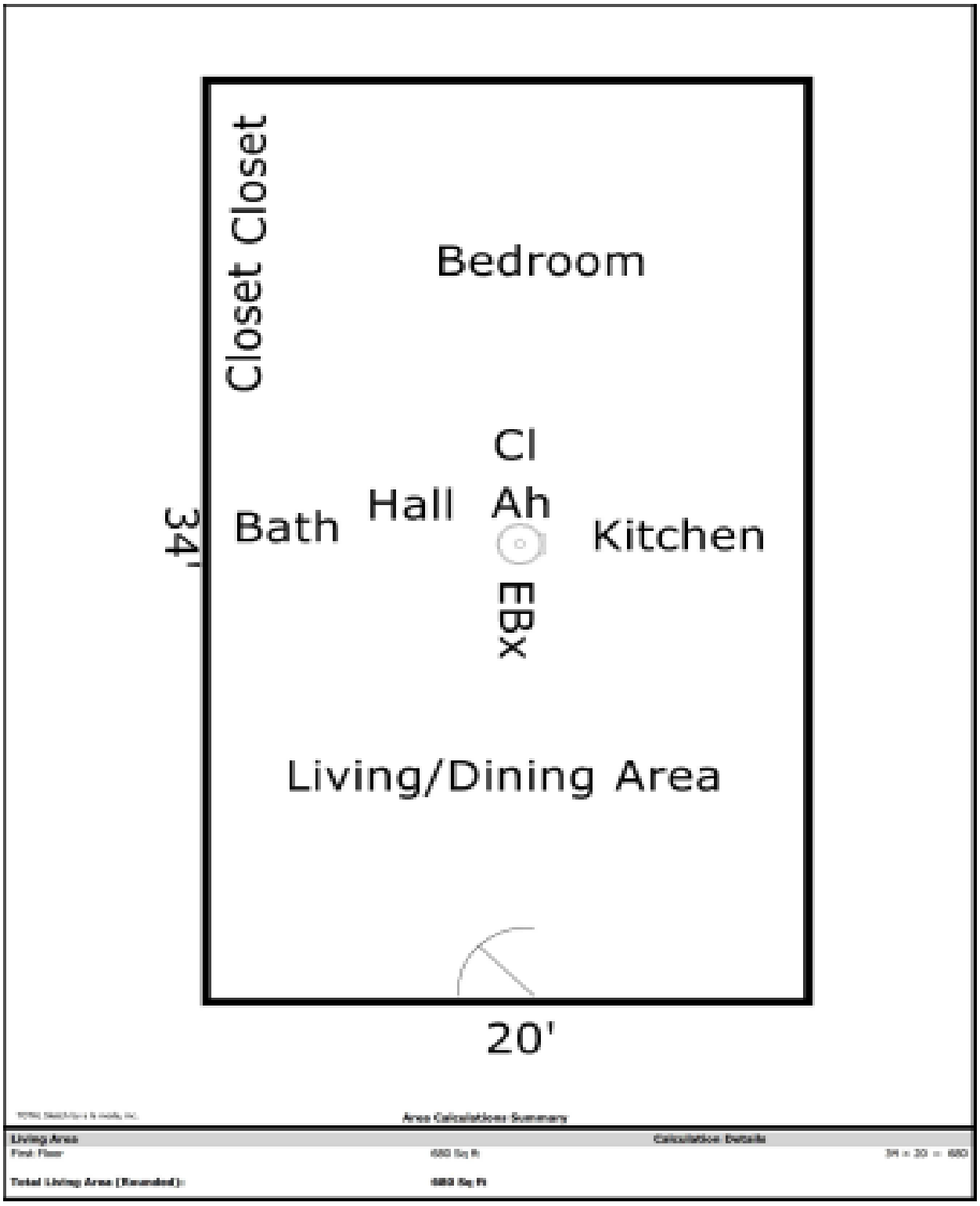
CARL DE SHAY
REGISTERED LAND SURVEYOR NO. 3477
STATE OF FLORIDA

Arthur V. Strock & Associates, Inc.
engineers • planners • surveyors deerfield beach • delray beach, fla.

PROJECT: BOARDWALK CONDOMINIUM
DRAWING NUMBER: 345 pg. 1
DATE: 5-18-82
DRAWN BY: JS
CHECKED BY:
SCALE: 1" = 30'
JOB NO. 82 price 00

EXHIBIT B(1)

Floor Plan for 715 South Ocean Drive, Unit E, Fort Pierce, Florida 34949



BOARDWALK CONDOMINIUM

TABLE OF CONTENTS


I. Declaration of Condominium

Exhibit A - Surveyor's Certificate

Composite
Exhibit B - Survey and Plot Plan and Floor Plans

Exhibit C - Division of Common Elements

Exhibit D - Owner's Association Charter

Exhibit E - Owner's Association By-Laws

II. Estimated Operating Budget

III. Building Inspection Report of James Bushouse & Associates, Inc., Engineers

IV. Termite Report of Rowley's Pest Control

V. Purchase Agreement

VI. Unit Warranty Deed



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020


dominguez 100

DECLARATION OF CONDOMINIUM

OF

BOARDWALK CONDOMINIUM

K. M. BROOKS and LOUISE M. SPARKS, for themselves, their successors, grantees and assigns, being the owners of the fee simple title to the following described real property in St. Lucie County, Florida, (hereafter referred to as the "Land"):

Lots 8, 11 and 12, Block 8, OCEAN VIEW, a Subdivision according to the plat thereof recorded in Plat Book 6, page 61, of the public records of St. Lucie County, Florida

hereby submit the Land and the improvements thereon in fee simple to condominium ownership pursuant to the provisions of Chapter 718, Florida Statutes, hereinafter referred to as the "Condominium Act", in existence as of the date of this Declaration, upon the terms, conditions, restrictions, reservations and limitations hereinafter set forth.

NOW, THEREFORE, K. M. BROOKS and LOUISE M. SPARKS make the following declarations:

1. STATEMENT OF PURPOSE. The purpose of this Declaration is to submit the Land and the improvements thereon to the condominium form of ownership and use in the manner provided in the Condominium Act. Except where variances permitted by law appear in this Declaration, in the exhibits attached hereto, or in lawful amendments to any of them, the provisions of the Condominium Act as constituted on the date of this Declaration, including the definitions therein contained, are adopted and included herein by express reference. All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall rule perpetually unless terminated as provided herein, and shall be binding upon all unit owners. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, and all exhibits hereto. Both the burdens imposed and the benefits provided shall run with each unit and the interests in the common elements appurtenant thereto, as defined herein.

1.1 Name and Address. The name by which this Condominium is to be known and identified is BOARDWALK CONDOMINIUM, and its address is 715 South Ocean Drive, Fort Pierce, Florida.

1.2 The Land. The legal description of the Land, which is hereby being submitted to condominium ownership, is as described in the introductory paragraph hereof.

2. DEFINITIONS. As used herein, in the exhibits attached hereto, and in all amendments hereto, unless the context requires otherwise:

2.1 Assessment means a share of the funds required for the payment of common expenses, which from time to time is assessed against the unit owners.

2.2 Association means BOARDWALK OWNERS ASSOCIATION, INC., the entity responsible for the operation of this Condominium.

2.3 Board of Directors means the representative body responsible for the management of the Condominium and business of the Association.

2.4 By-Laws means the By-Laws of the Association, as they exist from time to time. A copy of the By-Laws is attached hereto as Exhibit E, and incorporated herein by reference.

2.5 Common Elements means the portions of the condominium property (including the tangible personal property required for the maintenance and operation of the condominium property) not included in the units.

2.6 Common Expenses means all expenses and assessments properly incurred by the Association for the Condominium and includes, but is not limited to: the expenses of administration and maintenance, operation, repair and replacement of the common elements and of the portions of units to be maintained by the Association; taxes, special assessments and insurance for the common elements; other expenses declared to be common expenses herein and in the By-Laws; and any other valid charge against the Condominium as a whole.

2.7 Common Surplus means the excess of all receipts of the Association, including but not limited to, assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

2.8 Condominium means all of the condominium property as a whole when the context so permits, as well as that form of ownership of real property which is comprised of units that may be owned by one or more persons, and in which there is appurtenant to each unit an undivided share in the common elements.

2.9 Condominium Act means Chapter 718, Florida Statutes, in existence as of the date of this Declaration.

2.10 Condominium Parcel means a unit, together with the undivided share in the common elements which is appurtenant to the unit.

2.11 Condominium Property means and includes the land hereby submitted to the condominium form of ownership, all improvements thereon, and the common elements; and all easements and rights appurtenant thereto.

2.12 Declaration or Declaration of Condominium means this intrument as it may from time to time be amended.

2.13 Developer means K. M. BROOKS and LOUISE M. SPARKS, their heirs, personal representatives and assigns, and whoever offers for sale condominium parcels created herein in the ordinary course of business; except the term shall not include the owners of units who have not acquired all the right, title and interest of K. M. BROOKS and LOUISE M. SPARKS, in the condominium property.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

2.14 Institutional Mortgagee means a bank, bank holding company, or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company approved by Developer, its successor, grantees or assigns, agency of the United States Government, or Developer, its grantees, successors and assigns holding a first mortgage of public record on a condominium parcel or on any portion of the condominium property.

2.15 Land means the real property in St. Lucie County, Florida, which is being submitted to condominium ownership, and is more particularly described in the introductory paragraph hereof.

2.16 Limited Common Elements means those common elements which are reserved for the use of a certain unit to the exclusion of other units, and for all purposes herein shall be treated as common elements as to the unit for which they are reserved.

2.17 Occupant means the person or persons, other than the unit owner, in possession of a unit or limited common elements.

2.18 Special Assessment means a share of the funds required for payment of common expenses which are unbudgeted or for which insufficient provision is made in the budget, occasioned for unforeseeable and fortuitous events, which from time to time may be assessed against the unit owners.

2.19 Unit or Residential Unit means a part of the condominium property which is subject to private ownership, to be used as a single family residence and as designated on the exhibits attached to this Declaration.

2.20 Unit Owner means the owner of a condominium parcel.

2.21 Singular, Plural, Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

3. DEVELOPMENT PLAN AND IDENTIFICATION OF UNITS. The condominium property consists of the land, all easements and rights appurtenant thereto, and the buildings constructed thereon, comprising in total the units, common elements and limited common elements. The improvements on the land consist of two (2) 2-story buildings in which all of the units are located. One building, containing eleven (11) units, possesses five (5) units on the first floor (Units A through E, inclusive), and six (6) units on the second floor (Units F through K, inclusive). The second 2-story building contains two (2) units, Unit M on the first floor, and Unit L on the second floor. The condominium has thirteen (13) units in total.

The units have been created through the conversion of existing improvements to the condominium form of ownership. All units have been previously occupied, for the most part by transient tenants as vacation or seasonal residences.

3.1 Designation of Units. Each unit in the two (2) buildings of the condominium is designated alphabetically by letter, A through M, inclusive, for a total of thirteen (13) units. No unit bears the same alphabetical designation as any other unit.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

3.2 Unit Boundaries.

(a) Each unit shall have as its boundary lines the interior unpainted finished surfaces of the ceiling, floor, and perimeter walls. All weight bearing walls and solid concrete columns located within a unit constitute part of the common elements up to the unpainted finished surface of the walls and columns. All doors, glass or otherwise, and screening which are part of or in the perimeter walls of a unit shall be deemed a part of the unit up to the exterior unfinished surface thereof.

(b) All pipes, wires, conduits and other utility lines, regardless of location, constitute part of the common elements, up to their outlets.

(c) The screened porch of any unit is a part of that unit. The boundary lines of each such screened porch are the interior vertical and horizontal surfaces thereof, and the exterior unpainted finished surface of the perimeter baluster or wall of any screened porch, but the Association, and not the unit owners, shall maintain and repair the exterior baluster or wall of any screened porch. The planes of all boundaries shall be extended to the point of intersection with other boundaries, if necessary.

(d) The ventilation chases and plumbing chases located within a unit are common elements. The boundary lines of each chase shall be the exterior unpainted surfaces thereof.

4. COMMON ELEMENTS. The common elements of the condominium consist of the Land and all other parts of the Condominium Property not within the apartments, including all tangible personal property used in the maintenance and operation of the condominium. Included within the meaning of Common Elements are the following:

(a) The ventilation chases, plumbing chases, and concrete columns within the units;

(b) Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common elements;

(c) An easement of support in every portion of a unit which contributes to the support of the building;

(d) Installations for the furnishing of utility and other service to more than one unit or to the common elements or to a unit other than the unit containing the installation; and

(e) The condominium property which is not included within the units.

5. LIMITED COMMON ELEMENTS. Those areas reserved for the use of a certain unit to the exclusion of other units are designated as limited common elements, and are shown and located on Exhibit B, attached hereto. The limited common elements include the parking space serving a unit, air-conditioning and heating equipment servicing a unit and located outside of that unit, including air-conditioning compressors and ducts located outside the unit served.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

5.1 Responsibility of Unit Owners. The unit owner who has the right to the exclusive use of a limited common element, other than paved parking spaces, shall be responsible, at his cost and expense, for the maintenance, care, and preservation of the limited common element. The Association shall maintain and repair the exterior of the balusters or walls of the screened porches.

5.2 Responsibility of Association. Except as provided in 5.1 above and as elsewhere provided herein, any expense for the maintenance, repair or replacement relating to common elements shall be treated and paid for as a part of the common expenses of the Association. Should any maintenance, repair or replacement be caused by the negligence or misuse by a unit owner, his family, guests, employees, and licensees, he shall be responsible therefor, and the Association shall have the right to levy an assessments against the owner's unit, which assessment shall have the same force and effect as all other assessments.

6. SURVEY, SITE PLAN AND GRAPHIC DESCRIPTION OF IMPROVEMENTS. Attached hereto as composite Exhibit B is a survey of the Land, graphic descriptions of the improvements in which units are located, a Plot Plan locating the common elements and limited common elements, and floor plans and cross sections for the units in the Condominium.

6.1 Surveyor's Certificate. Attached hereto as Exhibit A and incorporated herein by reference is the certificate of a surveyor authorized to practice in Florida certifying that the construction of the improvements is substantially complete so that Composite Exhibit B, together with the provisions of this Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location and dimensions of the common elements and of each unit can be determined from these materials.

7. POSSESSION AND ENJOYMENT OF CONDOMINIUM PARCELS AND APPURTENANCES.

7.1 Condominium Parcels. Each condominium parcel is a separate parcel of real property, the ownership of which shall be in fee simple. Each condominium parcel includes the unit, the undivided share of the common elements which is appurtenant to that unit, and the interest of the unit in the limited common elements appurtenant thereto.

7.2 Appurtenances. There shall pass with each unit as appurtenances thereto, the following:

(a) An undivided share in the common elements;

(b) An undivided share in common surplus;

(c) An exclusive easement for the use of air space occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time;

(d) Membership of each unit owner in the Association and the interests of each unit in the funds and assets held by the Association;



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-2020

(e) The right to use all of the common elements for their intended purposes, subject to the provisions of the Declaration, the By-Laws, and such reasonable rules and regulations as may from time to time be established by the Association; but no use shall hinder or encroach upon the lawful rights of other unit owners;

(f) The exclusive right to use such portion of the common elements as may be provided by this Declaration to be limited common elements appurtenant exclusively to the unit.

8. RESTRAINT UPON SEPARATION AND PARTITITION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS. The undivided share in the common elements and limited common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described.

(a) A share in the common elements and limited common elements appurtenant to a unit may not be conveyed or encumbered except together with the unit;

(b) The shares in the common elements and limited common elements appurtenant to the units shall remain undivided, and no action for partition of the common elements or limited common elements shall lie.

9. PERCENTAGE OWNERSHIP OF COMMON ELEMENTS AND SHARING OF COMMON EXPENSES AND COMMON SURPLUS. The undivided share in the common elements appurtenant to each unit and the percentage of sharing common expenses and of owning common surplus attributable to each unit is shown on Exhibit C attached hereto and incorporated herein by reference. The respective undivided interests as set forth in Exhibit C have been carefully established, giving effect to numerous criteria, and cannot be changed, altered or amended except as provided in this Declaration and the Condominium Act.

10. TAX ASSESSMENTS. For the purposes of ad valorem taxation, the interest of the owner of a condominium parcel in his condominium unit and in the common elements shall be considered as a unit. The value of the unit shall be equal to the percentage of the value of the entire condominium, including land and improvements, as has been assigned to the unit as its undivided share of the common elements by this Declaration. The total of all of the percentages equals 100% of the value of all of the land and improvements thereon.

11. EASEMENTS. The following easements are hereby granted or reserved:

11.1 Easements for Unintentional Encroachments. Perpetual easements are granted and reserved for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction, which easements shall continue until such encroachments no longer exist. If any part of the condominium property is destroyed and then rebuilt, encroachments due to construction shall be permitted and a valid easement for said encroachments and the maintenance thereof shall exist.

11.2 Utility Easements. Easements are hereby granted and reserved for the Developer, unit owners, and the Association through the condominium property as may be required for utility service in order to serve the Condominium.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
PORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

11.3 Ingress and Egress. An easement is hereby granted and reserved to Developer, its successors or assigns, for pedestrian and vehicular traffic over, through, and across such portions of the common elements as may from time to time be intended and designated for such uses and purposes, for the use and benefit of the unit owners, their families and invitees, in obtaining ingress and egress for all such units to public rights of way.

12. MEMBERSHIP IN ASSOCIATION AND VOTING RIGHTS.

12.1 Membership. Every owner of a unit, whether he has acquired title by purchase from Declarant, Declarant's grantees, successors or assigns, or by gift, conveyance or operation of law, is bound to and hereby agrees that he shall accept membership in the Association and does hereby agree to be bound by this Declaration, the By-Laws of the Association and the rules and regulations enacted pursuant thereto, and the provisions and requirements of the Condominium Act and lawful amendments thereto. Membership is automatic upon acquisition of a unit and approval by the Association, and may not be transferred apart and separate from a transfer of the ownership of a unit. Membership shall automatically terminate upon sale or transfer of the unit, whether voluntary or involuntary.

12.2 Voting Rights. There shall be one person with respect to each unit who shall be entitled to vote at any meeting of the unit owners. If a unit is owned by more than one individual, the owners of said unit shall designate one of them as the voting member. If a unit is owned by a corporation, the Board of Directors of the corporation by duly passed resolution shall designate one of its officers or employees as the voting member. If a unit is owned by a partnership all of the partners by an appropriate resolution shall designate one of the partners as the voting member. If a unit is owned by more than one trustee, all of the trustees shall designate one of the trustees as the voting member. The By-Laws of the Association shall govern the proceedings to follow in designating an individual as the voting member of the unit. If one individual owns more than one unit, he shall have as many votes as the number of units that he owns. The vote of a unit is not divisible.

13. THE ASSOCIATION. The operation and management of the condominium property shall be by BOARDWALK OWNERS ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida. The Association shall have all of the powers and duties set forth in the Condominium Act, and all of the powers and duties granted to or imposed upon it by this Declaration, the Articles of Incorporation, and the By-Laws of the Association. A copy of the Articles of Incorporation and By-Laws of the Association are attached hereto as Exhibits D and E, respectively, and incorporated herein by reference.

13.1 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be repaired and maintained by the Association or caused by the elements or other unit owners or persons.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-2626

13.2 Notice of Contingent Liability. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the unit owners, the Association shall give notice of the exposure within a reasonable time to all unit owners who may be exposed to the liability and they shall have the right to intervene and defend. A copy of each insurance policy obtained by the Association shall be made available for inspection by unit owners at reasonable times.

13.3 Control of the Association. The first Board of Directors of the Association shall remain in office, and Developer shall control the Association until all units in the condominiums have been sold and closed, or until Developer elects to turn over control, whichever shall first occur; provided, however, such term of office of the original Directors shall in no event extend beyond three (3) years after fifty per cent (50%) of said units have been sold and closed, or three (3) months after ninety per cent (90%) of such units have been sold and closed. Upon sale and closing of at least fifteen per cent (15%) of the units of this condominium, the unit owners other than Developer shall be entitled to elect one-third (1/3) of the members of the Board of Directors. Upon the occurrence of any of said events, a special meeting for the purpose of electing interim Directors will be held upon due and proper notice being given to all unit owners in accordance with applicable law and the By-Laws of the Association. The interim election and all subsequent elections shall take place in accordance with the procedures set forth in the By-Laws as applicable to regular meetings. An employee or an agent of a business entity owner, such as Developer, shall be eligible to serve as a Director of the Association. Developer shall be entitled to elect at least one member of the Board of Directors of the Association as long as Developer holds at least one (1) of the units in the condominium for sale in the ordinary course of business.

14. BY-LAWS. The operation of the Condominium shall be governed by the By-Laws of the Association. No modification of or amendment to the By-Laws shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration in accordance with the formalities set forth herein. No amendment to the By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage held by an Institutional Mortgagee covering any condominium parcel without the consent of said Institutional Mortgagee. Defects or omissions in the By-Laws shall not affect the validity of the Condominium or title to the condominium parcels.

15. MAINTENANCE, ALTERATIONS AND IMPROVEMENTS. Responsibility for the maintenance of the condominium property and restrictions upon alterations and improvements thereof shall be as follows:

15.1 Common Elements.

(a) The maintenance and operation of the common elements shall be the responsibility of the Association and shall be a common expense;

(b) There shall be no material alteration or further substantial improvement of common elements without prior approval, in writing, by record owners of seventy-five per cent (75%) of all units. The cost of such alteration or improvement shall be a special assessment and so assessed.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1008
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

15.2 Units and Limited Common Elements.

(a) The Association shall maintain, repair and replace as a common expense:

(1) All portions of a unit contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building, all fixtures on the exterior thereof, the perimeter baluster and walls abutting each screened porch, including the exterior surfaces thereon, boundary walls of a unit, floors and ceiling slabs, load-bearing columns and load-bearing walls, but shall not include screening, windows, exterior doors, glass and interior surfaces of walls, ceilings and floors;

(2) All conduits, plumbing (but not fixtures), wiring and other facilities for the furnishing of utility services which are contained in a unit but which service all or parts of the building other than the unit within which contained;

(3) Ventilation and plumbing chases that are common elements;

(4) All parking area pavement;

(5) All incidental damage caused to a unit by such work shall be promptly repaired by the Association.

(b) The responsibility of the unit owner shall include:

(1) To maintain, repair and replace, at his sole and personal expense, all doors, windows, glass, screens, electric panels, electric wiring, electric outlets and fixtures, air-conditioning and heating equipment, including but not limited to condensers, compressors and evaporators whether located within or outside the unit; refrigerators, other appliances, drains, plumbing fixtures and connections, interior surfaces of all walls, including boundary and exterior walls, floors and ceilings, including screened porch floor coverings, if any, and all other portions of his unit and limited common elements appurtenant thereto, except the portions specifically to be maintained, repaired and replaced by the Association.

(2) To refrain from enclosing, painting or otherwise decorating or changing the appearance of any portion of the exterior of the condominium building, or the screened porch appurtenant to the unit, including, but not limited to, screened porch floor coverings, if any, screening, windows, window coverings, and exterior doors, without the written approval of the Association.

(3) To promptly report to the Association any defect or need for repairs, the responsibility for which is that of the Association.

15.3 Enforcement of Maintenance. In the event the owner of a unit fails to maintain the property as required above, or otherwise violates the provisions hereof, the Association or any other unit owner shall have the right to proceed in a court of



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT MYERS, FLORIDA 33454
TELEPHONE (813) 461-5020

said officer's or director's votes are counted for such purpose. No director or officer of the Association shall incur liability by reason of the fact that said director or officer may be interested in any such contract or transaction.

Section 2. Interested officers and directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

## ARTICLE XIII

## ADDRESS OF REGISTERED OFFICE

The street address of the registered office of this Corporation in the State of Florida shall be: 715 South Ocean Drive, Fort Pierce, Florida 33450. The name of the initial registered agent at this address shall be Louise M. Sparks. The Board of Directors may from time to time move the registered office to any other address in Florida.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, at St. Lucie County, Florida, this 6th day of January, 1983.

K. M. Brooks (Seal)

Louise M. Sparks (Seal)

(Seal)
Frank H. Fee, III

STATE OF FLORIDA

COUNTY OF ST. LUCIE

I HEREBY CERTIFY, that on this day, personally appeared before me K. M. BROOKS, LOUISE M. SPARKS and FRANK H. FEE, III, to me known to be the subscribers described in and who executed the foregoing Articles of Incorporation, and they acknowledged before me that they executed the same freely and voluntarily for the uses and purposes therein expressed.

WITNESS my hand and official seal in the State and County aforesaid, this 6th day of January 1983.

Notary Public, State of Fla. at Large
My Commission Expires: 2-7-85

BY-LAWS OF

BOARDWALK OWNERS ASSOCIATION, INC.
A Non-Profit Florida Corporation

## ARTICLE I

### GENERAL

Section 1. Name: The name of the corporation shall be BOARDWALK OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association" or "Corporation".

Section 2. Principal Office: The principal office of the Association shall be at Boardwalk Condominium, 715 South Ocean Drive, Fort Pierce, Florida, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at the principal office or at the office of the registered agent of the Association.

Section 3. Definitions: As used herein, terms defined in the Declaration of Condominium for BOARDWALK CONDOMINIUM, hereinafter referred to as the "Condominium", shall mean the same herein.

## ARTICLE II

### DIRECTORS

Section 1. Powers: The property and business of the Association shall be managed by the Board of Directors ("Board"), which may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation or the Declaration of Condominium to which these By-Laws are attached. The powers of the Board of Directors shall include, but not be limited to, all those powers as set forth in Article IV of these By-Laws.

Section 2. Number and Term: Three (3) Directors shall constitute the whole Board of Directors. Except for the initial directors designated in the Articles of Incorporation and any other directors selected by the Developer, a director shall be elected to serve for the term of one (1) year, or until his successor has been elected and qualified. An employee or agent of a business entity owner shall be eligible to serve as a director of the Association. If the number of Directors falls below three (3), a special members' meeting shall be called for the purpose of filling vacancies on the Board of Directors.

Section 3. Vacancy and Replacement: If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting duly called for this purpose, shall choose a successor, who shall hold office for the unexpired term in respect to which such vacancy occurred. The Developer shall be empowered to remove or replace at any time any director originally selected by the Developer.

Section 4. Removal: Directors may be removed for cause by an affirmative vote of a majority of the qualified votes of voting members. No director shall continue to serve on the Board if, during his term of office, his membership in the corporation shall be terminated for any reason whatsoever.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 34954
TELEPHONE (305) 461-5020

Section 5. Recall: Directors may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all voting members. A special meeting of the voting members to recall a Director or Directors may be called by ten per cent (10%) of the voting members giving notice of the meeting as required in Article VI of these By-Laws, and the notice shall state the purpose of the meeting.

Section 6. First Board of Directors: The first Board of Directors designated in the Articles of Incorporation shall hold office and exercise all the power of the Board of Directors until the first membership meeting, anything herein to the contrary notwithstanding; provided, any or all of said directors shall be subject to replacement by the Developer or, in the event of resignation or death, as above provided.

Section 7. Compensation: Neither directors nor officers shall receive compensation for their services as such.

Section 8. Meetings:

(a) The first meeting of each Board of Directors newly elected by the voting members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the voting members' annual meeting, and immediately after the adjournment of same;

(b) Special meetings shall be held whenever called by the President or a majority of the Board of Directors. The Secretary shall give notice of each special meeting either personally, by mail or telegram to each director at least three (3) days before the date of such meeting, but the Directors may waive notice of the calling of the meeting;

(c) Meetings of the Board of Directors shall be open to all unit owners. Adequate notice of all meetings of the Board of Directors shall be posted conspicuously on the condominium properties at least forty-eight (48) hours in advance, except in an emergency;

(d) A majority of the Board of Directors shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business, and the act of a majority present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quroum shall not be present at the meeting, the Directors then present may adjourn the meeting without notice, other than announcement at the meeting, until a quorum shall be present.

Section 9. Order of Business: The order of business at all meetings of the Board of Directors shall be as follows:

1. Roll call and quorum determination;

2. Reading of minutes of last meeting;

3. Consideration of communications;



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

4. Resignations and elections;

5. Reports of officers and employees;

6. Reports of committees;

7. Unfinished business;

8. Original resolutions and new business;

9. Adjournment.

Section 10. Annual Statement: The Board shall present, no less often than at the annual meeting, a full and clear statement of the business and condition of the Association, including a report of the operating expenses of the Association and the assessments paid by the members.

ARTICLE III

OFFICERS

Section 1. Executive Officers: The executive officers of the Association shall be a President, Vice-President, Treasurer and Secretary, all of whom shall be elected annually by the Board of Directors. Any two of said offices may be united in one person, except that the President shall not also be the Secretary or an Assistant Secretary of the Association. The President shall be a director ex officio, unless elected to the Board. If the Board so determines, there may be more than one Vice-President.

Section 2. Subordinate Officers: The Board of Directors may appoint such other officers and agents as they may deem necessary, who shall hold office during the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by the Board.

Section 3. Tenure of Officers; Removal: All officers and agents shall be subject to removal, with or without cause, at any time by action of the Board of Directors. The Board may delegate powers of removal of subordinate officers and agents to any officer.

Section 4. The President:

(a) The President shall preside at all meetings of the members and Directors; he shall have general and active management of the business of the Association; he shall see that all orders and resolutions of the Board are carried into effect; he shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Association; the seal when affixed shall be attested by the signature of the Secretary;

(b) He shall have general superintendence and direction of all the other officers of the Association, and shall see that their duties are performed properly;

(c) He shall submit a report of the operation of the Association for the fiscal year to the Directors whenever called for by them, and to the members at the annual meeting, and from time to time shall



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

report to the Board all matters within his knowledge which the interest of the Association may require to be brought to their notice;

(d) He shall be an ex officio member of all committees, and shall have the general powers and duties of supervision and management usually vested in the office of President of a corporation.

Section 5. The Vice-President: The Vice-President shall be vested with all powers and required to perform all duties of the President in his absence; and such other duties as may be prescribed by the Board of Directors.

Section 6. The Secretary:

(a) The Secretary shall keep the minutes of the meetings of the voting members and of the Board of Directors in one or more books provided for that purpose; said minute books shall be available for inspection by unit owners, or their authorized representatives, and directors at any reasonable time; said minutes shall be retained for a period of not less than seven (7) years.

(b) He shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law;

(c) He shall be custodian of the corporate records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these By-Laws;

(d) He shall keep a register of the post office address of each unit owner, which shall be furnished to the Secretary by each unit owner;

(e) In general, he shall perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. Treasurer:

(a) The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may be designated by the Board of Directors;

(b) He shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors, at regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association;

(c) He may be required to give the Association a bond in a sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration to the



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
PORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

Association, in case of his death, resignation or removal from office, all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association.

Section 8. Vacancies: If the office of the President, Vice-President, Secretary or Treasurer, one or more, becomes vacant by reason of death, resignation, disqualification or otherwise, the directors, by a majority vote, may choose a successor who shall hold office for the unexpired term.

Section 9. Resignations: Any director or other officer may resign his office at any time, such resignation to be made in writing, and to take effect from the time of its receipt by the Association, unless some time be fixed in the resignation, and then from that date.

## ARTICLE IV

## POWERS AND DUTIES OF THE ASSOCIATION

The Association shall have all powers granted to it by law, the Declaration of Condominium, the Condominium Act, and the Articles of Incorporation, all of which powers shall be exercised by its Board of Directors, unless the exercise thereof is otherwise restricted in the Declaration of Condominium, these By-Laws, or by law. The powers of the Association shall include, but not be limited to, the following:

(a) To levy and collect regular and special assessments and to establish the method and time within which payments are to be made;

(b) To expend monies collected for the purpose of paying the common expenses of the Association;

(c) To purchase equipment, supplies and material required for the maintenance, repair, replacement, operation and management of the condominium properties;

(d) To insure and keep insured the buildings and improvements of the Condominium as provided for and limited by the Declaration of Condominium;

(e) To employ the personnel required for the operation of the condominium properties;

(f) To make reasonable rules and regulations for the use of the condominium properties and to amend them from time to time, and see to it that all members are notified of such changes in the rules and regulations as may be enacted;

(g) To improve the condominium properties subject to the limitations of the Declaration of Condominium;

(h) To enforce by any legal means the provisions of the Articles of Incorporation, the By-Laws, the Declaration of Condominium, and the regulations promulgated by the Association;

(i) To collect delinquent assessments by suit or otherwise, and to abate nuisances and enjoin or seek damages from unit owners for violation of the provisions of the condominium documents;



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-2020

(j) To approve or disapprove of all conveyances of condominium parcels as provided for in the Declaration of Condominium;

(k) To select depositories for Association funds, and to determine the manner of receiving, depositing, and disbursing Association funds, and the form of check and the person or persons by whom checks shall be signed, when not signed, as otherwise provided by these By-Laws;

(l) To collect for the management and maintenance of the condominium and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules and maintenance of the common elements. The Association shall, however, retain at all times the power and duties granted them by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules, and execution of contracts on behalf of the Association.

Nothing in this subparagraph or in the Declaration of Condominium shall be deemed to require the Association to maintain the interior of any condominium unit, or to enter into any contract or undertaking to provide for the maintenance or upkeep of the interior of any condominium unit.

(m) To establish the offices of additional officers of this Association and to appoint all officers;

(n) To propose and adopt the budget for the Condominium;

(o) To possess, enjoy and exercise all powers necessary to implement, enforce, and carry into effect the powers above described, including the power to acquire, hold, convey, and deal in real and personal property.

## ARTICLE V

## MEMBERSHIP

Section 1. Definition: Voting membership in the Association shall be limited to owners of condominium units in the Condominium.

Section 2. Transfer of Membership and Ownership: Membership in the Association may be transferred only as an incident to the transfer of the transferor's condominium parcel, and such transfer shall be subject to the procedures set forth in the Declaration of Condominium.

Section 3. Plural Ownership: Membership may be held in the names of more than one person, in which event, all of the plural owners of the unit shall be entitled collectively to only one vote in the management of the affairs of the Association, and the vote may not be divided between the plural owners. The plural owners



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

must file a certificate authorizing a voting member in accordance with Article VI, Section 7, of these By-Laws.

## ARTICLE VI

## MEETINGS OF MEMBERSHIP

Section 1. Place: All meetings of the Association membership shall be held at the office of the Association or at such other place as may be stated in the notice of the meeting.

Section 2. Annual Meeting:

(a) The first annual meeting of the members shall be held the first Wednesday in October, 1983, at 8:00 PM , and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 8:00 P.M.

If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following that which is not a legal holiday. If the meeting is re-scheduled, the directors elected at the first annual meeting and the officers elected as a result of the directors' meeting will hold office until the annual meeting is held.

(b) At the annual meeting, the members, by a plurality vote, shall elect a Board of Directors and transact such other business as may properly come before a meeting.

(c) Written notice of the annual meeting shall be given to each unit owner and shall be posted in a conspicuous place on the condominium properties at least fourteen (14) days prior to the annual meeting. The notice of the annual meeting shall be sent by mail to each unit owner and the post office certificate of mailing shall be retained as proof of such mailing.

Section 3. Membership List: At least ten (10) days before every regular meeting of the membership, a complete list of members entitled to vote at said meeting, arranged numerically by units, with residence of each, shall be prepared by the Secretary. Such list shall be produced and kept for said ten (10) days at the office of the Association, and shall be open to examination by any member throughout such time.

Section 4. Special Meetings:

(a) Special meetings of the members, for any purpose(s), unless otherwise prescribed by law, the Declaration of Condominium, or Articles of Incorporation, may be called by the President, and shall be called by the President or Secretary at the written request of one-third (1/3) of the voting members. Such request shall state the purpose(s) of the proposed meeting;

(b) Written notice of a special meeting of members, stating the time, place and purpose(s) thereof,



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1100
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

shall be served upon or mailed to each voting member at the address as it appears on the books of the Association, at least five (5) days before such meeting;

(c) Business transacted at all special meetings shall be confined to the purpose(s) stated in the notice of the meeting;

(d) Unit owners may waive notice of special meetings and may take action by written agreement without meetings, if allowed by law, the Declaration of Condominium, and the Articles of Incorporation.

Section 5. Quorum: A majority of the total number of voting members of the Association, present in person or represented by written proxy, shall be required for and shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute, by the Articles of Incorporation or these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the members, the voting members present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 6. Vote Required to Transact Business: When a quorum is present at any meeting, a majority of the votes cast, in person or represented by written proxy, shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of law, the Declaration of Condominium, the Articles of Incorporation or these By-Laws a different vote is required, in which case such express provision shall govern and control the decision of such question. Cumulative voting is prohibited.

Section 7. Entitled and Qualified to Vote; Plural Ownership; Proxies: Each unit owner shall be entitled to one (1) vote for each unit owned by him. At any meeting of the members, every member entitled to vote may vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof. If more than one (1) person or a corporation owns a unit, they shall file a certificate with the Secretary of the Association naming the person authorized to cast votes for said unit. If the certificate is not on file, the owner(s) shall not be qualified to vote and the vote of such owner(s) shall not be considered nor shall the presence of said unit owner(s) at a meeting be considered in determining whether the quorum requirement has been met. If a unit shall be owned by husband and wife as tenants by the entirety, no certificate need be filed with the Secretary naming the person authorized to cast votes for said unit, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the members, unless prior to such meeting, either spouse has notified the Secretary in writing that there is disagreement as to who shall represent the unit at the meeting, in which case the certificate requirements set forth above shall apply.

Section 8. Waiver and Consent: Whenever the vote of members at a meeting is required or permitted by any provision of law, the Declaration of Condominium, the Articles of Incorporation or these By-Laws to be taken in connection with any action of the Association, the meeting and vote of members



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1900
FORT MYERS, FLORIDA 33902
TELEPHONE (813) 461-5020

may be dispensed with, if all members who would have been entitled to vote upon the action at such meeting, if such meeting were held, shall have consented in writing to such action being taken.

Section 9. Order of Business: The order of business at annual members' meetings, and as far as practical at other members' meetings, shall be:

1. Election of Chairman
2. Roll call and Quorum Determination
3. Proof of Notice of Meeting or Waiver of Notice
4. Reading of Minutes of Prior Meeting
5. Officers' Reports
6. Committee Reports
7. Elections
8. Unfinished Business
9. New Business
10. Adjournment

Section 10. Procedure: Roberts Rules of Order (latest edition) shall govern the conduct of Association proceedings when not in conflict with the Articles of Incorporation, these By-Laws or any provision of law.

## ARTICLE VII

## NOTICES

Section 1. Definition: Except where expressly provided to the contrary, whenever under the provision of law, the Declaration of Condominium, the Articles of Incorporation or these By-Laws, notice is required to be given to any director or member, it shall not be construed to mean personal notice; but such notice may be given in writing by regular mail, by depositing the same in a post office or letter box in a postpaid, sealed envelope, addressed as appears on the books of the Association.

Section 2. Service of Notice - Waiver: Whenever any notice is required to be given under the provisions of these By-Laws, a waiver thereof, in writing, signed by the person(s) entitled to such notice, whether before or after the time stated herein, shall be deemed the equivalent of such notice.

Section 3. Address: The address for notice to the Association is 715 South Ocean Drive, Fort Pierce, Florida 33450.

## ARTICLE VIII

## FINANCES

Section 1. Fiscal Year: The fiscal year of the Association shall be the calendar year, commencing January 1 of each year,



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

provided, however, that the Board of Directors is authorized to change to a different fiscal year at such time as the Board deems advisable.

Section 2. Checks: All checks or demands for money and notes of the Association shall be signed by any one of the following officers: President, Secretary or Treasurer, or by such officer(s) or such other person(s) as the Board of Directors may from time to time designate.

Section 3. Depositories: The funds of the Association shall be deposited in a bank(s) in St. Lucie County, Florida, in an account for the Association under resolutions approved by the Board of Directors, and shall be withdrawn only over the signature of the Treasurer, the President or the Vice-President, or such other person(s) as the Board may authorize. The Board may require more than one signature on checks and bank drafts. Said funds shall be used only for Association purposes. If necessary, and if demanded by Institutional Mortgagees, separate accounts shall be established to maintain and disburse escrow funds required by Institutional Mortgagees to meet mortgage requirements as to establishment of escrows for real estate taxes and insurance respecting condominium parcels.

Section 4. Inspections and Records: The Association shall maintain good accounting records. All such records and any legal documents, policies of insurance, and books of the Association shall be open to inspection at reasonable times by members, their authorized representatives, and all Institutional Mortgagees. Upon request, Institutional Mortgagees shall have the right to receive an unaudited financial statement of the Association within ninety (90) days following the end of the fiscal year.

Section 5. Annual Statement: The Board of Directors shall present at each annual meeting a full and clear statement of the business and condition of the Association.

Section 6. Insurance: The Association shall procure, maintain and keep in full force and effect, all insurance required by and in accordance with the Declaration of Condominium.

Section 7. Fidelity Bonds: Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The premiums for such bonds shall be paid by the Association as a common expense.

Section 8. Assessments:

(a) The Board of Directors has the power to and shall from time to time fix and determine the amount necessary to pay the common expenses of the Condominium. Common expenses include those expenses described in Paragraph 2.6 of the Declaration of Condominium and any other expenses designated as common expenses by the Board of Directors.

(b) Funds for the payment of common expenses shall be assessed and be a lien against the condominium parcels in the proportion of percentage of sharing common expenses as provided in the Declaration of Condominium.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

(c) Regular assessments shall be paid by the members on a monthly basis unless the membership shall approve a different period for payment.

(d) Special assessments, when required by the Board of Directors, shall be levied and paid in the same manner as regular assessments, unless the Declaration of Condominium shall otherwise provide. The Board of Directors may make special assessments in emergencies and upon such conditions as the Board may authorize.

(e) When the Board of Directors has determined the amount of any assessments, the Secretary or Treasurer shall transmit a statement of such assessment to each condominium parcel owner. All assessments shall be made payable to and at the office of the Association and upon request the Secretary or Treasurer shall give a receipt for each payment made.

(f) Assessments are necessarily made upon projections and estimates of the Board of Directors, and may be in excess of or less than the sums required to meet the cash requirements of the Condominium, in which event the Board of Directors may increase or decrease the amount of an assessment, and make such adjustments in cash or otherwise, as they shall deem proper, including the assessment of each member of his proportionate share of any deficiency. Notice of all changes in assessments shall be given to all unit owners.

(g) Assessments shall not include charges for utilities separately charged and metered to each condominium unit, nor charges for such alterations, repairs, maintenance, improvements or decorating within the interior of any unit as are the obligation of the unit owner and not the obligation of the Association. The Board of Directors may provide certain maintenance and repairs as would otherwise be the obligation of the individual unit owners, by the undertaking of contracts with business establishments providing repair and maintenance services, and in such cases the cost or price of such contractual services may be treated as a common expense and assessed against the members as part of their monthly maintenance. The specific contracts or undertakings need not be submitted by the Board of Directors to the membership for approval once the membership has approved the policy of having a specific type of repair or maintenance undertaken by the Association which would otherwise be the individual unit owners' responsibility.

(h) Assessments are due on the dates stated in the notice of assessments, and thereafter shall bear interest at eighteen per cent (18%) per annum until paid.

(i) In the event an assessment is not paid within fifteen (15) days of the date it is due and payable, the Association through the Board of Directors, may proceed to enforce and collect said



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

assessment from the delinquent owner in any manner provided by the Condominium Act, the Declaration and these By-Laws. Each condominium parcel owner shall be individually responsible for the payment of reasonable attorney's fees and costs incurred by the Association in the collection of sums due and enforcement of any lien held by the Association.

(j) The Board of Directors may authorized the President to enter into a management contract with third parties to whom the power to levy and collect assessments may be delegated.

(k) All sums collected by the Association from assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board of Directors. All assessment payments by a unit owner shall be applied as provided herein and in the Declaration of Condominium.

(l) Any unit owner shall have the right to require from the Association, a certificate showing the amount of unpaid assessments against him with regard to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which it has a lien. Any person other than owner who relies upon such certificate shall be protected thereby.

Section 9. Budget:

(a) The Board of Directors is empowered to propose and adopt the budget for the Condominium.

(b) Notice of the meeting and a copy of the proposed annual budget of common expenses shall be mailed to the unit owners not less than thirty (30) days prior to the meeting of the Board of Directors at which the budget will be considered. Such meeting shall be open to the unit owners. If a budget is adopted by the Board of Directors which requires assessments against the unit owners in any fiscal year exceeding 115 per cent of such assessments for the preceding year, a special meeting of the unit owners shall be held, if requested in writing by at least ten per cent (10%) of the unit owners, to consider and enact a revision of the budget, or recall any and all members of the Board of Directors and elect their successors. Such meeting shall be held not less than ten (10) days after written notice is given to each unit owner, but not more than thirty (30) days after such meeting has been requested in writing. The revision of the budget or the recall of any or all members of the Board of Directors shall require a vote of not less than two-thirds (2/3) of the voting members. The Board of Directors may in any event propose a budget to the unit owners at a members' meeting or in writing, and if such proposed budget is approved by the unit owners at a members' meeting or by a majority of voting members in writing, such budget shall not thereafter be re-examined by the unit owners in the manner set forth above, nor shall the Board of Directors be recalled under the terms of this sub-section.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

(c) Each proposed annual budget of common expenses adopted by the Board of Directors shall be detailed and shall show the amounts budgeted by accounts and expenses classifications, including, but not limited to, the following:

1. Administration of the Association.
2. Management fees.
3. Maintenance.
4. Taxes upon Association properties, if any.
5. Insurance.
6. Security provisions.
7. Utilities.
8. Other expenses.
9. Operating capital.
10. Reserves.
11. Fees payable to Division of Florida Land Sales and Condominiums.

(d) Regular assessments shall be made against unit owners not less frequently than monthly, in an amount no less than required to provide funds in advance for payment of all the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(e) The provisions of Florida Statute 718.112, with regard to limitations on budget increases, special membership meetings for budget reconstruction, and the right to consider and adopt a budget at the annual membership meeting as an alternative, are hereby adopted. In determination of the percent of increase of the annual budget over the preceding years, authorized provisions for reasonable reserves for repair or replacement of the condominium properties, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, and assessments for betterments to the condominium properties shall be excluded from the computation.

(f) As long as Developer is in control of the Association, the Association shall not impose an assessment for any year greater than one hundred fifteen per cent (115%) of the prior fiscal year's assessment without approval by a majority of all voting members.

(g) Notwithstanding anything in these By-Laws or the Declaration which authorize expenditures, no single expenditure for the improvement of the common elements exceeding $2,000.00 shall be made without the approval of seventy-five per cent (75%) of the membership, except for the



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

repair of the condominium properties due to casualty loss, emergency repairs immediately necessary for the preservation and safety of the property, for the safety of persons, or as required to avoid suspension of any necessary service to the condominium.

## ARTICLE IX

## CORPORATE SEAL

The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "Non-Profit". The seal may be used by causing it or a facsimilie thereof to be impressed, affixed, reproduced or otherwise.

## ARTICLE X

## DEFAULT

Section 1. Enforcement of Lien: In the event a unit owner does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association, acting on its own behalf or through its Board of Directors, may enforce its lien for assessments to which it is entitled, in accordance with the Declaration and provisions of law.

Section 2. Proceeds of Sale: If the Association becomes the owner of a unit by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated, it shall deduct from the proceeds of said sale all sums of money due it for assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorneys' fees, and any and all expenses incurred in the resale of the unit, which shall include but not be limited to advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the unit. All monies remaining after deducting the foregoing items of expenses shall be returned to the former owner of the unit.

Section 3. Violations: In the event of violation of the provisions of the Declaration, Articles of Incorporation or these By-Laws, for thirty (30) days after notice from the Association to the unit owner to correct said breach or violation, the Association, on its own behalf or through its Board of Directors, may bring appropriate action to enjoin such violation or may enforce the provisions of said documents, or may sue for damages, or take such other courses of action, or other legal remedy, as it or they may deem appropriate. An Institutional Mortgagee, as defined in the Declaration of Condoiminium, of a unit shall be entitled to written notice from the Association of any default by the mortgagor of such unit under the condominium documents which is not cured within thirty (30) days.

Section 4. Attorneys' Fees: In the event such legal action contemplated by this Article is brought against a unit owner and results in a judgment for the Plaintiff, the Defendant shall pay the Plaintiff's reasonable attorney's fees and court costs.

Section 5. Binding Effect: Each unit owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of nuisance,



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

regardless of the harshness of the remedy available to the Association and regardless of the availability of other equally adequate legal procedures. It is the intent of all owners of the units to give to the Association a method and procedure which will enable it at all times to operate on a business-like basis, to collect those monies due and owing it from the owners of units, and to preserve each unit owner's right to enjoy his unit, free from unreasonable restraint and nuisance.

## ARTICLE XI

## AMENDMENT OF BY-LAWS

These By-Laws may only be amended at a duly called meeting of the voting members; provided (1) that the notice of the meeting shall contain a full statement of the proposed amendment; and (2) that the quorum requirement for such purposes shall be a majority of the voting members, in person or by proxy. It shall be necessary that there be an affirmative vote of three fourths (3/4) of the voting members, in person or by proxy. It shall be necessary that there be an affirmative vote of three fourths (3/4) of the voting members, as well as an affirmative vote of two thirds (2/3) of the Board of Directors, in order to amend these By-Laws. No amendment to these By-Laws shall be passed which would operate to impair or prejudice the right or liabilities of any Institutional Mortgagee without the consent of said Institutional Mortgagee.

No By-Law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that the above procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Laws. See By-Laws _____ for present text".

Non-material errors or omissions in the By-Laws amendment process shall not invalidate an otherwise properly promulgated amendment.

## ARTICLE XII

## CONSTRUCTION

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed be void or unenforceable at law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1900
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

These By-Laws and the Articles of Incorporation shall be construed in the event of any ambiguity consistent with the provisions of the Declaration of Condominium.

The foregoing were adopted as the By-Laws of:

BOARDWALK OWNERS ASSOCIATION, INC.

a Florida non-profit corporation, at the first meeting of the Board of Directors.

BOARDWALK OWNERS ASSOCIATION, INC.

By Louise M. Sparks
Its Secretary

APPROVED:

K. M. Rooks
Its President

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT MYERS, FLORIDA 33902
TELEPHONE (813) 461-5020

**ADDITION TO THE BY - LAWS**

Amendment to DECLARATION OF CONDO OF
BOARDWALK CONDOMINIUM ASSOCIATION, INC.

19. USE AND OCCUPANCY RESTRICTIONS

19.12 **Parking Restrictions.**
Only automobiles will be parked in the parking areas of the condominium property. No other vehicles and objects, including but not limited to trailers, boats, motor homes and trucks over 3/4 ton may be parked or placed upon any of the condominium property.

**Exceptions**: **Moving vans** shall be permitted to park, but not on the grass for the purpose of loading and unloading; **Vehicles**, regardless of classification, necessary for the **maintenance, care** or **protection** of the Properties; **Service and delivery vehicles**, regardless of classification, during regular business hours; **Vehicles for handicapped persons**; **Police and fire safety vehicles**

The following restrictions also apply:

No repair (including changing of oil) of a vehicle shall be made within the Condominium except for minor repairs necessary to permit removal of a vehicle. However, washing or waxing of a vehicle is permitted.
No motor vehicle, including moving vans, shall be parked at any time on the grass/swales within the Condominium.
Except where safety dictates otherwise, horns shall not be used or blown while a vehicle is parked, standing in or driving through parking areas. Racing engines and loud exhausts shall be prohibited. No vehicle shall be parked with motor running.

**Remedy of Towing.** If upon the Association's provision of that notice required by Section 715.07, Florida Statutes, and any applicable County Ordinances, amended from time to time, an offending vehicle Owner does not remove a prohibited or improperly parked vehicle from the Condominium, the Association shall have the option and right to have the vehicle towed away at the vehicle Owner's expenses. By this provision, each Owner and vehicle Owner provides the Association with the necessary consent to effect the tow.

STATE OF FLORIDA
ST. LUCIE COUNTY

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL

JOANNE HOLMAN, CLERK

By _____

Date 4-25-2002

Return:
Elmer W. Baerth
715 So Ocean Drive, Unit 111
Jupiter FL 33469

JOANNE HOLMAN, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
File Number: 2035769 OR BOOK 1519 PAGE 2617
Recorded 04/24/02 11:19

**BOARDWALK CONDOMINIUM ASSOCIATION, INC.**

715 South Ocean Dr.
Ft. Pierce, FL 34949

**TO WHOM IT MAY CONCERN**

**ADDITION TO THE BY-LAWS**

The following attached addition to the By Laws was unanimously approved by all members and the Board of Directors on April 17th, 2002

William J Wilkinson
(President)

Otmar W. Baertl
(Secretary/Treasurer)

OR BOOK 1518 PAGE 2619

Notary Public

STATE OF FLORIDA, COUNTY OF ST LUCIE

The attached instrument was acknowledged before me this 4/24/02 [date]
by Mr./Mrs./Ms. William J. Wilkinson & Otmar Baertl [name of person acknowledging].
who is personally known to me or who has produced Florida Dr. License & Florida Dr. License
TYPE OF I.D. as identification and who did/did not take an oath.

Dorothy M. Davis (Signature of Notary)
Dorothy M. Davis (Name of Notary, Typed, Printed or Stamped)
Secretary (Title)
DD039615 (Commission Serial Number)

OFFICIAL NOTARY SEAL
DOROTHY M DAVIS
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. DD039615
MY COMMISSION EXP. JULY 5,2005

BOARDWALK CONDOMINIUM

ESTIMATED OPERATING BUDGET

| | Monthly | Annually |
|---|---|---|
| Administration of the Association | | |
| Bookkeeping | 10.00 | 120.00 |
| Legal and Bank Expenses | 10.00 | 120.00 |
| Office Supplies | 5.00 | 60.00 |
| Management Fees | -0- | -0- |
| Maintenance | | |
| Appliance Repair & Replacement | 20.00 | 240.00 |
| Grounds Supplies | 50.00 | 600.00 |
| Lawn and general maintenance | 100.00 | 1,200.00 |
| Rent- Recreational and Other Commonly Used Facilities | -0- | -0- |
| Taxes Upon Association Property | -0- | -0- |
| Taxes Upon Leased Areas | -0- | -0- |
| Insurance | 125.00 | 1,500.00 |
| Security Provisions | -0- | -0- |
| Other Expenses | | |
| Utilities | 275.00 | 3,300.00 |
| Operating Capital | -0- | -0- |
| Reserves | | |
| Painting and Building Maintenance | 375.00 | 4,500.00 |
| Pavement Resurfacing | 33.34 | 400.00 |
| Roof | 150.00 | 1,800.00 |
| Division of Condominium Fees | .55 | 6.50 |
| TOTALS | $1,153.89 | $13,846.50 |

Schedule of Unit Owner's Expenses

| | Monthly | Annually |
|---|---|---|
| Units A through K, inclusive (One Bedroom) | 83.77 | 1,005.24 |
| Units L and M (Two Bedroom) | 116.20 | 1,394.40 |
| Units A through K, inclusive (1-BR)-Without reserves | 43.31 | 519.72 |
| Units L & M (2 BR) - Without reserves | 59.57 | 714.84 |

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

Note 1. The foregoing budget is deemed sufficient, and accordingly, no provision for operating capital has been established herein.

Note 2. Since there is no management contract or agreement in effect, and since it is not contemplated employing the services of a management firm for the first year of operation, no provision has been made for management fees or a management agreement in this budget.

Note 3. The figures on this budget are established by operating history and by contracts and other experience pertaining directly to this project, but are estimates only and are subject to revision to reflect changes in costs and services.

Note 4. There is excluded from this estimate items of expense that are personal to unit owners or which are not uniformly incurred by all unit owners or which are not provided for nor contemplated by the condominium documents; including, but not limited to, private telephone costs, cost of maintenance of the interior of the condominium units to the extent that such maintenance is not the obligatio of the condominium or Association, the cost of maid or janitorial services privately contracted for by the unit owners, cost of utility bills billed directly to each unit owner for utility service or supply to his unit, insurance premiums other than those incurred applicable to the condominium or Association property in general, debt servicing upon any mortgage encumbering the individual unit, but not encumbering the condominium or Association property as a whole, real estate taxes assessed directly to a condominium unit, and like personal expenses of the unit owner.

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

BUILDING INSPECTION
OF
13 UNIT APARTMENT COMPLEX
LOCATED AT
715 SOUTH OCEAN DRIVE
FORT PIERCE, FLORIDA

SUBMITTED TO:

ARTHUR STROCK & ASSOCIATES
829 S. E. 9th STREET
DEERFIELD, FLORIDA

PREPARED BY:

JAMES BUSHOUSE & ASSOCIATES, INC.
2136 HAMMONDVILLE ROAD
POMPANO BEACH, FLORIDA 33060

James D. Bushouse, P. E.
Registered Engineer No. 20311
State of Florida

STATEMENT PREPARED
June 16, 1982

## INTRODUCTION

The following is an analysis of the general condition and state of repair of the 13 UNIT APARTMENT COMPLEX located at 715 South Ocean Drive, Fort Pierce, Florida, as determined by visual inspection of the premises by James Bushouse & Associates, Inc., under the direct supervision of James D. Bushouse, P. E. The report is divided into the component parts of the Buildings and Premises as required by Florida Statute, with the following information listed for each component:

1. Approximate age of the Component.

2. Estimated remaining useful life – Economic Life
   This figure represents the Engineer's estimate of the amount of relatively maintenance free service life which could be expected from a particular component.

3. Current Replacement Cost
   This figure represents the Engineer's estimate of the current replacement cost of a particular building component shown as a total amount and as per unit share of the expense.

4. A discussion of the overall state of repair and the structural soundness of the component.

The apartments consist of 2 buildings, 1 consisting of 2-2 bedroom units and the other 11-1 bedroom units. The buildings are constructed with C. B. S. walls on the 1st floor and wood stud with texture 1-11 on the second floor. The roof is wood trusses with asphalt shingles on the slope part and built-up roof on the flat part.

The 2 unit building was built a few years before the other, but due to the fact that it has been well maintained, this report calls the component of both the same age.

Our visual inspection covered the civil, structural, mechanical and electrical elements of the project, including the roofs. In general, for a 5 year old project, it is in good condition and appears to have been well maintained. For the age, estimated remaining useful life and estimated current replacement cost of the component parts of the buildings, refer to Appendix "A" of this report.

### A. STRUCTURAL

The general structural condition of the apartment buildings is average for buildings of this type. The structural elements are safe and sound for use intended. There are some thermal stress cracks in the walkway slab, side of stairways and exterior walls under windows that will require on going maintenance.

### B. ROOFS

The flat part of the roofs which are built-up are in generally good condition with no visible signs of leaks. The slope parts which are asphalt shingles, are in very good condition with no visible signs of leaks. The soffits should be monitored and maintained as necessary.

### C. ELEVATORS

There are no elevators on the premises. Access to the upstairs units is achieved through exterior concrete stairways.

D. HEATING AND COOLING SYSTEMS

The general condition of the A/C Systems was average for buildings of this age period. Our inspection of the ductwork and air distribution system indicates there are no problems in these areas. Each apartment unit is equipped with its own split system A/C unit. All of the condensing units are located on a concrete pad on the ground.

E. PLUMBING

Our inspection of the plumbing systems indicate that the systems are safe and sound and are in good condition and functioning properly with no obvious defects or code violations. Water pressure at the second floor of the building was adequate. Sanitary drainage on the second floor drains slower than normal.

The electric hot water heater in the apartments appear to be in good condition with the exception that the water line connection in isolated cases is starting to rust. The main water distribution system is PVC and copper piping. The distribution lines within the apartments are copper. The hot water system and laundry room equipment appears to be adequately servicing the buildings and seems to pose no apparent maintenance problems.

F. ELECTRICAL SYSTEMS

The electrical distribution and utilization devise systems within the apartments are safe, sound and are functioning properly for the use intended and present no apparent shock or fire hazard. The elements comprising the electrical distribution system and the appliances, circuit breakers, etc. are of quality material and were installed with good workmanship. With the exception of a few lights, switches and toilet exhaust fans (of the units that were inspected) all of the utilization devices, controls, light fixtures, A/C equipment and appliances were operating. Of the outlets and switches inspected, all were properly installed and grounded. There was no ground fault breaker on the outlet in the bathrooms.

The electrical work in the public spaces was inspected and found to be functioning properly and to be safe and sound for the use intended. Electrical service equipment and distribution apparatus are in safe and sound condition. No violations of codes, standards, or regulations were observed in the power service equipment and main distribution apparatus and they were functioning properly.

G. SWIMMING POOL AND EQUIPMENT

There is no pool on the premise.

H. SEAWALLS

There are no seawalls on the premise.

I. PAVEMENT AND PARKING AREAS

Asphalt paving was in good condition for its age; some minor settlement has occurred, which will cause some minor problems. Also the paving should be sealed to add to the possible life of the surface.

J. SITE DRAINAGE SYSTEM

The drainage of the Parking Areas is to the grass swales where the water them percolates into the water table.

K. SYNOPSIS

Other than the items mentioned above, there is nothing that would constitute a serious problem any time in the near furture. The structural integrity of the buildings appear sound and can be expected to remain so with proper maintenance. The buildings are constructed with C. B. S. walls on the first floor, wood studs with texture 1-11 on the second floor and wood studs and drywall for the interior partitions. The 11 unit building was given a Certificate of Occupancy about October 1977. The 2 unit building was constructed in 1970. This is estimated year only, due to the fact that no records of Certification of Occupancy could be located in the city of Fort Pierce. The prior use of these buildings were as a Rental Apartment Complex.

The items in this report indicate the current status at the time of inspections, which was June 7, 1982. These items are not to be considered all inclusive, nor a guarantee, but our professional expression based on our experience, knowledge, examination of available plans and on our visual inspection of the exposed conditions to the extent reasonably possible. It is the opinion of this firm that the above referenced buildings are safe for residential habitation.

THIS STATEMENT WAS PREPARED JUNE 16, 1982.

JAMES BUSHOUSE & ASSOCIATES, INC.
2136 Hammondville Road
Pompano Beach, Florida 33060
P. O. Box 4562, Margate, Florida 33063

PROJECT:

APPENDIX "A"

715 South Ocean Drive
Fort Pierce, Florida

| COMPONENT | Age of the Component | Estimated Remaining Useful Life Of The Component | ESTIMATED CURRENT REPLACEMENT COST OF THE COMPONENT EXPRESSED AS: | | | | |
|---|---|---|---|---|---|---|---|
| | | | A Total Amount | A PER UNIT AMOUNT, BASED ON EACH UNIT'S PROP. SHARE OF THE COMMON EXPENSE | | | |
| | | | | Efficency | Approximately 700 s/f One Bedroom | Approximately 970 s/f each. Two Bedroom | Three Bedroom |
| 1. ROOF a. Built-Up | 5 years | 10 | $10, 800. 00 | N/A | 785. 45 | $1, 080. 03 | N/A |
| b. Asphalt Shingles | 5 years | 9 | 7, 175. 00 | N/A | 521. 82 | 717. 49 | N/A |
| 2. ELEVATORS | N/A | N/A | -0- | N/A | -0- | -0- | N/A |
| a. Ductwork & Air Handler | 5 years | 19 | 9, 750. 00 | N/A | 709. 09 | 975. 00 | N/A |
| 3. HEATING & COOLING SYSTEMS b. Compressor | 5 years | 3 | 7, 800. 00 | N/A | 567, 27 | 780. 02 | N/A |
| a. Fixtures | 5 years | 11 | 9, 750. 00 | N/A | 709. 09 | 975. 00 | N/A |
| 4. PLUMBING b. Piping | 5 years | 15 | 13, 000. 00 | N/A | 945. 45 | 1, 300. 03 | N/A |
| 5. BUILDING ELECTRICAL SYSTEMS | 5 years | 25 | 32, 500. 00 | N/A | 2, 363. 64 | 3, 249. 98 | N/A |
| 6. SWIMMING POOL | N/A | N/A | -0- | N/A | -0- | -0- | N/A |
| 7. SEAWALLS | N/A | N/A | -0- | N/A | -0- | -0- | N/A |
| 8. PAVEMENT & PARKING AREAS | 5 years | 17 | 8, 505. 00 | N/A | 618. 54 | 850. 53 | N/A |
| 9. SITE DRAINAGE SYSTEM | N/A | N/A | -0- | N/A | -0- | -0- | N/A |

CASE NUMBER _____

# WOOD-DESTROYING ORGANISM INSPECTION REPORT

HRS Form 1145, Effective 6/28/79

Licensee Name: Rowley's Pest Control — Inspection Date: 7-20-82

Licensee Address: 906 Angle Road Ft. Pierce, Fla. — License No. 1030

Inspector's Name: James D. Powell — I.D. Card No. 7852

Property Address: 715 S. Ocean Dr. Ft. Pierce, Florida

Specific Structure(s) Inspected: Apartments

## SCOPE OF INSPECTION

A trained and qualified representative of this company has conducted a careful inspection of the visible and accessible areas of the structure(s) listed above. This report is made on the basis of what was visible and accessible at the time of the inspection and is not an opinion covering areas such as, but not necessarily limited to, those that are enclosed or inaccessible, areas concealed by wall coverings, floor coverings, furniture, equipment, stored articles, or any portion of the structure in which inspection would necessitate removing of defacing finished wood.

THIS IS NOT A STRUCTURAL DAMAGE REPORT: A wood-destroying organism inspector is not ordinarily a construction or building trade expert and therefore is not expected to possess any special qualifications which would enable him to detect the extent of structural damage. If damage or other evidence of wood-destroying organisms is noted in this report, further investigation by qualified experts of the building trade should be made to determine structural soundness of the property. This is not to be construed to constitute a guarantee of the absence of wood-destroying organisms.

## REPORT OF FINDINGS

(1) Active infestation was observed: Yes ☐ No ☒ _____ (Common name of organisms observed)

Location(s): _____ (Continue on reverse side if necessary)

(2) Other evidence of infestation was observed: Yes ☐ No ☒

Describe other evidence observed: _____ (Continue on reverse side if necessary)

Location(s): _____ (Continue on reverse side if necessary)

(3) Visible damage was observed: Yes ☐ No ☒

Organism(s) causing damage: _____ (Common name of organism(s))

Location(s): _____ (Continue on reverse side if necessary)

(4) This company has treated this property previously: Yes ☐ No ☒

(5) This property shows evidence of previous treatment: Yes ☐ No ☒

(6) This company has treated the structure(s) for the control of: _____ (Common name(s) of organism(s))

by the application of _____ A one year warranty transferable to any subsequent owner was issued for the control of _____ (Common name(s) of organism(s))

and expires _____ (Date)

Neither I nor the firm for whom I am acting have any financial interest in this property, or is associated in any way in this transaction with any party to this transaction, other than as a wood-destroying organism inspector of the structure(s).

Representative Billie Rowley/blc (Licensee or Certified Operator) Date July 21, 1982

HRS Form 1145, Effective 6/28/79

MAIL REPORT TO:

Boardwalk Apts. ATT: Mrs. Sparks
715 S. Ocean Dr.
Fort Pierce, Florida 33450

Basic Charge $ $25.00
Additional Charges $ _____
Total Amount Dues $25.00

INSPECTION ORDERED BY _____ BUYER _____ SELLER _____

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER (SELLER). FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER (SELLER) TO A BUYER.

## PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into by and between K. M. BROOKS and LOUISE M. SPARKS, hereinafter called the "Seller", and

hereinafter called the "Purchaser"; which terms Seller and Purchaser shall include and bind the heirs, executors, legal representatives, successors and assigns of the respective parties hereto whenever the context hereof so requires or admits;

W I T N E S S E T H :

WHEREAS, the Seller is converting to condominium ownership apartments situate in the City of Fort Pierce, State of Florida, known as BOARDWALK CONDOMINIUM, (hereinafter called the "Condominium"), and has submitted or will submit the land upon which such building is located to the condominium form of ownership and use by recordation of a Declaration of Condominium for the Condominium in the public records of St. Lucie County, Florida; and

WHEREAS, the Purchaser will read when available, or has read, the Condominium documents to be submitted, or submitted, by the Seller as required by Florida Statutes 718.503, including a copy of said Declaration of Condominium and all of its exhibits (hereinafter called the "Declaration"); and

WHEREAS, the Purchaser desires to purchase Apartment Unit _____ of the Condominium, all appliances located or to be located therein, and the air conditioning unit serving or to serve said apartment; and

WHEREAS, the Seller does hereby approve of the purchase of said apartment by the Purchaser, and the parties desire to set forth herein all of the terms and conditions of such sale and purchase;

NOW, THEREFORE, in consideration of the mutual promises and undertakings hereinafter set forth, the parties mutually agree as follows:

1. The Seller will sell and convey and the Purchaser will purchase all of that certain property in St. Lucie County, Florida, described as follows:

Apartment Unit _____ of BOARDWALK CONDOMINIUM, hereinafter called the Apartment, according to the Declaration, together with all of the appurtenances to such apartment, including but not limited to automobile parking space _____, all furniture, furnishings, appliances and fixtures located or to be located therein, and the air conditioning unit serving or to serve said apartment.

2. The total purchase price to be paid for the apartment is $_____, payable as follows:

a. The amount of $_____ shall be deposited by the Purchaser with FLOWERS-CULPEPPER REALTY, INC., Registered Real Estate Broker, whose business address is 2011 South 25th Street, Fort Pierce, Florida

Escrow Agent, pursuant to agreement dated _____, and pursuant to the Florida Condominium Act (Chapter 718, Florida Statutes, 1981)

b. The balance is to be paid in cash by the Purchaser to the Seller at the time of closing.

3. Anything herein to the contrary notwithstanding, it is mutually agreed that the purchase and sale contemplated hereby is contingent upon the Purchaser's obtaining a commitment for a mortgage loan to encumber the apartment, in the amount of $_____, which said loan shall be at an annual rate of interest and upon such terms as may be reasonable in St. Lucie County, Florida at the time the application for loan is made. Said commitment for loan is to be obtained within twenty (20) days of the date of this agreement from a lending institution in St. Lucie County, Florida; its purpose is to obtain funds with which to pay such purchase price; and the Purchaser agrees to diligently attempt to obtain said loan. If not obtained within said twenty-day period and such diligent attempt has been made, the Purchaser's deposit will be returned and this agreement shall be null and void and of no further force or effect between the parties hereto. The Seller agrees that it will assist the Purchaser in obtaining mortgage financing on the apartment which is the subject of this contract.

(NOTE: This Paragraph No. 3 shall not be a part of this Agreement unless the amount of loan is specified in full by the Purchaser upon his execution of this Agreement.)

4. All mortgages or liens now or hereafter encumbering the apartment will be discharged or released at or prior to the closing unless assumed by the Purchaser. The Seller will convey by warranty deed a marketable fee simple title to the apartment together with all appliances and fixtures located in the apartment and the air conditioning unit serving the apartment. The title to the apartment will be subject to the following exceptions:

a. The provisions of the Declaration, including all exhibits and changes thereto made prior to the time of delivery of the warranty deed; and all rules and regulations and contracts affecting the property

made by BOARDWALK OWNERS ASSOCIATION, INC., the nonprofit corporation responsible for the operation of the condominium (hereinafter called the "Association"), existing at the time of delivery of the warranty deed.

b. The easements provided for in the Florida Condominium Act (Chapter 718, Florida Statutes, 1981).

c. Restrictions, reservations and easements of record.

d. Such zoning or other restrictions upon the use of the apartment and upon all of the condominium property as may be imposed by governmental authorities having jurisdiction.

e. Taxes for the year in which the sale is closed, if not paid; and for subsequent years.

f. Any mortgage executed by the Purchaser encumbering the apartment.

Any or all of the foregoing exceptions may be omitted from the warranty deed to be delivered hereunder, but all such provisions so omitted shall nevertheless survive delivery of the warranty deed.

5. Real and personal property taxes, less the November discount, will be prorated as of the date of closing; and, if the taxes for the year in which this sale is closed are assessed against the condominium property as a whole, the total amount thereof may be estimated by the Seller and the portion apportioned to the apartment, the appliances and the air conditioning unit shall be the same share as the share of common expenses attributed to the apartment. In such event, the Seller and the Purchaser agree that they will each pay their proportionate share of such taxes. If the amounts of the taxes have not been established as of the date of closing, such prorations and apportionments will be based upon the amounts of the taxes for the previous year.

6. Assessments, if any, for the apartment established by the Association will be prorated between the Seller and the Purchaser as of the date of closing.

7. Subject to those items specified in Item 4 hereof, the title which the Seller obligate themselves to convey to the Purchaser will be marketable and insurable. As evidence of their title and in order to provide title security to the Purchaser, the Sellers agree to provide to the Purchaser at, or immediately following, the closing an Owner Title Insurance Guarantee covering the apartment which is the subject matter of this contract.

8. At or before the closing contemplated hereby, the Purchaser agrees to pay, in addition to the purchase price for the apartment unit, the following:

a. The sum required to record the warranty deed to Purchaser; and

b. All mortgage closing costs, if applicable, pursuant to Paragraph 3 hereof, including the charge of $50 for mortgagee title insurance coverage if the same is required by Purchaser's mortgage lender. Said mortgagee coverage will be issued concurrently with the owner coverage provided for in Paragraph 7 above.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1900
FORT PIERCE, FLORIDA 33454
Telephone (305) 461-5020

Seller shall pay for all documentary stamps to be affixed to the warranty deed at the time of its recording.

9. Unless mutually agreed otherwise, the closing of this sale shall be held no later than thirty (30) days from the effective date of this contract. The effective date of this contract shall be the date upon which Seller furnishes to Purchaser copies of all documents, including the Declaration of Condominium, listed in Florida Statutes §718.503(2), with copies of same having been previously filed by Seller with the Division of Florida Land Sales and Condominiums. Prior to said effective date, this contract shall be voidable by Purchaser. The closing shall be held at the office of the Seller, at the office of the Seller's attorneys, or at the office of the Seller's title insurance agent, or at the office of the mortgagee of any mortgage executed by the Purchaser encumbering said apartment. At such closing, the Purchaser will pay the balance of the purchase price and the Seller will deliver the warranty deed to the Purchaser.

10. In the event the Purchaser fails to take title pursuant to the provisions of this Agreement, the Sellers at their election may terminate same by giving written notice of such termination to the Purchaser. Ten (10) days after the mailing of such notice, this Agreement will become null and void and of no further force or effect.between the parties hereto; and the Seller may retain the deposit, together with interest accrued thereon, as liquidated damages. If the Seller defaults in the performance of this Agreement by failing to convey title pursuant to its provisions, the Purchaser may terminate same by giving written notice of such termination to the Seller. Ten (10) days after the mailing of such notice, the Seller will return the deposit, together with interest accrued thereon, to the Purchaser and this Agreement shall become null and void and of no further force or effect between the parties hereto.

11. THIS AGREEMENT IS VOIDABLE BY PURCHASER BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE PURCHASER, AND RECEIPT BY PURCHASER OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER (SELLER) UNDER SECTION 718.503, FLORIDA STATUTES. PURCHASER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE PURCHASER HAS RECEIVED ALL OF THE ITEMS REQUIRED. PURCHASER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

12. Purchaser acknowledges that Seller has advised that the condominium unit which is the subject matter of this contract is approximately five (5) years of age and has been previously occupied, prior to conversion to condominium ownership, by transient tenants as vacation or seasonal residences.

13. The Purchaser has examined the apartment to be sold, the apartment building within which it is located and all other portions of the condominium property and is familiar or will be familiar in advance of the closing with the physical condition thereof. The Seller does not make any representations as to the physical condition, expense of operation, or any other matter affecting or relating to said property, except as herein, or in the Declaration and in the other documents described in Section 718.503 of the Florida Condominium Act.

14. The Purchaser, by the execution of this Purchase Agreement, acknowledges that he is entitled to a receipt of copies of all documents described in Section 718.503 of the Florida Condominium Act. Such documents include the declaration



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461 5020

of condominium, the documents creating Boardwalk Owners Association, Inc., and the By-Laws for Boardwalk Owners Association, Inc. At the time of delivery of said documents, Purchaser agrees to give a receipt therefor. At closing, the Purchaser will in writing agree to be bound by the provisions of said documents, including the declaration of condominium, and the warranty deed conveying the apartment to the Purchaser will contain an acknowledgment that the conveyance is subject to the provisions of said documents. Further, the Purchaser will, in writing at the closing, ratify, confirm and approve all of the provisions of said documents and will agree to be bound thereby; Purchaser will impress a lien upon the apartment, as security for his obligations as described in the declaration and its exhibits and will acknowledge and agree that said documents and this Purchase Agreement contain all of the warranties, representations and inducements concerning the purchase by Purchaser of the apartment.

15. Wherever the context hereof so permits, the use of plural will include the singular, the singular the plural, and the use of any gender will be deemed to include all genders.

16. The delivery of any item and the giving of any notice in compliance with this Agreement shall be accomplished by personal delivery of the item or notice to the party intended to receive it, or by mailing it to the address of the party as stated in this Agreement, by registered or certified mail, return receipt requested. It shall be the obligation of Purchaser to insert his correct mailing address in the place specified below. Notice or delivery by mail shall be effective when mailed.

17. The effective date of this Agreement shall be regarded as the date when the last one of the Seller and Purchaser has signed this agreement.

18. Special Clauses: _____

_____

_____

_____

_____

IN WITNESS WHEREOF, the parties hereto have cause this Agreement to be executed on the dates as set forth below.

Executed by the Seller on _____, 19___.

WITNESSES:

_____

_____
As to Sellers

_____(Seal)
K. M. BROOKS

_____(Seal)
LOUISE M. SPARKS
"SELLER"

Executed by Purchaser on _____, 19___.

WITNESSES:

_____

_____
As to Purchasers

_____(Seal)

_____(Seal)
"PURCHASER"

Purchaser's Mailing Address: _____

_____



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

WARRANTY DEED

THIS WARRANTY DEED made and executed this _____ day of _____, 19_____, by K. M. BROOKS and LOUISE M. SPARKS, hereinafter called the Grantor, to

_____

_____

whose post office address is _____

_____

hereinafter called the Grantee, which terms "Grantor" and "Grantee" shall include all the parties to this instrument, and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain real property situate in St. Lucie County, Florida, viz:

Apartment Unit _____ of BOARDWALK CONDOMINIUM, according to the Declaration of Condominium and all exhibits thereto dated _____, recorded _____, in Officiel Record Book _____, pages _____ through _____ of the public records of St. Lucie County, Florida;

TOGETHER WITH:

1. All of its appurtenances, according to said Declaration of Condominium and all of its exhibits, including automobile parking space _____, and all of the tenements, hereditaments and other appurtenances thereunto belonging or in anywise appertaining.

2. All furniture, furnishings, appliances and fixtures now situate in said apartment.

SUBJECT, HOWEVER, to the following:

1. The provisions of the Declaration, including all exhibits, and all rules and regulations affecting the property made by Boardwalk Owners Association, Inc., the nonprofit corporation responsible for the operation of the condominium.

2. The easements provided for in the Declaration or its exhibits or in the Condominium Act of the State of Florida, Chapter 718, Florida Statutes, 1981.

3. Restrictions, reservations and easements of public record.

4. Such zoning and other restrictions upon the use of the apartment and upon all of the condominium property as may be imposed by Governmental authorities having jurisdiction.

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

5. Taxes for the current year.

6. That certain mortgage from the grantee hereof to

_____

in the original principal sum of $_____, dated _____, recorded in O. R. Book _____ at page _____ of the public records of St. Lucie County, Florida. (This Item 6 shall not be a part of this warranty deed unless all required information is inserted in the blanks provided.)

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said real property in fee simple; that the Grantor has good right and lawful authority to sell and convey said real property; that the Grantor hereby fully warrants the title to said real property and will defend the same against the lawful claims of all persons whomsoever; that said real property is free and clear of all encumbrances except taxes accruing subsequent to December 31, 19___.

AND, the Grantor further grants to Grantee an implied warranty of fitness and merchantability for the purposes and uses intended, as to the roof and structural components of the improvements and as to mechanical, electrical and plumbing elements serving the improvements, excepting mechanical elements serving only a unit other than the one hereby conveyed, for a term of three (3) years from the recording of the Declaration of Condominium for Boardwalk Condominium.

IN WITNESS WHEREOF, the said Grantor has executed this deed the day and year first above written.

WITNESSES:

_____ _____(Seal)
K. M. BROOKS

_____ _____(Seal)
LOUISE M. SPARKS

STATE OF FLORIDA
COUNTY OF ST. LUCIE

The foregoing instrument was acknowledged before me this _____ day of _____, 198___, by K. M. BROOKS and LOUISE M. SPARKS.

_____
Notary Public, State of Fla. at Large
My Commission Expires:_____

THIS INSTRUMENT WAS PREPARED BY:

FRANK H. FEE, III, Esquire, of
FEE, FEE, KOBLEGARD, TEEL & KENNEY, P.A.
P. O. Box 1000
Fort Pierce, FL 33454
(305)461-5020

RATIFICATION BY GRANTEE

THE UNDERSIGNED, as Grantee in the foregoing Condominium Warranty Deed, hereby acknowledges receipt of all documents described in Section 718.503 of the Florida Condominium Act. The undersigned hereby ratify, confirm and approve all of the provisions of said documents and agree to be bound thereby. The undersigned hereby impress a lien upon the apartment described in the foregoing warranty deed, as security for the obligations as described in the Declaration and its exhibits, and they acknowledge and agree that said documents together with any prior purchase contract contain all of the warranties, representations and inducements concerning the purchase by grantee of the described apartment.

Witnesses:

_____ _____

_____ _____

_____

STATE OF FLORIDA

COUNTY OF ST. LUCIE

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by

_____.

_____
Notary Public, State of Fla. at Large
My Comm. Expires:_____

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

# RULES & REGULATIONS
# of
# 715 South Ocean Drive Unit E, Fort Pierce, Florida 34949

-Remove all trash and dispose of in the dumpster located in the back-parking lot

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in assigned parking space labeled “E” or “Guest”

-Do not litter

-Wash sand off at the front hose to prevent drain clogs.

-Do not leave air conditioning on with windows and or doors open.

-Do not set A/C lower than 69 Degrees and return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to condo except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the condo with the sand washed of prior to condo entry.

- Do not give out assigned door code to any party not staying in the condo.

-No Running in common areas or stairwells.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-Use pedestrian crosswalks to cross the street to the beach.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

## Helpful Hints:

1. You enter the access code to unlock the door and when leaving just press the lock icon to lock. The door code will be set to the last four digits of your phone number. Code also control alarm system.

2. The kitchen is fully equipped, please feel free to use pots, pans, dishes, appliances (toaster, waffle maker, George Foremen grill, rice maker, blender, etc under cabinet). Help yourself to coffee -there is creamer available in the refrigerator.

3. There are games in the dining area in the drawers of the coffee bar and underneath. Also, you may help yourself to any of the books in the condo.

4. Bath towels are available in the linen closet. Soap, shampoo and conditioner are also provided. Extra blankets are in bedroom basket and closet.

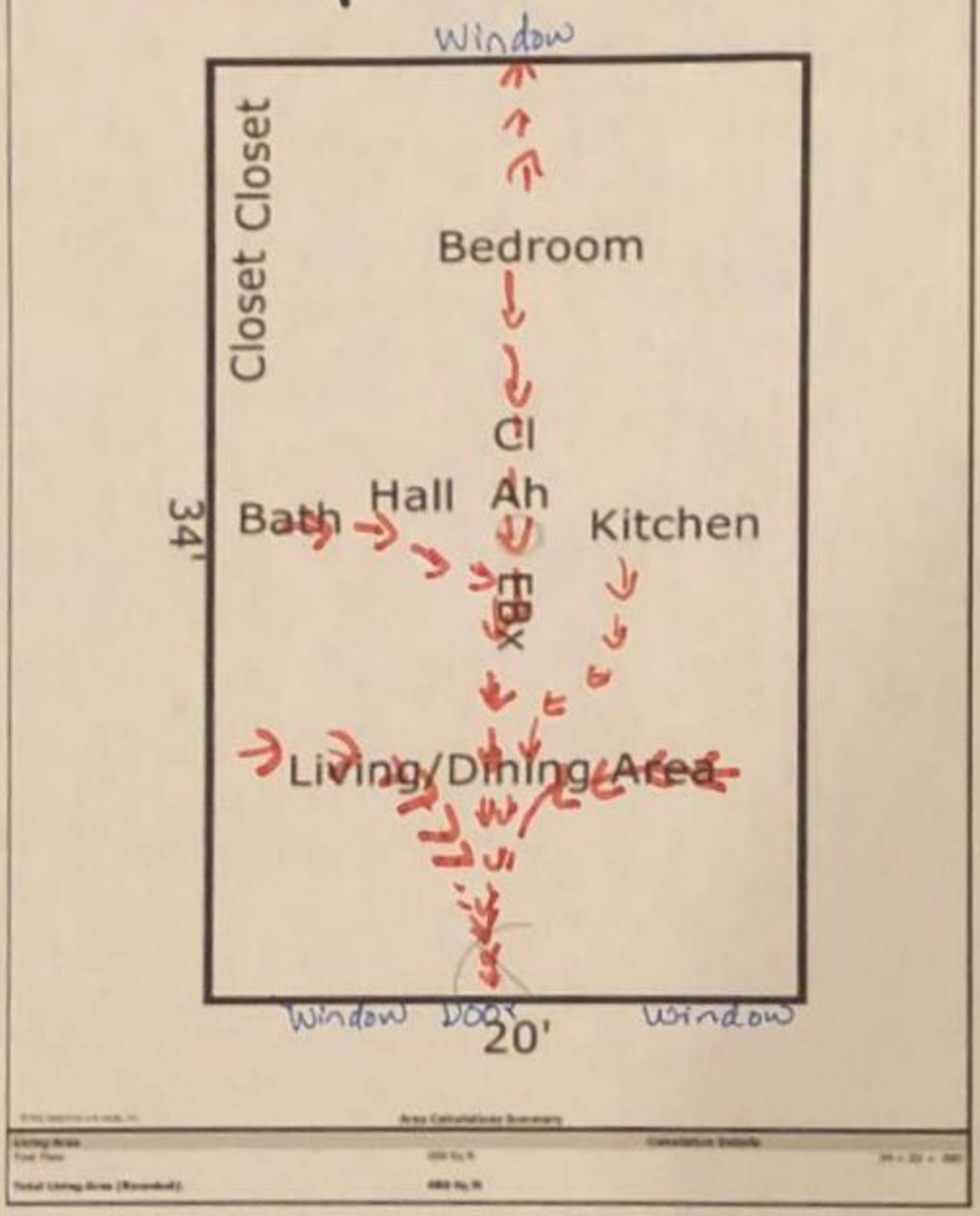
5. The bedroom closet has beach chairs, umbrellas, beach towels, and blankets for your use. Please do not take the bath towels onto the beach

6. Please leave dirty laundry in hamper in closet.

7. If you are a great cook (like me) and burn something, open door to air out- There is a smoke detector in the kitchen but if it goes to the hallway, that smoke detector will dispatch the fire department.

8. Contact me when checking out so that I may set the alarm, ordering cleaning, and send back the deposit.

# Fire Escape Route




Floor Plan for 715 South Ocean Drive, Unit E, Fort Pierce, Florida 34949

## Uses

Bedroom – rest/lounge
Bath - bodily care
Closet - storage
Living Room - lounge / entertainment
Kitchen - cooking / food prep
Dining Area - eating / entertainment

# VACATION RENTAL SHORT TERM LEASE AGREEMENT

This Vacation Rental Short Term Lease Agreement (this "Agreement") is made by and between Tiffany Wright Ofeimu ("Owner") and _____ ("Guest") as of the date last written on the signature page of this Agreement. Owner and Guest may be referred to individually as "Party" and collectively as "Parties." For good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

**1. Property.** The property is described as a condominium with one (1) bedrooms and one (1) bathrooms located at 715 South Ocean Dr Unit E, Fort Pierce, FL 34949 (the "Property"). The Property is owned by Owner. The Property is fully furnished by Owner and equipped for light housekeeping. The following amenities are included in the Property:

- microwave, stove, refrigerator
- small kitchen appliances, pots/pans, cooking utensils, dishes, silverware
- wifi
- bed and bath linens
- Beach towels, chairs, umbrellas
- books and games

A starter supply of household cleaning and hygiene products may be available in the Property for use. Guest is responsible for purchasing any additional supplies and all food and beverages.

**2. Rental Party.** All persons in the rental party will be bound by the terms of this Agreement. Only persons listed on this Agreement may stay in the Property. "Rental Party" means Guest plus the following persons:

| First Name & Last Name | Relationship to Guest |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

The total number of adults in the Rental Party will be _____2___. The total number of children in the Rental Party will be ____0_____.

**3. Maximum Occupancy.** The maximum number of persons allowed to stay in the Property is limited to two (2), unless the Owner gives its prior written consent. A charge of _____NA_____ per person per night will be assessed for each person who stays in the Property in addition to the Rental Party. Guest will be charged without notice for additional persons staying in the Property and not disclosed to Owner.

**4. Visitors.** A visitor is an occupant of the Property who is not staying overnight. The total number of persons permitted in the Property at any given time, including visitors, is five (5). Any visitor staying

overnight is subject to additional charges. No visitor will be allowed to use the common facilities, including any pools or tennis courts, when Guest is not on the Property.

**5. Rental Period & Check-In.** The term of this lease will be from _____("Arrival Date") to _____("Departure Date"). The Property will be ready for Guest's occupancy beginning at 3pm on the Arrival Date and the Property must be vacated by 11am on the Departure Date, unless otherwise agreed by Owner. If Guest or any member of the Rental Party remains on the Property beyond the Departure Date, Guest will be responsible to pay the rental rate prescribed in Section 8 below for the period of time between Departure Date and the actual date Guest and all members of the Rental Property vacate the Property. The Property requires a two (2) night minimum stay.

**6. Keys & Access Codes.** Owner will provide Guest with door and alarm access codes to the rental. Code is _____.

**7. Rental Rules & Restrictions.** Guest agrees to abide by the Rules and Regulations of Boardwalk Condominium and any other restrictions imposed by Owner (the "Rules"), attached to this Agreement as Exhibit A, at all times while on the Property and will cause all persons in the Rental Party and any visitors that Guest permits on the Property to abide by the Rules while on the Property. In addition, Guest agrees to abide by the following restrictions by Owner:

(A) Follow all city, state, and federal laws.
(B) No smoking in unit
(C) Pets only with approval

If any person in the Rental Party fails to follow any of the Rules, the Rental Party may be asked to vacate the Property and Guest will forfeit all rent paid.

**8. Reservation Deposit and Payment.** Guest agrees to pay the rent and fees described below (the "Total Amount Due"). A deposit in the amount of _____ (the "Reservation Deposit") is due and payable upon return of this signed Agreement in order to secure Guest's reservation. The Reservation Deposit is non-refundable and will be applied toward the rental rate. Payment in full of the following fees, less the Reservation Deposit, will be due within _____ days before the Arrival Date.

| | |
|---|---|
| Rental rate of 300 PER WEEK x 3 WEEKS | _____ |
| Cleaning service fee | _____ |
| Security Deposit | _____ |
| State and local sales/rental taxes (_EXEMPT___) | _____ |
| **Total Amount Due** | **_____** |
| (Less reservation deposit due immediately) | (_____) |
| **Total Balance Due** | **_____** |

Acceptable payment methods are:

- Electronic payment (PayPal, Zelle, Venmo, or CashApp) orcashier check

Checks should be made payable to: Tiffany Wright Ofeimu and sent to: 3122 Winchester Rd, West Bloomfield, MI 48322. A fee of $50.00 will be charged to Guest for dishonored checks.

**9. Security Deposit.** Owner reserves the right, at its discretion, to charge a security deposit at the time of reservation in the amount of $_____. This deposit will be refunded after Guest's departure and an inspection of the Property by Owner, less any deductions for damage to the Property or furnishings, excessive mess requiring additional cleaning or other costs incurred outside the normal course due to Guest's stay.

**10. Cancellation.** If Guest cancels the reservation less than five (5) days before the Arrival Date, the Total Amount Due will be forfeited.

**11. Cleaning.** Daily housekeeping services are not included in the rental rate. Throughout the rental period, Guest will be responsible for keeping the Property clean and in good condition. Any unsafe or dangerous condition must be reported to Owner immediately. Guest acknowledges that on the Arrival Date, the Property is in good condition, except for any defect Guest may report to Owner by the end of the first day following the Arrival Date. The Property should be left in the same condition as it was found by Guest on the Arrival Date. Guest promises to leave the Property in good repair. A cleaning fee of $200 will be charged to the Guest if you is left in poor condition.

**12. Furnishings.** The following furnishings will be provided with the Property:

- Fully furnished and equipped condo

Furnishings are subject to change without notice. Furniture, bedding, kitchen equipment, utensils, and any other personal property supplied with the Property must not be removed from the Property. Loss of any items within the Property or damage to the Property or furnishings in excess of normal wear and tear will be charged to Guest. The Property will be inspected by Owner after Guest's departure. All contents of the Property are the property of Owner. If an item should break, Guest must notify Owner immediately. Guest is not permitted to alter the wiring of any television, computer, or gaming equipment.

**13. Parking.** Parking is limited to one (1) spaces. Guest may only park in designated parking area-E. Any illegally parked cars may be subject to towing and/or fines.

**14. Mechanical Failures.** Owner attempts to properly maintain the Property. While all electrical and mechanical equipment within the Property are in good working order, Owner cannot guarantee against mechanical failure of electrical service, stopped plumbing, water supply, heating, air conditioning, audio visual equipment, internet access, cable service, or appliances. Guest agrees to report any inoperative equipment or other maintenance problem to Owner immediately. Owner will make every reasonable effort to have repairs done quickly and efficiently. Guest will allow Owner or a person permitted by Owner access to the Property for purposes of repair and inspection. Owner is not responsible for any inconvenience that may occur and no refunds or rent reductions will be made due to failure of such items.

**15. Acts of God.** If there is a storm or severe weather and a mandatory evacuation order is issued by state or local authorities, Guest shall be entitled to a prorated refund for each night Guest is unable to

occupy the Property. Owner will not be liable or deemed in default under this Agreement for any failure to perform or delay in performing any of its obligations due to or arising out of any act not within its control, including, without limitation, acts of God.

**16. Limitation on Liability.** Owner is not responsible for any accidents, injuries or illness that occur to any member of the Rental Party or Guest's visitors while in the Property or on the Property. Owner is not responsible for loss of personal belongings or valuables belonging to any member of the Rental Party or any of Guest's visitors. Guest agrees to assume the risk of any harm arising from use of the Property. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE, SHALL OWNER BE LIABLE TO GUEST OR ANY OTHER PERSON FOR ANY DAMAGES OF ANY NATURE WHATSOEVER INCLUDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR GUEST'S RENTAL OF THE PROPERTY OR USE OF THE PROPERTY. IN NO EVENT WILL OWNER BE LIABLE FOR ANY DAMAGES IN CONNECTION WITH THIS AGREEMENT, EVEN IF OWNER SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE.

**17. Indemnification.** Guest acknowledges that the use of the Property by the Rental Party and Guest's visitors is entirely at their own risk. Guest will indemnify and hold harmless Owner from any and all expenses, costs, damages, suits, actions, or liabilities whatsoever arising from or related to any and all loss of or damage to personal property, injury or death resulting from the use or occupancy of the Property or the failure of any member of Rental Party or Guest's visitors to observe the Rules and restrictions set forth in Paragraph 7.

**18. Violation of Agreement.** If Guest or any member of the Rental Party violates any of the terms of this Agreement, including but not limited to maximum occupancy, visitors and rental rules and restrictions, Owner may evict Guest and the Rental Party from the Property and Guest will forfeit all rent and security deposit paid.

**19. Governing Law.** This Agreement and all transactions contemplated by this Agreement will be governed by, and constructed and enforced in accordance with the laws of the State of Florida (not including its conflicts of laws provisions). Any dispute arising from this Agreement shall be resolved through mediation. If the dispute cannot be resolved through mediation, then the dispute will be resolved through binding arbitration conducted in accordance with the rules of the American Arbitration Association.

**20. Amendments.** This Agreement may be amended or modified only by a written agreement signed by both Owner and Guest.

**21. No Waiver.** Neither Owner nor Guest shall be deemed to have waived any provision of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly and in writing.

**22. Severability.** If any provision of this Agreement is held to be invalid or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid and enforceable as though the invalid or unenforceable parts had not been included in this Agreement.

**23. Notices.** Any notice or communication under this Agreement must be in writing and sent via one of the following options:

- electronic email transmission

**24. Successors and Assigns.** This Agreement will inure to the benefit of and be binding upon Owner, its successors and assigns, and upon Guest and its permitted successors and assigns.

**25. Entire Agreement.** This Agreement and Exhibit A represents the entire understanding and agreement between the Parties with respect to the subject matter of this Agreement and supersedes all other negotiations, understandings and representations (if any) made by and between the Parties.

## SIGNATURES

| | |
|---|---|
| **Owner** Signature | **Guest** Signature |
| Tiffany Wright Ofeimu | |
| **Owner** Name | **Guest** Name |
| Date | Date |

# EXHIBIT A
# RULES & REGULATIONS
# of
# 715 South Ocean Drive Unit E, Fort Pierce, Florida 34949

-Remove all trash and dispose of in the dumpster located in the back-parking lot

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in assigned parking space labeled “E” or “Guest”

-Do not litter

-Wash sand off at the front hose to prevent drain clogs.

-Do not leave air conditioning on with windows and or doors open.

-Do not set A/C lower than 69 Degrees and return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to condo except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the condo with the sand washed of prior to condo entry.

- Do not give out assigned door code to any party not staying in the condo.

-No Running in common areas or stairwells.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-Use pedestrian crosswalks to cross the street to the beach.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

## Helpful Hints:

1. You enter the access code to unlock the door and when leaving just press the lock icon to lock. The door code will be set to the last four digits of your phone number. Code also control alarm system.

2. The kitchen is fully equipped, please feel free to use pots, pans, dishes, appliances (toaster, waffle maker, George Foremen grill, rice maker, blender, etc under cabinet). Help yourself to coffee -there is creamer available in the refrigerator.

3. There are games in the dining area in the drawers of the coffee bar and underneath. Also you may help yourself to any of the books in the condo.

4. Bath towels are available in the linen closet. Soap, shampoo and conditioner are also provided. Extra blankets are in bedroom basket and closet.

5. The bedroom closet has beach chairs, umbrellas, beach towels, and blankets for your use. Please do not take the bath towels onto the beach

6. Please leave dirty laundry in hamper in closet.

7. If you are a great cook (like me) and burn something, open door to air out- There is a smoke detector in the kitchen but if it goes to the hallway, that smoke detector will dispatch the fire department.

8. Contact me when checking out so that I may set the alarm, ordering cleaning, and send back the deposit.

**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards**

**Lead Warning Statement**

*Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.*

**Owner's Disclosure**

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

i) ____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).
(ii) _x___ Owner has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the Owner (check (i) or (ii) below):

(i) ____ Owner has provided Guest with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).
(ii) _x___ Owner has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Guest's Acknowledgment** (initial)

(c) _____ Guest has received copies of all information listed above.

(d) _____ Guest has received the pamphlet Protect Your Family from Lead in Your Home.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

| | Tiffany Wright Ofeimu | |
|---|---|---|
| Signature of **Owner** | Name of **Owner** | Date |
| Signature of **Guest** | Name of **Guest** | Date |

# Property Management Agreement

This Agreement is entered between Tiffany Wright Ofeimu (Owner) and Alex Saffron (Property Manager) for the property management of 715 S. Ocean Drive, Unit E, Fort Pierce, FL 34949. Alex Saffron agrees to go on record with City of Fort Pierce as the Property Manager and carry out the duties as needed.

As Property Manager, the following responsibilities are included:

1. Ensure proper response and resolution to complaints and violations of city code.
2. Make basic repairs as needed and/or coordinate the appropriate repair company.
3. Respond to emergencies of guests. Phone number will be displayed in unit.
4. General safety maintenance – i.e.. check fire alarms, change filters
5. Notify owner if out of town during a guest stay.
6. Assist with check in/check out as needed.

In exchange for these duties, Property Manager will be paid for services and any materials. These payments will be mutually agreed on prior to the services rendered.

Signed on: April 9, 2020

Tiffany M. Wright Ofeimu signed electronically 4/9/2020 11:55am

Tiffany M. Wright Ofeimu (Owner)
3122 Winchester Rd.
West Bloomfield, MI 48322

Alex Saffron (Property Manager)
7402 Santa Rosa Pkwy.
Fort Pierce, Fl 34951

## RULES & REGULATIONS of 715 South Ocean Drive Unit D, Fort Pierce, Florida 34949:

-Remove all trash and dispose of in the dumpster located in the back-parking lot

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in assigned parking space labeled “D” or “Guest”

-Do not litter

-Wash sand off at the front hose to prevent drain clogs.

-Do not leave air conditioning on with windows open.

-Return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to condo except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the condo with the sand washed of prior to condo entry.

- Do not give out assigned door code to any party not staying in the condo.

-No Running in common areas or stairwells.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-Use pedestrian crosswalks to cross the street to the beach.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

# Are there any exceptions to the requirement that a Florida property manager have a broker's license?

YES. For example, if a property owner employs someone to manage their property, and that employee is paid a salary, as opposed to being paid a commission or on a transactional basis, a broker's license is not required.

For more information about these and other Florida property management requirements and exceptions, please contact the Florida Real Estate Commission.

Before hiring a property manager to manage your Florida rental property, you should always check that he or she is licensed appropriately. You can check the license status of Florida property managers at the Florida Department of Business and Professional Regulation's Licensee Search webpage.

# Florida Community Association Manager License Requirements

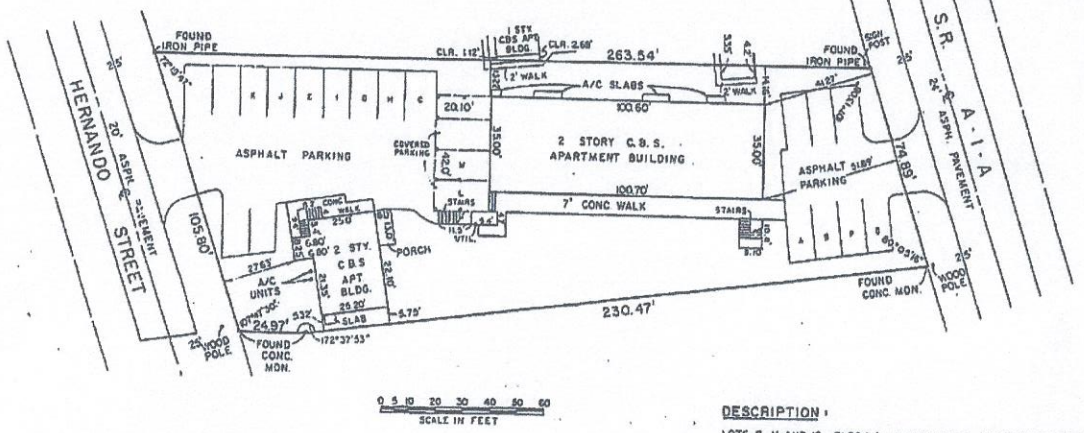
Florida community association manager licensing requirements include:

- Age: Must be at least 18 years of age
- Education: Must complete at least 18 hours of pre-licensure education from an approved provider
- Trustworthiness: Must be of good moral character; must have a background check and submit fingerprints
- Exam: Pass the CAM exam. The exam fee is $73.00
- License fee: $105
- Application: Complete and submit CAM license application which is available online

For more information about these and other Florida licensing requirements, please contact the Florida Real Estate Commission.

NOTES:

1. ALL IMPROVEMENTS SHOWN ARE EXISTING.
2. ALL AREAS OUTSIDE OF CONDOMINIUM UNIT BOUNDARIES ARE COMMON AREAS OR LIMITED COMMON AREAS.




## BOARDWALK CONDOMINIUM

EXHIBIT B(1) TO THE DECLARATION OF CONDOMINIUM OF BOARDWALK CONDOMINIUM

**DESCRIPTION:**

LOTS 9, 11 AND 12, BLOCK 8, OCEAN VIEW, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 61, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.

**CERTIFICATION**

THE UNDERSIGNED, A SURVEYOR, DULY AUTHORIZED TO PRACTICE UNDER THE LAWS OF THE STATE OF FLORIDA HEREBY CERTIFIES THAT THE CONSTRUCTION OF THE IMPROVEMENTS DESCRIBED IS COMPLETE SO THAT SUCH MATERIAL, I.E. EXHIBIT B (1), TOGETHER WITH THE PROVISIONS OF DECLARATION, DESCRIBING THE CONDOMINIUM PROPERTY, IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THE IDENTIFICATION, LOCATION AND DIMENSIONS OF THE COMMON ELEMENTS AND OF EACH UNIT CAN BE DETERMINED FROM THESE MATERIALS.

ARTHUR V STROCK & ASSOCIATES, INC.

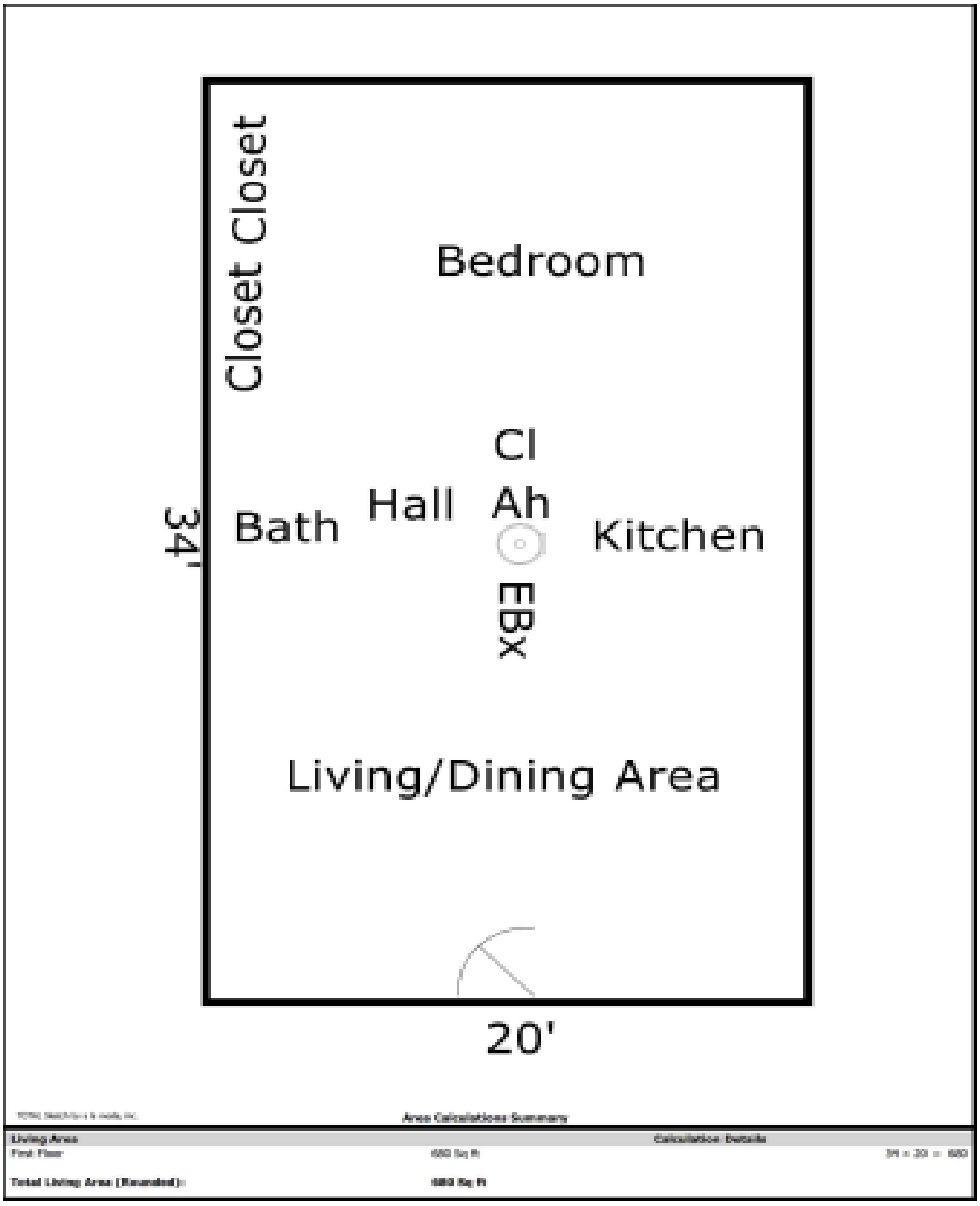
CARL DE SHAY
REGISTERED LAND SURVEYOR NO. 3477
STATE OF FLORIDA

Arthur V. Strock & Associates, Inc.
engineers • planners • surveyors deerfield beach • delray beach, fla.

PROJECT: BOARDWALK CONDOMINIUM
DRAWING NUMBER: 345 pg. 1
DATE: 5-18-82
DRAWN BY: JS
CHECKED BY:
SCALE: 1" = 30'
JOB NO. 82 price 00

EXHIBIT B(1)

Floor Plan for 715 South Ocean Drive, Unit E, Fort Pierce, Florida 34949



BOARDWALK CONDOMINIUM

TABLE OF CONTENTS


I. Declaration of Condominium

Exhibit A - Surveyor's Certificate

Composite
Exhibit B - Survey and Plot Plan and Floor Plans

Exhibit C - Division of Common Elements

Exhibit D - Owner's Association Charter

Exhibit E - Owner's Association By-Laws

II. Estimated Operating Budget

III. Building Inspection Report of James Bushouse & Associates, Inc., Engineers

IV. Termite Report of Rowley's Pest Control

V. Purchase Agreement

VI. Unit Warranty Deed



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020


dominguez 100

DECLARATION OF CONDOMINIUM

OF

BOARDWALK CONDOMINIUM

K. M. BROOKS and LOUISE M. SPARKS, for themselves, their successors, grantees and assigns, being the owners of the fee simple title to the following described real property in St. Lucie County, Florida, (hereafter referred to as the "Land"):

Lots 8, 11 and 12, Block 8, OCEAN VIEW, a Subdivision according to the plat thereof recorded in Plat Book 6, page 61, of the public records of St. Lucie County, Florida

hereby submit the Land and the improvements thereon in fee simple to condominium ownership pursuant to the provisions of Chapter 718, Florida Statutes, hereinafter referred to as the "Condominium Act", in existence as of the date of this Declaration, upon the terms, conditions, restrictions, reservations and limitations hereinafter set forth.

NOW, THEREFORE, K. M. BROOKS and LOUISE M. SPARKS make the following declarations:

1. STATEMENT OF PURPOSE. The purpose of this Declaration is to submit the Land and the improvements thereon to the condominium form of ownership and use in the manner provided in the Condominium Act. Except where variances permitted by law appear in this Declaration, in the exhibits attached hereto, or in lawful amendments to any of them, the provisions of the Condominium Act as constituted on the date of this Declaration, including the definitions therein contained, are adopted and included herein by express reference. All restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, and shall rule perpetually unless terminated as provided herein, and shall be binding upon all unit owners. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, and all exhibits hereto. Both the burdens imposed and the benefits provided shall run with each unit and the interests in the common elements appurtenant thereto, as defined herein.

1.1 Name and Address. The name by which this Condominium is to be known and identified is BOARDWALK CONDOMINIUM, and its address is 715 South Ocean Drive, Fort Pierce, Florida.

1.2 The Land. The legal description of the Land, which is hereby being submitted to condominium ownership, is as described in the introductory paragraph hereof.

2. DEFINITIONS. As used herein, in the exhibits attached hereto, and in all amendments hereto, unless the context requires otherwise:

2.1 Assessment means a share of the funds required for the payment of common expenses, which from time to time is assessed against the unit owners.

2.2 Association means BOARDWALK OWNERS ASSOCIATION, INC., the entity responsible for the operation of this Condominium.

2.3 Board of Directors means the representative body responsible for the management of the Condominium and business of the Association.

2.4 By-Laws means the By-Laws of the Association, as they exist from time to time. A copy of the By-Laws is attached hereto as Exhibit E, and incorporated herein by reference.

2.5 Common Elements means the portions of the condominium property (including the tangible personal property required for the maintenance and operation of the condominium property) not included in the units.

2.6 Common Expenses means all expenses and assessments properly incurred by the Association for the Condominium and includes, but is not limited to: the expenses of administration and maintenance, operation, repair and replacement of the common elements and of the portions of units to be maintained by the Association; taxes, special assessments and insurance for the common elements; other expenses declared to be common expenses herein and in the By-Laws; and any other valid charge against the Condominium as a whole.

2.7 Common Surplus means the excess of all receipts of the Association, including but not limited to, assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

2.8 Condominium means all of the condominium property as a whole when the context so permits, as well as that form of ownership of real property which is comprised of units that may be owned by one or more persons, and in which there is appurtenant to each unit an undivided share in the common elements.

2.9 Condominium Act means Chapter 718, Florida Statutes, in existence as of the date of this Declaration.

2.10 Condominium Parcel means a unit, together with the undivided share in the common elements which is appurtenant to the unit.

2.11 Condominium Property means and includes the land hereby submitted to the condominium form of ownership, all improvements thereon, and the common elements; and all easements and rights appurtenant thereto.

2.12 Declaration or Declaration of Condominium means this intrument as it may from time to time be amended.

2.13 Developer means K. M. BROOKS and LOUISE M. SPARKS, their heirs, personal representatives and assigns, and whoever offers for sale condominium parcels created herein in the ordinary course of business; except the term shall not include the owners of units who have not acquired all the right, title and interest of K. M. BROOKS and LOUISE M. SPARKS, in the condominium property.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

2.14 Institutional Mortgagee means a bank, bank holding company, or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company approved by Developer, its successor, grantees or assigns, agency of the United States Government, or Developer, its grantees, successors and assigns holding a first mortgage of public record on a condominium parcel or on any portion of the condominium property.

2.15 Land means the real property in St. Lucie County, Florida, which is being submitted to condominium ownership, and is more particularly described in the introductory paragraph hereof.

2.16 Limited Common Elements means those common elements which are reserved for the use of a certain unit to the exclusion of other units, and for all purposes herein shall be treated as common elements as to the unit for which they are reserved.

2.17 Occupant means the person or persons, other than the unit owner, in possession of a unit or limited common elements.

2.18 Special Assessment means a share of the funds required for payment of common expenses which are unbudgeted or for which insufficient provision is made in the budget, occasioned for unforeseeable and fortuitous events, which from time to time may be assessed against the unit owners.

2.19 Unit or Residential Unit means a part of the condominium property which is subject to private ownership, to be used as a single family residence and as designated on the exhibits attached to this Declaration.

2.20 Unit Owner means the owner of a condominium parcel.

2.21 Singular, Plural, Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

3. DEVELOPMENT PLAN AND IDENTIFICATION OF UNITS. The condominium property consists of the land, all easements and rights appurtenant thereto, and the buildings constructed thereon, comprising in total the units, common elements and limited common elements. The improvements on the land consist of two (2) 2-story buildings in which all of the units are located. One building, containing eleven (11) units, possesses five (5) units on the first floor (Units A through E, inclusive), and six (6) units on the second floor (Units F through K, inclusive). The second 2-story building contains two (2) units, Unit M on the first floor, and Unit L on the second floor. The condominium has thirteen (13) units in total.

The units have been created through the conversion of existing improvements to the condominium form of ownership. All units have been previously occupied, for the most part by transient tenants as vacation or seasonal residences.

3.1 Designation of Units. Each unit in the two (2) buildings of the condominium is designated alphabetically by letter, A through M, inclusive, for a total of thirteen (13) units. No unit bears the same alphabetical designation as any other unit.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

3.2 Unit Boundaries.

(a) Each unit shall have as its boundary lines the interior unpainted finished surfaces of the ceiling, floor, and perimeter walls. All weight bearing walls and solid concrete columns located within a unit constitute part of the common elements up to the unpainted finished surface of the walls and columns. All doors, glass or otherwise, and screening which are part of or in the perimeter walls of a unit shall be deemed a part of the unit up to the exterior unfinished surface thereof.

(b) All pipes, wires, conduits and other utility lines, regardless of location, constitute part of the common elements, up to their outlets.

(c) The screened porch of any unit is a part of that unit. The boundary lines of each such screened porch are the interior vertical and horizontal surfaces thereof, and the exterior unpainted finished surface of the perimeter baluster or wall of any screened porch, but the Association, and not the unit owners, shall maintain and repair the exterior baluster or wall of any screened porch. The planes of all boundaries shall be extended to the point of intersection with other boundaries, if necessary.

(d) The ventilation chases and plumbing chases located within a unit are common elements. The boundary lines of each chase shall be the exterior unpainted surfaces thereof.

4. COMMON ELEMENTS. The common elements of the condominium consist of the Land and all other parts of the Condominium Property not within the apartments, including all tangible personal property used in the maintenance and operation of the condominium. Included within the meaning of Common Elements are the following:

(a) The ventilation chases, plumbing chases, and concrete columns within the units;

(b) Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common elements;

(c) An easement of support in every portion of a unit which contributes to the support of the building;

(d) Installations for the furnishing of utility and other service to more than one unit or to the common elements or to a unit other than the unit containing the installation; and

(e) The condominium property which is not included within the units.

5. LIMITED COMMON ELEMENTS. Those areas reserved for the use of a certain unit to the exclusion of other units are designated as limited common elements, and are shown and located on Exhibit B, attached hereto. The limited common elements include the parking space serving a unit, air-conditioning and heating equipment servicing a unit and located outside of that unit, including air-conditioning compressors and ducts located outside the unit served.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

5.1 Responsibility of Unit Owners. The unit owner who has the right to the exclusive use of a limited common element, other than paved parking spaces, shall be responsible, at his cost and expense, for the maintenance, care, and preservation of the limited common element. The Association shall maintain and repair the exterior of the balusters or walls of the screened porches.

5.2 Responsibility of Association. Except as provided in 5.1 above and as elsewhere provided herein, any expense for the maintenance, repair or replacement relating to common elements shall be treated and paid for as a part of the common expenses of the Association. Should any maintenance, repair or replacement be caused by the negligence or misuse by a unit owner, his family, guests, employees, and licensees, he shall be responsible therefor, and the Association shall have the right to levy an assessments against the owner's unit, which assessment shall have the same force and effect as all other assessments.

6. SURVEY, SITE PLAN AND GRAPHIC DESCRIPTION OF IMPROVEMENTS. Attached hereto as composite Exhibit B is a survey of the Land, graphic descriptions of the improvements in which units are located, a Plot Plan locating the common elements and limited common elements, and floor plans and cross sections for the units in the Condominium.

6.1 Surveyor's Certificate. Attached hereto as Exhibit A and incorporated herein by reference is the certificate of a surveyor authorized to practice in Florida certifying that the construction of the improvements is substantially complete so that Composite Exhibit B, together with the provisions of this Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location and dimensions of the common elements and of each unit can be determined from these materials.

7. POSSESSION AND ENJOYMENT OF CONDOMINIUM PARCELS AND APPURTENANCES.

7.1 Condominium Parcels. Each condominium parcel is a separate parcel of real property, the ownership of which shall be in fee simple. Each condominium parcel includes the unit, the undivided share of the common elements which is appurtenant to that unit, and the interest of the unit in the limited common elements appurtenant thereto.

7.2 Appurtenances. There shall pass with each unit as appurtenances thereto, the following:

(a) An undivided share in the common elements;

(b) An undivided share in common surplus;

(c) An exclusive easement for the use of air space occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time;

(d) Membership of each unit owner in the Association and the interests of each unit in the funds and assets held by the Association;



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-2020

(e) The right to use all of the common elements for their intended purposes, subject to the provisions of the Declaration, the By-Laws, and such reasonable rules and regulations as may from time to time be established by the Association; but no use shall hinder or encroach upon the lawful rights of other unit owners;

(f) The exclusive right to use such portion of the common elements as may be provided by this Declaration to be limited common elements appurtenant exclusively to the unit.

8. RESTRAINT UPON SEPARATION AND PARTITITION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS. The undivided share in the common elements and limited common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described.

(a) A share in the common elements and limited common elements appurtenant to a unit may not be conveyed or encumbered except together with the unit;

(b) The shares in the common elements and limited common elements appurtenant to the units shall remain undivided, and no action for partition of the common elements or limited common elements shall lie.

9. PERCENTAGE OWNERSHIP OF COMMON ELEMENTS AND SHARING OF COMMON EXPENSES AND COMMON SURPLUS. The undivided share in the common elements appurtenant to each unit and the percentage of sharing common expenses and of owning common surplus attributable to each unit is shown on Exhibit C attached hereto and incorporated herein by reference. The respective undivided interests as set forth in Exhibit C have been carefully established, giving effect to numerous criteria, and cannot be changed, altered or amended except as provided in this Declaration and the Condominium Act.

10. TAX ASSESSMENTS. For the purposes of ad valorem taxation, the interest of the owner of a condominium parcel in his condominium unit and in the common elements shall be considered as a unit. The value of the unit shall be equal to the percentage of the value of the entire condominium, including land and improvements, as has been assigned to the unit as its undivided share of the common elements by this Declaration. The total of all of the percentages equals 100% of the value of all of the land and improvements thereon.

11. EASEMENTS. The following easements are hereby granted or reserved:

11.1 Easements for Unintentional Encroachments. Perpetual easements are granted and reserved for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction, which easements shall continue until such encroachments no longer exist. If any part of the condominium property is destroyed and then rebuilt, encroachments due to construction shall be permitted and a valid easement for said encroachments and the maintenance thereof shall exist.

11.2 Utility Easements. Easements are hereby granted and reserved for the Developer, unit owners, and the Association through the condominium property as may be required for utility service in order to serve the Condominium.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
PORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

11.3 Ingress and Egress. An easement is hereby granted and reserved to Developer, its successors or assigns, for pedestrian and vehicular traffic over, through, and across such portions of the common elements as may from time to time be intended and designated for such uses and purposes, for the use and benefit of the unit owners, their families and invitees, in obtaining ingress and egress for all such units to public rights of way.

12. MEMBERSHIP IN ASSOCIATION AND VOTING RIGHTS.

12.1 Membership. Every owner of a unit, whether he has acquired title by purchase from Declarant, Declarant's grantees, successors or assigns, or by gift, conveyance or operation of law, is bound to and hereby agrees that he shall accept membership in the Association and does hereby agree to be bound by this Declaration, the By-Laws of the Association and the rules and regulations enacted pursuant thereto, and the provisions and requirements of the Condominium Act and lawful amendments thereto. Membership is automatic upon acquisition of a unit and approval by the Association, and may not be transferred apart and separate from a transfer of the ownership of a unit. Membership shall automatically terminate upon sale or transfer of the unit, whether voluntary or involuntary.

12.2 Voting Rights. There shall be one person with respect to each unit who shall be entitled to vote at any meeting of the unit owners. If a unit is owned by more than one individual, the owners of said unit shall designate one of them as the voting member. If a unit is owned by a corporation, the Board of Directors of the corporation by duly passed resolution shall designate one of its officers or employees as the voting member. If a unit is owned by a partnership all of the partners by an appropriate resolution shall designate one of the partners as the voting member. If a unit is owned by more than one trustee, all of the trustees shall designate one of the trustees as the voting member. The By-Laws of the Association shall govern the proceedings to follow in designating an individual as the voting member of the unit. If one individual owns more than one unit, he shall have as many votes as the number of units that he owns. The vote of a unit is not divisible.

13. THE ASSOCIATION. The operation and management of the condominium property shall be by BOARDWALK OWNERS ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida. The Association shall have all of the powers and duties set forth in the Condominium Act, and all of the powers and duties granted to or imposed upon it by this Declaration, the Articles of Incorporation, and the By-Laws of the Association. A copy of the Articles of Incorporation and By-Laws of the Association are attached hereto as Exhibits D and E, respectively, and incorporated herein by reference.

13.1 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be repaired and maintained by the Association or caused by the elements or other unit owners or persons.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-2626

13.2 Notice of Contingent Liability. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the unit owners, the Association shall give notice of the exposure within a reasonable time to all unit owners who may be exposed to the liability and they shall have the right to intervene and defend. A copy of each insurance policy obtained by the Association shall be made available for inspection by unit owners at reasonable times.

13.3 Control of the Association. The first Board of Directors of the Association shall remain in office, and Developer shall control the Association until all units in the condominiums have been sold and closed, or until Developer elects to turn over control, whichever shall first occur; provided, however, such term of office of the original Directors shall in no event extend beyond three (3) years after fifty per cent (50%) of said units have been sold and closed, or three (3) months after ninety per cent (90%) of such units have been sold and closed. Upon sale and closing of at least fifteen per cent (15%) of the units of this condominium, the unit owners other than Developer shall be entitled to elect one-third (1/3) of the members of the Board of Directors. Upon the occurrence of any of said events, a special meeting for the purpose of electing interim Directors will be held upon due and proper notice being given to all unit owners in accordance with applicable law and the By-Laws of the Association. The interim election and all subsequent elections shall take place in accordance with the procedures set forth in the By-Laws as applicable to regular meetings. An employee or an agent of a business entity owner, such as Developer, shall be eligible to serve as a Director of the Association. Developer shall be entitled to elect at least one member of the Board of Directors of the Association as long as Developer holds at least one (1) of the units in the condominium for sale in the ordinary course of business.

14. BY-LAWS. The operation of the Condominium shall be governed by the By-Laws of the Association. No modification of or amendment to the By-Laws shall be valid unless set forth in or annexed to a duly recorded amendment to this Declaration in accordance with the formalities set forth herein. No amendment to the By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage held by an Institutional Mortgagee covering any condominium parcel without the consent of said Institutional Mortgagee. Defects or omissions in the By-Laws shall not affect the validity of the Condominium or title to the condominium parcels.

15. MAINTENANCE, ALTERATIONS AND IMPROVEMENTS. Responsibility for the maintenance of the condominium property and restrictions upon alterations and improvements thereof shall be as follows:

15.1 Common Elements.

(a) The maintenance and operation of the common elements shall be the responsibility of the Association and shall be a common expense;

(b) There shall be no material alteration or further substantial improvement of common elements without prior approval, in writing, by record owners of seventy-five per cent (75%) of all units. The cost of such alteration or improvement shall be a special assessment and so assessed.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1008
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

15.2 Units and Limited Common Elements.

(a) The Association shall maintain, repair and replace as a common expense:

(1) All portions of a unit contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building, all fixtures on the exterior thereof, the perimeter baluster and walls abutting each screened porch, including the exterior surfaces thereon, boundary walls of a unit, floors and ceiling slabs, load-bearing columns and load-bearing walls, but shall not include screening, windows, exterior doors, glass and interior surfaces of walls, ceilings and floors;

(2) All conduits, plumbing (but not fixtures), wiring and other facilities for the furnishing of utility services which are contained in a unit but which service all or parts of the building other than the unit within which contained;

(3) Ventilation and plumbing chases that are common elements;

(4) All parking area pavement;

(5) All incidental damage caused to a unit by such work shall be promptly repaired by the Association.

(b) The responsibility of the unit owner shall include:

(1) To maintain, repair and replace, at his sole and personal expense, all doors, windows, glass, screens, electric panels, electric wiring, electric outlets and fixtures, air-conditioning and heating equipment, including but not limited to condensers, compressors and evaporators whether located within or outside the unit; refrigerators, other appliances, drains, plumbing fixtures and connections, interior surfaces of all walls, including boundary and exterior walls, floors and ceilings, including screened porch floor coverings, if any, and all other portions of his unit and limited common elements appurtenant thereto, except the portions specifically to be maintained, repaired and replaced by the Association.

(2) To refrain from enclosing, painting or otherwise decorating or changing the appearance of any portion of the exterior of the condominium building, or the screened porch appurtenant to the unit, including, but not limited to, screened porch floor coverings, if any, screening, windows, window coverings, and exterior doors, without the written approval of the Association.

(3) To promptly report to the Association any defect or need for repairs, the responsibility for which is that of the Association.

15.3 Enforcement of Maintenance. In the event the owner of a unit fails to maintain the property as required above, or otherwise violates the provisions hereof, the Association or any other unit owner shall have the right to proceed in a court of



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT MYERS, FLORIDA 33454
TELEPHONE (813) 461-5020

said officer's or director's votes are counted for such purpose. No director or officer of the Association shall incur liability by reason of the fact that said director or officer may be interested in any such contract or transaction.

Section 2. Interested officers and directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

## ARTICLE XIII

## ADDRESS OF REGISTERED OFFICE

The street address of the registered office of this Corporation in the State of Florida shall be: 715 South Ocean Drive, Fort Pierce, Florida 33450. The name of the initial registered agent at this address shall be Louise M. Sparks. The Board of Directors may from time to time move the registered office to any other address in Florida.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, at St. Lucie County, Florida, this 6th day of January, 1983.

K. M. Brooks (Seal)

Louise M. Sparks (Seal)

(Seal)
Frank H. Fee, III

STATE OF FLORIDA

COUNTY OF ST. LUCIE

I HEREBY CERTIFY, that on this day, personally appeared before me K. M. BROOKS, LOUISE M. SPARKS and FRANK H. FEE, III, to me known to be the subscribers described in and who executed the foregoing Articles of Incorporation, and they acknowledged before me that they executed the same freely and voluntarily for the uses and purposes therein expressed.

WITNESS my hand and official seal in the State and County aforesaid, this 6th day of January 1983.

Notary Public, State of Fla. at Large
My Commission Expires: 2-7-85

BY-LAWS OF

BOARDWALK OWNERS ASSOCIATION, INC.
A Non-Profit Florida Corporation

## ARTICLE I

### GENERAL

Section 1. Name: The name of the corporation shall be BOARDWALK OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association" or "Corporation".

Section 2. Principal Office: The principal office of the Association shall be at Boardwalk Condominium, 715 South Ocean Drive, Fort Pierce, Florida, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at the principal office or at the office of the registered agent of the Association.

Section 3. Definitions: As used herein, terms defined in the Declaration of Condominium for BOARDWALK CONDOMINIUM, hereinafter referred to as the "Condominium", shall mean the same herein.

## ARTICLE II

### DIRECTORS

Section 1. Powers: The property and business of the Association shall be managed by the Board of Directors ("Board"), which may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation or the Declaration of Condominium to which these By-Laws are attached. The powers of the Board of Directors shall include, but not be limited to, all those powers as set forth in Article IV of these By-Laws.

Section 2. Number and Term: Three (3) Directors shall constitute the whole Board of Directors. Except for the initial directors designated in the Articles of Incorporation and any other directors selected by the Developer, a director shall be elected to serve for the term of one (1) year, or until his successor has been elected and qualified. An employee or agent of a business entity owner shall be eligible to serve as a director of the Association. If the number of Directors falls below three (3), a special members' meeting shall be called for the purpose of filling vacancies on the Board of Directors.

Section 3. Vacancy and Replacement: If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting duly called for this purpose, shall choose a successor, who shall hold office for the unexpired term in respect to which such vacancy occurred. The Developer shall be empowered to remove or replace at any time any director originally selected by the Developer.

Section 4. Removal: Directors may be removed for cause by an affirmative vote of a majority of the qualified votes of voting members. No director shall continue to serve on the Board if, during his term of office, his membership in the corporation shall be terminated for any reason whatsoever.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 34954
TELEPHONE (305) 461-5020

Section 5. Recall: Directors may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all voting members. A special meeting of the voting members to recall a Director or Directors may be called by ten per cent (10%) of the voting members giving notice of the meeting as required in Article VI of these By-Laws, and the notice shall state the purpose of the meeting.

Section 6. First Board of Directors: The first Board of Directors designated in the Articles of Incorporation shall hold office and exercise all the power of the Board of Directors until the first membership meeting, anything herein to the contrary notwithstanding; provided, any or all of said directors shall be subject to replacement by the Developer or, in the event of resignation or death, as above provided.

Section 7. Compensation: Neither directors nor officers shall receive compensation for their services as such.

Section 8. Meetings:

(a) The first meeting of each Board of Directors newly elected by the voting members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the voting members' annual meeting, and immediately after the adjournment of same;

(b) Special meetings shall be held whenever called by the President or a majority of the Board of Directors. The Secretary shall give notice of each special meeting either personally, by mail or telegram to each director at least three (3) days before the date of such meeting, but the Directors may waive notice of the calling of the meeting;

(c) Meetings of the Board of Directors shall be open to all unit owners. Adequate notice of all meetings of the Board of Directors shall be posted conspicuously on the condominium properties at least forty-eight (48) hours in advance, except in an emergency;

(d) A majority of the Board of Directors shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business, and the act of a majority present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quroum shall not be present at the meeting, the Directors then present may adjourn the meeting without notice, other than announcement at the meeting, until a quorum shall be present.

Section 9. Order of Business: The order of business at all meetings of the Board of Directors shall be as follows:

1. Roll call and quorum determination;

2. Reading of minutes of last meeting;

3. Consideration of communications;



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

4. Resignations and elections;

5. Reports of officers and employees;

6. Reports of committees;

7. Unfinished business;

8. Original resolutions and new business;

9. Adjournment.

Section 10. Annual Statement: The Board shall present, no less often than at the annual meeting, a full and clear statement of the business and condition of the Association, including a report of the operating expenses of the Association and the assessments paid by the members.

ARTICLE III

OFFICERS

Section 1. Executive Officers: The executive officers of the Association shall be a President, Vice-President, Treasurer and Secretary, all of whom shall be elected annually by the Board of Directors. Any two of said offices may be united in one person, except that the President shall not also be the Secretary or an Assistant Secretary of the Association. The President shall be a director ex officio, unless elected to the Board. If the Board so determines, there may be more than one Vice-President.

Section 2. Subordinate Officers: The Board of Directors may appoint such other officers and agents as they may deem necessary, who shall hold office during the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by the Board.

Section 3. Tenure of Officers; Removal: All officers and agents shall be subject to removal, with or without cause, at any time by action of the Board of Directors. The Board may delegate powers of removal of subordinate officers and agents to any officer.

Section 4. The President:

(a) The President shall preside at all meetings of the members and Directors; he shall have general and active management of the business of the Association; he shall see that all orders and resolutions of the Board are carried into effect; he shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Association; the seal when affixed shall be attested by the signature of the Secretary;

(b) He shall have general superintendence and direction of all the other officers of the Association, and shall see that their duties are performed properly;

(c) He shall submit a report of the operation of the Association for the fiscal year to the Directors whenever called for by them, and to the members at the annual meeting, and from time to time shall



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

report to the Board all matters within his knowledge which the interest of the Association may require to be brought to their notice;

(d) He shall be an ex officio member of all committees, and shall have the general powers and duties of supervision and management usually vested in the office of President of a corporation.

Section 5. The Vice-President: The Vice-President shall be vested with all powers and required to perform all duties of the President in his absence; and such other duties as may be prescribed by the Board of Directors.

Section 6. The Secretary:

(a) The Secretary shall keep the minutes of the meetings of the voting members and of the Board of Directors in one or more books provided for that purpose; said minute books shall be available for inspection by unit owners, or their authorized representatives, and directors at any reasonable time; said minutes shall be retained for a period of not less than seven (7) years.

(b) He shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law;

(c) He shall be custodian of the corporate records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these By-Laws;

(d) He shall keep a register of the post office address of each unit owner, which shall be furnished to the Secretary by each unit owner;

(e) In general, he shall perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. Treasurer:

(a) The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may be designated by the Board of Directors;

(b) He shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors, at regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association;

(c) He may be required to give the Association a bond in a sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration to the



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
PORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

Association, in case of his death, resignation or removal from office, all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association.

Section 8. Vacancies: If the office of the President, Vice-President, Secretary or Treasurer, one or more, becomes vacant by reason of death, resignation, disqualification or otherwise, the directors, by a majority vote, may choose a successor who shall hold office for the unexpired term.

Section 9. Resignations: Any director or other officer may resign his office at any time, such resignation to be made in writing, and to take effect from the time of its receipt by the Association, unless some time be fixed in the resignation, and then from that date.

## ARTICLE IV

## POWERS AND DUTIES OF THE ASSOCIATION

The Association shall have all powers granted to it by law, the Declaration of Condominium, the Condominium Act, and the Articles of Incorporation, all of which powers shall be exercised by its Board of Directors, unless the exercise thereof is otherwise restricted in the Declaration of Condominium, these By-Laws, or by law. The powers of the Association shall include, but not be limited to, the following:

(a) To levy and collect regular and special assessments and to establish the method and time within which payments are to be made;

(b) To expend monies collected for the purpose of paying the common expenses of the Association;

(c) To purchase equipment, supplies and material required for the maintenance, repair, replacement, operation and management of the condominium properties;

(d) To insure and keep insured the buildings and improvements of the Condominium as provided for and limited by the Declaration of Condominium;

(e) To employ the personnel required for the operation of the condominium properties;

(f) To make reasonable rules and regulations for the use of the condominium properties and to amend them from time to time, and see to it that all members are notified of such changes in the rules and regulations as may be enacted;

(g) To improve the condominium properties subject to the limitations of the Declaration of Condominium;

(h) To enforce by any legal means the provisions of the Articles of Incorporation, the By-Laws, the Declaration of Condominium, and the regulations promulgated by the Association;

(i) To collect delinquent assessments by suit or otherwise, and to abate nuisances and enjoin or seek damages from unit owners for violation of the provisions of the condominium documents;



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-2020

(j) To approve or disapprove of all conveyances of condominium parcels as provided for in the Declaration of Condominium;

(k) To select depositories for Association funds, and to determine the manner of receiving, depositing, and disbursing Association funds, and the form of check and the person or persons by whom checks shall be signed, when not signed, as otherwise provided by these By-Laws;

(l) To collect for the management and maintenance of the condominium and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules and maintenance of the common elements. The Association shall, however, retain at all times the power and duties granted them by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules, and execution of contracts on behalf of the Association.

Nothing in this subparagraph or in the Declaration of Condominium shall be deemed to require the Association to maintain the interior of any condominium unit, or to enter into any contract or undertaking to provide for the maintenance or upkeep of the interior of any condominium unit.

(m) To establish the offices of additional officers of this Association and to appoint all officers;

(n) To propose and adopt the budget for the Condominium;

(o) To possess, enjoy and exercise all powers necessary to implement, enforce, and carry into effect the powers above described, including the power to acquire, hold, convey, and deal in real and personal property.

## ARTICLE V

## MEMBERSHIP

Section 1. Definition: Voting membership in the Association shall be limited to owners of condominium units in the Condominium.

Section 2. Transfer of Membership and Ownership: Membership in the Association may be transferred only as an incident to the transfer of the transferor's condominium parcel, and such transfer shall be subject to the procedures set forth in the Declaration of Condominium.

Section 3. Plural Ownership: Membership may be held in the names of more than one person, in which event, all of the plural owners of the unit shall be entitled collectively to only one vote in the management of the affairs of the Association, and the vote may not be divided between the plural owners. The plural owners



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

must file a certificate authorizing a voting member in accordance with Article VI, Section 7, of these By-Laws.

## ARTICLE VI

## MEETINGS OF MEMBERSHIP

Section 1. Place: All meetings of the Association membership shall be held at the office of the Association or at such other place as may be stated in the notice of the meeting.

Section 2. Annual Meeting:

(a) The first annual meeting of the members shall be held the first Wednesday in October, 1983, at 8:00 PM , and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 8:00 P.M.

If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following that which is not a legal holiday. If the meeting is re-scheduled, the directors elected at the first annual meeting and the officers elected as a result of the directors' meeting will hold office until the annual meeting is held.

(b) At the annual meeting, the members, by a plurality vote, shall elect a Board of Directors and transact such other business as may properly come before a meeting.

(c) Written notice of the annual meeting shall be given to each unit owner and shall be posted in a conspicuous place on the condominium properties at least fourteen (14) days prior to the annual meeting. The notice of the annual meeting shall be sent by mail to each unit owner and the post office certificate of mailing shall be retained as proof of such mailing.

Section 3. Membership List: At least ten (10) days before every regular meeting of the membership, a complete list of members entitled to vote at said meeting, arranged numerically by units, with residence of each, shall be prepared by the Secretary. Such list shall be produced and kept for said ten (10) days at the office of the Association, and shall be open to examination by any member throughout such time.

Section 4. Special Meetings:

(a) Special meetings of the members, for any purpose(s), unless otherwise prescribed by law, the Declaration of Condominium, or Articles of Incorporation, may be called by the President, and shall be called by the President or Secretary at the written request of one-third (1/3) of the voting members. Such request shall state the purpose(s) of the proposed meeting;

(b) Written notice of a special meeting of members, stating the time, place and purpose(s) thereof,



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1100
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

shall be served upon or mailed to each voting member at the address as it appears on the books of the Association, at least five (5) days before such meeting;

(c) Business transacted at all special meetings shall be confined to the purpose(s) stated in the notice of the meeting;

(d) Unit owners may waive notice of special meetings and may take action by written agreement without meetings, if allowed by law, the Declaration of Condominium, and the Articles of Incorporation.

Section 5. Quorum: A majority of the total number of voting members of the Association, present in person or represented by written proxy, shall be required for and shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute, by the Articles of Incorporation or these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the members, the voting members present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 6. Vote Required to Transact Business: When a quorum is present at any meeting, a majority of the votes cast, in person or represented by written proxy, shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of law, the Declaration of Condominium, the Articles of Incorporation or these By-Laws a different vote is required, in which case such express provision shall govern and control the decision of such question. Cumulative voting is prohibited.

Section 7. Entitled and Qualified to Vote; Plural Ownership; Proxies: Each unit owner shall be entitled to one (1) vote for each unit owned by him. At any meeting of the members, every member entitled to vote may vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof. If more than one (1) person or a corporation owns a unit, they shall file a certificate with the Secretary of the Association naming the person authorized to cast votes for said unit. If the certificate is not on file, the owner(s) shall not be qualified to vote and the vote of such owner(s) shall not be considered nor shall the presence of said unit owner(s) at a meeting be considered in determining whether the quorum requirement has been met. If a unit shall be owned by husband and wife as tenants by the entirety, no certificate need be filed with the Secretary naming the person authorized to cast votes for said unit, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the members, unless prior to such meeting, either spouse has notified the Secretary in writing that there is disagreement as to who shall represent the unit at the meeting, in which case the certificate requirements set forth above shall apply.

Section 8. Waiver and Consent: Whenever the vote of members at a meeting is required or permitted by any provision of law, the Declaration of Condominium, the Articles of Incorporation or these By-Laws to be taken in connection with any action of the Association, the meeting and vote of members



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1900
FORT MYERS, FLORIDA 33902
TELEPHONE (813) 461-5020

may be dispensed with, if all members who would have been entitled to vote upon the action at such meeting, if such meeting were held, shall have consented in writing to such action being taken.

Section 9. Order of Business: The order of business at annual members' meetings, and as far as practical at other members' meetings, shall be:

1. Election of Chairman
2. Roll call and Quorum Determination
3. Proof of Notice of Meeting or Waiver of Notice
4. Reading of Minutes of Prior Meeting
5. Officers' Reports
6. Committee Reports
7. Elections
8. Unfinished Business
9. New Business
10. Adjournment

Section 10. Procedure: Roberts Rules of Order (latest edition) shall govern the conduct of Association proceedings when not in conflict with the Articles of Incorporation, these By-Laws or any provision of law.

## ARTICLE VII

## NOTICES

Section 1. Definition: Except where expressly provided to the contrary, whenever under the provision of law, the Declaration of Condominium, the Articles of Incorporation or these By-Laws, notice is required to be given to any director or member, it shall not be construed to mean personal notice; but such notice may be given in writing by regular mail, by depositing the same in a post office or letter box in a postpaid, sealed envelope, addressed as appears on the books of the Association.

Section 2. Service of Notice - Waiver: Whenever any notice is required to be given under the provisions of these By-Laws, a waiver thereof, in writing, signed by the person(s) entitled to such notice, whether before or after the time stated herein, shall be deemed the equivalent of such notice.

Section 3. Address: The address for notice to the Association is 715 South Ocean Drive, Fort Pierce, Florida 33450.

## ARTICLE VIII

## FINANCES

Section 1. Fiscal Year: The fiscal year of the Association shall be the calendar year, commencing January 1 of each year,



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

provided, however, that the Board of Directors is authorized to change to a different fiscal year at such time as the Board deems advisable.

Section 2. Checks: All checks or demands for money and notes of the Association shall be signed by any one of the following officers: President, Secretary or Treasurer, or by such officer(s) or such other person(s) as the Board of Directors may from time to time designate.

Section 3. Depositories: The funds of the Association shall be deposited in a bank(s) in St. Lucie County, Florida, in an account for the Association under resolutions approved by the Board of Directors, and shall be withdrawn only over the signature of the Treasurer, the President or the Vice-President, or such other person(s) as the Board may authorize. The Board may require more than one signature on checks and bank drafts. Said funds shall be used only for Association purposes. If necessary, and if demanded by Institutional Mortgagees, separate accounts shall be established to maintain and disburse escrow funds required by Institutional Mortgagees to meet mortgage requirements as to establishment of escrows for real estate taxes and insurance respecting condominium parcels.

Section 4. Inspections and Records: The Association shall maintain good accounting records. All such records and any legal documents, policies of insurance, and books of the Association shall be open to inspection at reasonable times by members, their authorized representatives, and all Institutional Mortgagees. Upon request, Institutional Mortgagees shall have the right to receive an unaudited financial statement of the Association within ninety (90) days following the end of the fiscal year.

Section 5. Annual Statement: The Board of Directors shall present at each annual meeting a full and clear statement of the business and condition of the Association.

Section 6. Insurance: The Association shall procure, maintain and keep in full force and effect, all insurance required by and in accordance with the Declaration of Condominium.

Section 7. Fidelity Bonds: Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The premiums for such bonds shall be paid by the Association as a common expense.

Section 8. Assessments:

(a) The Board of Directors has the power to and shall from time to time fix and determine the amount necessary to pay the common expenses of the Condominium. Common expenses include those expenses described in Paragraph 2.6 of the Declaration of Condominium and any other expenses designated as common expenses by the Board of Directors.

(b) Funds for the payment of common expenses shall be assessed and be a lien against the condominium parcels in the proportion of percentage of sharing common expenses as provided in the Declaration of Condominium.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

(c) Regular assessments shall be paid by the members on a monthly basis unless the membership shall approve a different period for payment.

(d) Special assessments, when required by the Board of Directors, shall be levied and paid in the same manner as regular assessments, unless the Declaration of Condominium shall otherwise provide. The Board of Directors may make special assessments in emergencies and upon such conditions as the Board may authorize.

(e) When the Board of Directors has determined the amount of any assessments, the Secretary or Treasurer shall transmit a statement of such assessment to each condominium parcel owner. All assessments shall be made payable to and at the office of the Association and upon request the Secretary or Treasurer shall give a receipt for each payment made.

(f) Assessments are necessarily made upon projections and estimates of the Board of Directors, and may be in excess of or less than the sums required to meet the cash requirements of the Condominium, in which event the Board of Directors may increase or decrease the amount of an assessment, and make such adjustments in cash or otherwise, as they shall deem proper, including the assessment of each member of his proportionate share of any deficiency. Notice of all changes in assessments shall be given to all unit owners.

(g) Assessments shall not include charges for utilities separately charged and metered to each condominium unit, nor charges for such alterations, repairs, maintenance, improvements or decorating within the interior of any unit as are the obligation of the unit owner and not the obligation of the Association. The Board of Directors may provide certain maintenance and repairs as would otherwise be the obligation of the individual unit owners, by the undertaking of contracts with business establishments providing repair and maintenance services, and in such cases the cost or price of such contractual services may be treated as a common expense and assessed against the members as part of their monthly maintenance. The specific contracts or undertakings need not be submitted by the Board of Directors to the membership for approval once the membership has approved the policy of having a specific type of repair or maintenance undertaken by the Association which would otherwise be the individual unit owners' responsibility.

(h) Assessments are due on the dates stated in the notice of assessments, and thereafter shall bear interest at eighteen per cent (18%) per annum until paid.

(i) In the event an assessment is not paid within fifteen (15) days of the date it is due and payable, the Association through the Board of Directors, may proceed to enforce and collect said



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

assessment from the delinquent owner in any manner provided by the Condominium Act, the Declaration and these By-Laws. Each condominium parcel owner shall be individually responsible for the payment of reasonable attorney's fees and costs incurred by the Association in the collection of sums due and enforcement of any lien held by the Association.

(j) The Board of Directors may authorized the President to enter into a management contract with third parties to whom the power to levy and collect assessments may be delegated.

(k) All sums collected by the Association from assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board of Directors. All assessment payments by a unit owner shall be applied as provided herein and in the Declaration of Condominium.

(l) Any unit owner shall have the right to require from the Association, a certificate showing the amount of unpaid assessments against him with regard to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which it has a lien. Any person other than owner who relies upon such certificate shall be protected thereby.

Section 9. Budget:

(a) The Board of Directors is empowered to propose and adopt the budget for the Condominium.

(b) Notice of the meeting and a copy of the proposed annual budget of common expenses shall be mailed to the unit owners not less than thirty (30) days prior to the meeting of the Board of Directors at which the budget will be considered. Such meeting shall be open to the unit owners. If a budget is adopted by the Board of Directors which requires assessments against the unit owners in any fiscal year exceeding 115 per cent of such assessments for the preceding year, a special meeting of the unit owners shall be held, if requested in writing by at least ten per cent (10%) of the unit owners, to consider and enact a revision of the budget, or recall any and all members of the Board of Directors and elect their successors. Such meeting shall be held not less than ten (10) days after written notice is given to each unit owner, but not more than thirty (30) days after such meeting has been requested in writing. The revision of the budget or the recall of any or all members of the Board of Directors shall require a vote of not less than two-thirds (2/3) of the voting members. The Board of Directors may in any event propose a budget to the unit owners at a members' meeting or in writing, and if such proposed budget is approved by the unit owners at a members' meeting or by a majority of voting members in writing, such budget shall not thereafter be re-examined by the unit owners in the manner set forth above, nor shall the Board of Directors be recalled under the terms of this sub-section.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

(c) Each proposed annual budget of common expenses adopted by the Board of Directors shall be detailed and shall show the amounts budgeted by accounts and expenses classifications, including, but not limited to, the following:

1. Administration of the Association.
2. Management fees.
3. Maintenance.
4. Taxes upon Association properties, if any.
5. Insurance.
6. Security provisions.
7. Utilities.
8. Other expenses.
9. Operating capital.
10. Reserves.
11. Fees payable to Division of Florida Land Sales and Condominiums.

(d) Regular assessments shall be made against unit owners not less frequently than monthly, in an amount no less than required to provide funds in advance for payment of all the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred.

(e) The provisions of Florida Statute 718.112, with regard to limitations on budget increases, special membership meetings for budget reconstruction, and the right to consider and adopt a budget at the annual membership meeting as an alternative, are hereby adopted. In determination of the percent of increase of the annual budget over the preceding years, authorized provisions for reasonable reserves for repair or replacement of the condominium properties, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, and assessments for betterments to the condominium properties shall be excluded from the computation.

(f) As long as Developer is in control of the Association, the Association shall not impose an assessment for any year greater than one hundred fifteen per cent (115%) of the prior fiscal year's assessment without approval by a majority of all voting members.

(g) Notwithstanding anything in these By-Laws or the Declaration which authorize expenditures, no single expenditure for the improvement of the common elements exceeding $2,000.00 shall be made without the approval of seventy-five per cent (75%) of the membership, except for the



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

repair of the condominium properties due to casualty loss, emergency repairs immediately necessary for the preservation and safety of the property, for the safety of persons, or as required to avoid suspension of any necessary service to the condominium.

## ARTICLE IX

## CORPORATE SEAL

The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "Non-Profit". The seal may be used by causing it or a facsimilie thereof to be impressed, affixed, reproduced or otherwise.

## ARTICLE X

## DEFAULT

Section 1. Enforcement of Lien: In the event a unit owner does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association, acting on its own behalf or through its Board of Directors, may enforce its lien for assessments to which it is entitled, in accordance with the Declaration and provisions of law.

Section 2. Proceeds of Sale: If the Association becomes the owner of a unit by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated, it shall deduct from the proceeds of said sale all sums of money due it for assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorneys' fees, and any and all expenses incurred in the resale of the unit, which shall include but not be limited to advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the unit. All monies remaining after deducting the foregoing items of expenses shall be returned to the former owner of the unit.

Section 3. Violations: In the event of violation of the provisions of the Declaration, Articles of Incorporation or these By-Laws, for thirty (30) days after notice from the Association to the unit owner to correct said breach or violation, the Association, on its own behalf or through its Board of Directors, may bring appropriate action to enjoin such violation or may enforce the provisions of said documents, or may sue for damages, or take such other courses of action, or other legal remedy, as it or they may deem appropriate. An Institutional Mortgagee, as defined in the Declaration of Condoiminium, of a unit shall be entitled to written notice from the Association of any default by the mortgagor of such unit under the condominium documents which is not cured within thirty (30) days.

Section 4. Attorneys' Fees: In the event such legal action contemplated by this Article is brought against a unit owner and results in a judgment for the Plaintiff, the Defendant shall pay the Plaintiff's reasonable attorney's fees and court costs.

Section 5. Binding Effect: Each unit owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of nuisance,



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

regardless of the harshness of the remedy available to the Association and regardless of the availability of other equally adequate legal procedures. It is the intent of all owners of the units to give to the Association a method and procedure which will enable it at all times to operate on a business-like basis, to collect those monies due and owing it from the owners of units, and to preserve each unit owner's right to enjoy his unit, free from unreasonable restraint and nuisance.

## ARTICLE XI

## AMENDMENT OF BY-LAWS

These By-Laws may only be amended at a duly called meeting of the voting members; provided (1) that the notice of the meeting shall contain a full statement of the proposed amendment; and (2) that the quorum requirement for such purposes shall be a majority of the voting members, in person or by proxy. It shall be necessary that there be an affirmative vote of three fourths (3/4) of the voting members, in person or by proxy. It shall be necessary that there be an affirmative vote of three fourths (3/4) of the voting members, as well as an affirmative vote of two thirds (2/3) of the Board of Directors, in order to amend these By-Laws. No amendment to these By-Laws shall be passed which would operate to impair or prejudice the right or liabilities of any Institutional Mortgagee without the consent of said Institutional Mortgagee.

No By-Law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that the above procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Laws. See By-Laws _____ for present text".

Non-material errors or omissions in the By-Laws amendment process shall not invalidate an otherwise properly promulgated amendment.

## ARTICLE XII

## CONSTRUCTION

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed be void or unenforceable at law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1900
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

These By-Laws and the Articles of Incorporation shall be construed in the event of any ambiguity consistent with the provisions of the Declaration of Condominium.

The foregoing were adopted as the By-Laws of:

BOARDWALK OWNERS ASSOCIATION, INC.

a Florida non-profit corporation, at the first meeting of the Board of Directors.

BOARDWALK OWNERS ASSOCIATION, INC.

By Louise M. Sparks
Its Secretary

APPROVED:

K. M. Rooks
Its President

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT MYERS, FLORIDA 33902
TELEPHONE (813) 461-5020

**ADDITION TO THE BY - LAWS**

Amendment to DECLARATION OF CONDO OF
BOARDWALK CONDOMINIUM ASSOCIATION, INC.

19. USE AND OCCUPANCY RESTRICTIONS

19.12 **Parking Restrictions.**
Only automobiles will be parked in the parking areas of the condominium property. No other vehicles and objects, including but not limited to trailers, boats, motor homes and trucks over 3/4 ton may be parked or placed upon any of the condominium property.

**Exceptions**: **Moving vans** shall be permitted to park, but not on the grass for the purpose of loading and unloading; **Vehicles**, regardless of classification, necessary for the **maintenance, care** or **protection** of the Properties; **Service and delivery vehicles**, regardless of classification, during regular business hours; **Vehicles for handicapped persons**; **Police and fire safety vehicles**

The following restrictions also apply:

No repair (including changing of oil) of a vehicle shall be made within the Condominium except for minor repairs necessary to permit removal of a vehicle. However, washing or waxing of a vehicle is permitted.
No motor vehicle, including moving vans, shall be parked at any time on the grass/swales within the Condominium.
Except where safety dictates otherwise, horns shall not be used or blown while a vehicle is parked, standing in or driving through parking areas. Racing engines and loud exhausts shall be prohibited. No vehicle shall be parked with motor running.

**Remedy of Towing.** If upon the Association's provision of that notice required by Section 715.07, Florida Statutes, and any applicable County Ordinances, amended from time to time, an offending vehicle Owner does not remove a prohibited or improperly parked vehicle from the Condominium, the Association shall have the option and right to have the vehicle towed away at the vehicle Owner's expenses. By this provision, each Owner and vehicle Owner provides the Association with the necessary consent to effect the tow.

STATE OF FLORIDA
ST. LUCIE COUNTY

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL

JOANNE HOLMAN, CLERK

By _____

Date 4-25-2002

Return:
Elmer W. Baerth
715 So Ocean Drive, Unit 111
Jupiter FL 33469

JOANNE HOLMAN, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
File Number: 2035769 OR BOOK 1519 PAGE 2617
Recorded 04/24/02 11:19

**BOARDWALK CONDOMINIUM ASSOCIATION, INC.**

715 South Ocean Dr.
Ft. Pierce, FL 34949

**TO WHOM IT MAY CONCERN**

**ADDITION TO THE BY-LAWS**

The following attached addition to the By Laws was unanimously approved by all members and the Board of Directors on April 17th, 2002

William J Wilkinson
(President)

Otmar W. Baertl
(Secretary/Treasurer)

OR BOOK 1518 PAGE 2619

Notary Public

STATE OF FLORIDA, COUNTY OF ST LUCIE

The attached instrument was acknowledged before me this 4/24/02 [date]
by Mr./Mrs./Ms. William J. Wilkinson & Otmar Baertl [name of person acknowledging].
who is personally known to me or who has produced Florida Dr. License & Florida Dr. License
TYPE OF I.D. as identification and who did/did not take an oath.

Dorothy M. Davis (Signature of Notary)
Dorothy M. Davis (Name of Notary, Typed, Printed or Stamped)
Secretary (Title)
DD039615 (Commission Serial Number)

OFFICIAL NOTARY SEAL
DOROTHY M DAVIS
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. DD039615
MY COMMISSION EXP. JULY 5,2005

BOARDWALK CONDOMINIUM

ESTIMATED OPERATING BUDGET

| | Monthly | Annually |
|---|---|---|
| Administration of the Association | | |
| Bookkeeping | 10.00 | 120.00 |
| Legal and Bank Expenses | 10.00 | 120.00 |
| Office Supplies | 5.00 | 60.00 |
| Management Fees | -0- | -0- |
| Maintenance | | |
| Appliance Repair & Replacement | 20.00 | 240.00 |
| Grounds Supplies | 50.00 | 600.00 |
| Lawn and general maintenance | 100.00 | 1,200.00 |
| Rent- Recreational and Other Commonly Used Facilities | -0- | -0- |
| Taxes Upon Association Property | -0- | -0- |
| Taxes Upon Leased Areas | -0- | -0- |
| Insurance | 125.00 | 1,500.00 |
| Security Provisions | -0- | -0- |
| Other Expenses | | |
| Utilities | 275.00 | 3,300.00 |
| Operating Capital | -0- | -0- |
| Reserves | | |
| Painting and Building Maintenance | 375.00 | 4,500.00 |
| Pavement Resurfacing | 33.34 | 400.00 |
| Roof | 150.00 | 1,800.00 |
| Division of Condominium Fees | .55 | 6.50 |
| TOTALS | $1,153.89 | $13,846.50 |

Schedule of Unit Owner's Expenses

| | Monthly | Annually |
|---|---|---|
| Units A through K, inclusive (One Bedroom) | 83.77 | 1,005.24 |
| Units L and M (Two Bedroom) | 116.20 | 1,394.40 |
| Units A through K, inclusive (1-BR)-Without reserves | 43.31 | 519.72 |
| Units L & M (2 BR) - Without reserves | 59.57 | 714.84 |

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

Note 1. The foregoing budget is deemed sufficient, and accordingly, no provision for operating capital has been established herein.

Note 2. Since there is no management contract or agreement in effect, and since it is not contemplated employing the services of a management firm for the first year of operation, no provision has been made for management fees or a management agreement in this budget.

Note 3. The figures on this budget are established by operating history and by contracts and other experience pertaining directly to this project, but are estimates only and are subject to revision to reflect changes in costs and services.

Note 4. There is excluded from this estimate items of expense that are personal to unit owners or which are not uniformly incurred by all unit owners or which are not provided for nor contemplated by the condominium documents; including, but not limited to, private telephone costs, cost of maintenance of the interior of the condominium units to the extent that such maintenance is not the obligatio of the condominium or Association, the cost of maid or janitorial services privately contracted for by the unit owners, cost of utility bills billed directly to each unit owner for utility service or supply to his unit, insurance premiums other than those incurred applicable to the condominium or Association property in general, debt servicing upon any mortgage encumbering the individual unit, but not encumbering the condominium or Association property as a whole, real estate taxes assessed directly to a condominium unit, and like personal expenses of the unit owner.

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

BUILDING INSPECTION
OF
13 UNIT APARTMENT COMPLEX
LOCATED AT
715 SOUTH OCEAN DRIVE
FORT PIERCE, FLORIDA

SUBMITTED TO:

ARTHUR STROCK & ASSOCIATES
829 S. E. 9th STREET
DEERFIELD, FLORIDA

PREPARED BY:

JAMES BUSHOUSE & ASSOCIATES, INC.
2136 HAMMONDVILLE ROAD
POMPANO BEACH, FLORIDA 33060

James D. Bushouse, P. E.
Registered Engineer No. 20311
State of Florida

STATEMENT PREPARED
June 16, 1982

## INTRODUCTION

The following is an analysis of the general condition and state of repair of the 13 UNIT APARTMENT COMPLEX located at 715 South Ocean Drive, Fort Pierce, Florida, as determined by visual inspection of the premises by James Bushouse & Associates, Inc., under the direct supervision of James D. Bushouse, P. E. The report is divided into the component parts of the Buildings and Premises as required by Florida Statute, with the following information listed for each component:

1. Approximate age of the Component.

2. Estimated remaining useful life – Economic Life
   This figure represents the Engineer's estimate of the amount of relatively maintenance free service life which could be expected from a particular component.

3. Current Replacement Cost
   This figure represents the Engineer's estimate of the current replacement cost of a particular building component shown as a total amount and as per unit share of the expense.

4. A discussion of the overall state of repair and the structural soundness of the component.

The apartments consist of 2 buildings, 1 consisting of 2-2 bedroom units and the other 11-1 bedroom units. The buildings are constructed with C. B. S. walls on the 1st floor and wood stud with texture 1-11 on the second floor. The roof is wood trusses with asphalt shingles on the slope part and built-up roof on the flat part.

The 2 unit building was built a few years before the other, but due to the fact that it has been well maintained, this report calls the component of both the same age.

Our visual inspection covered the civil, structural, mechanical and electrical elements of the project, including the roofs. In general, for a 5 year old project, it is in good condition and appears to have been well maintained. For the age, estimated remaining useful life and estimated current replacement cost of the component parts of the buildings, refer to Appendix "A" of this report.

### A. STRUCTURAL

The general structural condition of the apartment buildings is average for buildings of this type. The structural elements are safe and sound for use intended. There are some thermal stress cracks in the walkway slab, side of stairways and exterior walls under windows that will require on going maintenance.

### B. ROOFS

The flat part of the roofs which are built-up are in generally good condition with no visible signs of leaks. The slope parts which are asphalt shingles, are in very good condition with no visible signs of leaks. The soffits should be monitored and maintained as necessary.

### C. ELEVATORS

There are no elevators on the premises. Access to the upstairs units is achieved through exterior concrete stairways.

D. HEATING AND COOLING SYSTEMS

The general condition of the A/C Systems was average for buildings of this age period. Our inspection of the ductwork and air distribution system indicates there are no problems in these areas. Each apartment unit is equipped with its own split system A/C unit. All of the condensing units are located on a concrete pad on the ground.

E. PLUMBING

Our inspection of the plumbing systems indicate that the systems are safe and sound and are in good condition and functioning properly with no obvious defects or code violations. Water pressure at the second floor of the building was adequate. Sanitary drainage on the second floor drains slower than normal.

The electric hot water heater in the apartments appear to be in good condition with the exception that the water line connection in isolated cases is starting to rust. The main water distribution system is PVC and copper piping. The distribution lines within the apartments are copper. The hot water system and laundry room equipment appears to be adequately servicing the buildings and seems to pose no apparent maintenance problems.

F. ELECTRICAL SYSTEMS

The electrical distribution and utilization devise systems within the apartments are safe, sound and are functioning properly for the use intended and present no apparent shock or fire hazard. The elements comprising the electrical distribution system and the appliances, circuit breakers, etc. are of quality material and were installed with good workmanship. With the exception of a few lights, switches and toilet exhaust fans (of the units that were inspected) all of the utilization devices, controls, light fixtures, A/C equipment and appliances were operating. Of the outlets and switches inspected, all were properly installed and grounded. There was no ground fault breaker on the outlet in the bathrooms.

The electrical work in the public spaces was inspected and found to be functioning properly and to be safe and sound for the use intended. Electrical service equipment and distribution apparatus are in safe and sound condition. No violations of codes, standards, or regulations were observed in the power service equipment and main distribution apparatus and they were functioning properly.

G. SWIMMING POOL AND EQUIPMENT

There is no pool on the premise.

H. SEAWALLS

There are no seawalls on the premise.

I. PAVEMENT AND PARKING AREAS

Asphalt paving was in good condition for its age; some minor settlement has occurred, which will cause some minor problems. Also the paving should be sealed to add to the possible life of the surface.

J. SITE DRAINAGE SYSTEM

The drainage of the Parking Areas is to the grass swales where the water them percolates into the water table.

K. SYNOPSIS

Other than the items mentioned above, there is nothing that would constitute a serious problem any time in the near furture. The structural integrity of the buildings appear sound and can be expected to remain so with proper maintenance. The buildings are constructed with C. B. S. walls on the first floor, wood studs with texture 1-11 on the second floor and wood studs and drywall for the interior partitions. The 11 unit building was given a Certificate of Occupancy about October 1977. The 2 unit building was constructed in 1970. This is estimated year only, due to the fact that no records of Certification of Occupancy could be located in the city of Fort Pierce. The prior use of these buildings were as a Rental Apartment Complex.

The items in this report indicate the current status at the time of inspections, which was June 7, 1982. These items are not to be considered all inclusive, nor a guarantee, but our professional expression based on our experience, knowledge, examination of available plans and on our visual inspection of the exposed conditions to the extent reasonably possible. It is the opinion of this firm that the above referenced buildings are safe for residential habitation.

THIS STATEMENT WAS PREPARED JUNE 16, 1982.

JAMES BUSHOUSE & ASSOCIATES, INC.
2136 Hammondville Road
Pompano Beach, Florida 33060
P. O. Box 4562, Margate, Florida 33063

PROJECT:

APPENDIX "A"

715 South Ocean Drive
Fort Pierce, Florida

| COMPONENT | Age of the Component | Estimated Remaining Useful Life Of The Component | ESTIMATED CURRENT REPLACEMENT COST OF THE COMPONENT EXPRESSED AS: | | | | |
|---|---|---|---|---|---|---|---|
| | | | A Total Amount | A PER UNIT AMOUNT, BASED ON EACH UNIT'S PROP. SHARE OF THE COMMON EXPENSE | | | |
| | | | | Efficency | Approximately 700 s/f One Bedroom | Approximately 970 s/f each. Two Bedroom | Three Bedroom |
| 1. ROOF a. Built-Up | 5 years | 10 | $10, 800. 00 | N/A | 785. 45 | $1, 080. 03 | N/A |
| b. Asphalt Shingles | 5 years | 9 | 7, 175. 00 | N/A | 521. 82 | 717. 49 | N/A |
| 2. ELEVATORS | N/A | N/A | -0- | N/A | -0- | -0- | N/A |
| a. Ductwork & Air Handler | 5 years | 19 | 9, 750. 00 | N/A | 709. 09 | 975. 00 | N/A |
| 3. HEATING & COOLING SYSTEMS b. Compressor | 5 years | 3 | 7, 800. 00 | N/A | 567, 27 | 780. 02 | N/A |
| a. Fixtures | 5 years | 11 | 9, 750. 00 | N/A | 709. 09 | 975. 00 | N/A |
| 4. PLUMBING b. Piping | 5 years | 15 | 13, 000. 00 | N/A | 945. 45 | 1, 300. 03 | N/A |
| 5. BUILDING ELECTRICAL SYSTEMS | 5 years | 25 | 32, 500. 00 | N/A | 2, 363. 64 | 3, 249. 98 | N/A |
| 6. SWIMMING POOL | N/A | N/A | -0- | N/A | -0- | -0- | N/A |
| 7. SEAWALLS | N/A | N/A | -0- | N/A | -0- | -0- | N/A |
| 8. PAVEMENT & PARKING AREAS | 5 years | 17 | 8, 505. 00 | N/A | 618. 54 | 850. 53 | N/A |
| 9. SITE DRAINAGE SYSTEM | N/A | N/A | -0- | N/A | -0- | -0- | N/A |

CASE NUMBER _____

# WOOD-DESTROYING ORGANISM INSPECTION REPORT

HRS Form 1145, Effective 6/28/79

Licensee Name: Rowley's Pest Control — Inspection Date: 7-20-82

Licensee Address: 906 Angle Road Ft. Pierce, Fla. — License No. 1030

Inspector's Name: James D. Powell — I.D. Card No. 7852

Property Address: 715 S. Ocean Dr. Ft. Pierce, Florida

Specific Structure(s) Inspected: Apartments

## SCOPE OF INSPECTION

A trained and qualified representative of this company has conducted a careful inspection of the visible and accessible areas of the structure(s) listed above. This report is made on the basis of what was visible and accessible at the time of the inspection and is not an opinion covering areas such as, but not necessarily limited to, those that are enclosed or inaccessible, areas concealed by wall coverings, floor coverings, furniture, equipment, stored articles, or any portion of the structure in which inspection would necessitate removing of defacing finished wood.

THIS IS NOT A STRUCTURAL DAMAGE REPORT: A wood-destroying organism inspector is not ordinarily a construction or building trade expert and therefore is not expected to possess any special qualifications which would enable him to detect the extent of structural damage. If damage or other evidence of wood-destroying organisms is noted in this report, further investigation by qualified experts of the building trade should be made to determine structural soundness of the property. This is not to be construed to constitute a guarantee of the absence of wood-destroying organisms.

## REPORT OF FINDINGS

(1) Active infestation was observed: Yes ☐ No ☒ _____ (Common name of organisms observed)

Location(s): _____ (Continue on reverse side if necessary)

(2) Other evidence of infestation was observed: Yes ☐ No ☒

Describe other evidence observed: _____ (Continue on reverse side if necessary)

Location(s): _____ (Continue on reverse side if necessary)

(3) Visible damage was observed: Yes ☐ No ☒

Organism(s) causing damage: _____ (Common name of organism(s))

Location(s): _____ (Continue on reverse side if necessary)

(4) This company has treated this property previously: Yes ☐ No ☒

(5) This property shows evidence of previous treatment: Yes ☐ No ☒

(6) This company has treated the structure(s) for the control of: _____ (Common name(s) of organism(s))

by the application of _____ A one year warranty transferable to any subsequent owner was issued for the control of _____ (Common name(s) of organism(s))

and expires _____ (Date)

Neither I nor the firm for whom I am acting have any financial interest in this property, or is associated in any way in this transaction with any party to this transaction, other than as a wood-destroying organism inspector of the structure(s).

Representative Billie Rowley/blc (Licensee or Certified Operator) Date July 21, 1982

HRS Form 1145, Effective 6/28/79

MAIL REPORT TO:

Boardwalk Apts. ATT: Mrs. Sparks
715 S. Ocean Dr.
Fort Pierce, Florida 33450

Basic Charge $ $25.00
Additional Charges $ _____
Total Amount Dues $25.00

INSPECTION ORDERED BY _____ BUYER _____ SELLER _____

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER (SELLER). FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER (SELLER) TO A BUYER.

## PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into by and between K. M. BROOKS and LOUISE M. SPARKS, hereinafter called the "Seller", and

hereinafter called the "Purchaser"; which terms Seller and Purchaser shall include and bind the heirs, executors, legal representatives, successors and assigns of the respective parties hereto whenever the context hereof so requires or admits;

W I T N E S S E T H :

WHEREAS, the Seller is converting to condominium ownership apartments situate in the City of Fort Pierce, State of Florida, known as BOARDWALK CONDOMINIUM, (hereinafter called the "Condominium"), and has submitted or will submit the land upon which such building is located to the condominium form of ownership and use by recordation of a Declaration of Condominium for the Condominium in the public records of St. Lucie County, Florida; and

WHEREAS, the Purchaser will read when available, or has read, the Condominium documents to be submitted, or submitted, by the Seller as required by Florida Statutes 718.503, including a copy of said Declaration of Condominium and all of its exhibits (hereinafter called the "Declaration"); and

WHEREAS, the Purchaser desires to purchase Apartment Unit _____ of the Condominium, all appliances located or to be located therein, and the air conditioning unit serving or to serve said apartment; and

WHEREAS, the Seller does hereby approve of the purchase of said apartment by the Purchaser, and the parties desire to set forth herein all of the terms and conditions of such sale and purchase;

NOW, THEREFORE, in consideration of the mutual promises and undertakings hereinafter set forth, the parties mutually agree as follows:

1. The Seller will sell and convey and the Purchaser will purchase all of that certain property in St. Lucie County, Florida, described as follows:

Apartment Unit _____ of BOARDWALK CONDOMINIUM, hereinafter called the Apartment, according to the Declaration, together with all of the appurtenances to such apartment, including but not limited to automobile parking space _____, all furniture, furnishings, appliances and fixtures located or to be located therein, and the air conditioning unit serving or to serve said apartment.

2. The total purchase price to be paid for the apartment is $_____, payable as follows:

a. The amount of $_____ shall be deposited by the Purchaser with FLOWERS-CULPEPPER REALTY, INC., Registered Real Estate Broker, whose business address is 2011 South 25th Street, Fort Pierce, Florida

Escrow Agent, pursuant to agreement dated _____, and pursuant to the Florida Condominium Act (Chapter 718, Florida Statutes, 1981)

b. The balance is to be paid in cash by the Purchaser to the Seller at the time of closing.

3. Anything herein to the contrary notwithstanding, it is mutually agreed that the purchase and sale contemplated hereby is contingent upon the Purchaser's obtaining a commitment for a mortgage loan to encumber the apartment, in the amount of $_____, which said loan shall be at an annual rate of interest and upon such terms as may be reasonable in St. Lucie County, Florida at the time the application for loan is made. Said commitment for loan is to be obtained within twenty (20) days of the date of this agreement from a lending institution in St. Lucie County, Florida; its purpose is to obtain funds with which to pay such purchase price; and the Purchaser agrees to diligently attempt to obtain said loan. If not obtained within said twenty-day period and such diligent attempt has been made, the Purchaser's deposit will be returned and this agreement shall be null and void and of no further force or effect between the parties hereto. The Seller agrees that it will assist the Purchaser in obtaining mortgage financing on the apartment which is the subject of this contract.

(NOTE: This Paragraph No. 3 shall not be a part of this Agreement unless the amount of loan is specified in full by the Purchaser upon his execution of this Agreement.)

4. All mortgages or liens now or hereafter encumbering the apartment will be discharged or released at or prior to the closing unless assumed by the Purchaser. The Seller will convey by warranty deed a marketable fee simple title to the apartment together with all appliances and fixtures located in the apartment and the air conditioning unit serving the apartment. The title to the apartment will be subject to the following exceptions:

a. The provisions of the Declaration, including all exhibits and changes thereto made prior to the time of delivery of the warranty deed; and all rules and regulations and contracts affecting the property

made by BOARDWALK OWNERS ASSOCIATION, INC., the nonprofit corporation responsible for the operation of the condominium (hereinafter called the "Association"), existing at the time of delivery of the warranty deed.

b. The easements provided for in the Florida Condominium Act (Chapter 718, Florida Statutes, 1981).

c. Restrictions, reservations and easements of record.

d. Such zoning or other restrictions upon the use of the apartment and upon all of the condominium property as may be imposed by governmental authorities having jurisdiction.

e. Taxes for the year in which the sale is closed, if not paid; and for subsequent years.

f. Any mortgage executed by the Purchaser encumbering the apartment.

Any or all of the foregoing exceptions may be omitted from the warranty deed to be delivered hereunder, but all such provisions so omitted shall nevertheless survive delivery of the warranty deed.

5. Real and personal property taxes, less the November discount, will be prorated as of the date of closing; and, if the taxes for the year in which this sale is closed are assessed against the condominium property as a whole, the total amount thereof may be estimated by the Seller and the portion apportioned to the apartment, the appliances and the air conditioning unit shall be the same share as the share of common expenses attributed to the apartment. In such event, the Seller and the Purchaser agree that they will each pay their proportionate share of such taxes. If the amounts of the taxes have not been established as of the date of closing, such prorations and apportionments will be based upon the amounts of the taxes for the previous year.

6. Assessments, if any, for the apartment established by the Association will be prorated between the Seller and the Purchaser as of the date of closing.

7. Subject to those items specified in Item 4 hereof, the title which the Seller obligate themselves to convey to the Purchaser will be marketable and insurable. As evidence of their title and in order to provide title security to the Purchaser, the Sellers agree to provide to the Purchaser at, or immediately following, the closing an Owner Title Insurance Guarantee covering the apartment which is the subject matter of this contract.

8. At or before the closing contemplated hereby, the Purchaser agrees to pay, in addition to the purchase price for the apartment unit, the following:

a. The sum required to record the warranty deed to Purchaser; and

b. All mortgage closing costs, if applicable, pursuant to Paragraph 3 hereof, including the charge of $50 for mortgagee title insurance coverage if the same is required by Purchaser's mortgage lender. Said mortgagee coverage will be issued concurrently with the owner coverage provided for in Paragraph 7 above.



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1900
FORT PIERCE, FLORIDA 33454
Telephone (305) 461-5020

Seller shall pay for all documentary stamps to be affixed to the warranty deed at the time of its recording.

9. Unless mutually agreed otherwise, the closing of this sale shall be held no later than thirty (30) days from the effective date of this contract. The effective date of this contract shall be the date upon which Seller furnishes to Purchaser copies of all documents, including the Declaration of Condominium, listed in Florida Statutes §718.503(2), with copies of same having been previously filed by Seller with the Division of Florida Land Sales and Condominiums. Prior to said effective date, this contract shall be voidable by Purchaser. The closing shall be held at the office of the Seller, at the office of the Seller's attorneys, or at the office of the Seller's title insurance agent, or at the office of the mortgagee of any mortgage executed by the Purchaser encumbering said apartment. At such closing, the Purchaser will pay the balance of the purchase price and the Seller will deliver the warranty deed to the Purchaser.

10. In the event the Purchaser fails to take title pursuant to the provisions of this Agreement, the Sellers at their election may terminate same by giving written notice of such termination to the Purchaser. Ten (10) days after the mailing of such notice, this Agreement will become null and void and of no further force or effect.between the parties hereto; and the Seller may retain the deposit, together with interest accrued thereon, as liquidated damages. If the Seller defaults in the performance of this Agreement by failing to convey title pursuant to its provisions, the Purchaser may terminate same by giving written notice of such termination to the Seller. Ten (10) days after the mailing of such notice, the Seller will return the deposit, together with interest accrued thereon, to the Purchaser and this Agreement shall become null and void and of no further force or effect between the parties hereto.

11. THIS AGREEMENT IS VOIDABLE BY PURCHASER BY DELIVERING WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN FIFTEEN (15) DAYS AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE PURCHASER, AND RECEIPT BY PURCHASER OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM BY THE DEVELOPER (SELLER) UNDER SECTION 718.503, FLORIDA STATUTES. PURCHASER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN FIFTEEN (15) DAYS AFTER THE PURCHASER HAS RECEIVED ALL OF THE ITEMS REQUIRED. PURCHASER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

12. Purchaser acknowledges that Seller has advised that the condominium unit which is the subject matter of this contract is approximately five (5) years of age and has been previously occupied, prior to conversion to condominium ownership, by transient tenants as vacation or seasonal residences.

13. The Purchaser has examined the apartment to be sold, the apartment building within which it is located and all other portions of the condominium property and is familiar or will be familiar in advance of the closing with the physical condition thereof. The Seller does not make any representations as to the physical condition, expense of operation, or any other matter affecting or relating to said property, except as herein, or in the Declaration and in the other documents described in Section 718.503 of the Florida Condominium Act.

14. The Purchaser, by the execution of this Purchase Agreement, acknowledges that he is entitled to a receipt of copies of all documents described in Section 718.503 of the Florida Condominium Act. Such documents include the declaration



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461 5020

of condominium, the documents creating Boardwalk Owners Association, Inc., and the By-Laws for Boardwalk Owners Association, Inc. At the time of delivery of said documents, Purchaser agrees to give a receipt therefor. At closing, the Purchaser will in writing agree to be bound by the provisions of said documents, including the declaration of condominium, and the warranty deed conveying the apartment to the Purchaser will contain an acknowledgment that the conveyance is subject to the provisions of said documents. Further, the Purchaser will, in writing at the closing, ratify, confirm and approve all of the provisions of said documents and will agree to be bound thereby; Purchaser will impress a lien upon the apartment, as security for his obligations as described in the declaration and its exhibits and will acknowledge and agree that said documents and this Purchase Agreement contain all of the warranties, representations and inducements concerning the purchase by Purchaser of the apartment.

15. Wherever the context hereof so permits, the use of plural will include the singular, the singular the plural, and the use of any gender will be deemed to include all genders.

16. The delivery of any item and the giving of any notice in compliance with this Agreement shall be accomplished by personal delivery of the item or notice to the party intended to receive it, or by mailing it to the address of the party as stated in this Agreement, by registered or certified mail, return receipt requested. It shall be the obligation of Purchaser to insert his correct mailing address in the place specified below. Notice or delivery by mail shall be effective when mailed.

17. The effective date of this Agreement shall be regarded as the date when the last one of the Seller and Purchaser has signed this agreement.

18. Special Clauses: _____

_____

_____

_____

_____

IN WITNESS WHEREOF, the parties hereto have cause this Agreement to be executed on the dates as set forth below.

Executed by the Seller on _____, 19___.

WITNESSES:

_____

_____
As to Sellers

_____(Seal)
K. M. BROOKS

_____(Seal)
LOUISE M. SPARKS
"SELLER"

Executed by Purchaser on _____, 19___.

WITNESSES:

_____

_____
As to Purchasers

_____(Seal)

_____(Seal)
"PURCHASER"

Purchaser's Mailing Address: _____

_____



FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-3020

WARRANTY DEED

THIS WARRANTY DEED made and executed this _____ day of _____, 19_____, by K. M. BROOKS and LOUISE M. SPARKS, hereinafter called the Grantor, to

_____

_____

whose post office address is _____

_____

hereinafter called the Grantee, which terms "Grantor" and "Grantee" shall include all the parties to this instrument, and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee all that certain real property situate in St. Lucie County, Florida, viz:

Apartment Unit _____ of BOARDWALK CONDOMINIUM, according to the Declaration of Condominium and all exhibits thereto dated _____, recorded _____, in Officiel Record Book _____, pages _____ through _____ of the public records of St. Lucie County, Florida;

TOGETHER WITH:

1. All of its appurtenances, according to said Declaration of Condominium and all of its exhibits, including automobile parking space _____, and all of the tenements, hereditaments and other appurtenances thereunto belonging or in anywise appertaining.

2. All furniture, furnishings, appliances and fixtures now situate in said apartment.

SUBJECT, HOWEVER, to the following:

1. The provisions of the Declaration, including all exhibits, and all rules and regulations affecting the property made by Boardwalk Owners Association, Inc., the nonprofit corporation responsible for the operation of the condominium.

2. The easements provided for in the Declaration or its exhibits or in the Condominium Act of the State of Florida, Chapter 718, Florida Statutes, 1981.

3. Restrictions, reservations and easements of public record.

4. Such zoning and other restrictions upon the use of the apartment and upon all of the condominium property as may be imposed by Governmental authorities having jurisdiction.

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

5. Taxes for the current year.

6. That certain mortgage from the grantee hereof to

_____

in the original principal sum of $_____, dated _____, recorded in O. R. Book _____ at page _____ of the public records of St. Lucie County, Florida. (This Item 6 shall not be a part of this warranty deed unless all required information is inserted in the blanks provided.)

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said real property in fee simple; that the Grantor has good right and lawful authority to sell and convey said real property; that the Grantor hereby fully warrants the title to said real property and will defend the same against the lawful claims of all persons whomsoever; that said real property is free and clear of all encumbrances except taxes accruing subsequent to December 31, 19___.

AND, the Grantor further grants to Grantee an implied warranty of fitness and merchantability for the purposes and uses intended, as to the roof and structural components of the improvements and as to mechanical, electrical and plumbing elements serving the improvements, excepting mechanical elements serving only a unit other than the one hereby conveyed, for a term of three (3) years from the recording of the Declaration of Condominium for Boardwalk Condominium.

IN WITNESS WHEREOF, the said Grantor has executed this deed the day and year first above written.

WITNESSES:

_____ _____(Seal)
K. M. BROOKS

_____ _____(Seal)
LOUISE M. SPARKS

STATE OF FLORIDA
COUNTY OF ST. LUCIE

The foregoing instrument was acknowledged before me this _____ day of _____, 198___, by K. M. BROOKS and LOUISE M. SPARKS.

_____
Notary Public, State of Fla. at Large
My Commission Expires:_____

THIS INSTRUMENT WAS PREPARED BY:

FRANK H. FEE, III, Esquire, of
FEE, FEE, KOBLEGARD, TEEL & KENNEY, P.A.
P. O. Box 1000
Fort Pierce, FL 33454
(305)461-5020

RATIFICATION BY GRANTEE

THE UNDERSIGNED, as Grantee in the foregoing Condominium Warranty Deed, hereby acknowledges receipt of all documents described in Section 718.503 of the Florida Condominium Act. The undersigned hereby ratify, confirm and approve all of the provisions of said documents and agree to be bound thereby. The undersigned hereby impress a lien upon the apartment described in the foregoing warranty deed, as security for the obligations as described in the Declaration and its exhibits, and they acknowledge and agree that said documents together with any prior purchase contract contain all of the warranties, representations and inducements concerning the purchase by grantee of the described apartment.

Witnesses:

_____ _____

_____ _____

_____

STATE OF FLORIDA

COUNTY OF ST. LUCIE

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by

_____.

_____
Notary Public, State of Fla. at Large
My Comm. Expires:_____

FEE, FEE, KOBLEGARD, TEEL & KENNY, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1000
FORT PIERCE, FLORIDA 33454
TELEPHONE (305) 461-5020

# RULES & REGULATIONS
# of
# 715 South Ocean Drive Unit E, Fort Pierce, Florida 34949

-Remove all trash and dispose of in the dumpster located in the back-parking lot

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in assigned parking space labeled “E” or “Guest”

-Do not litter

-Wash sand off at the front hose to prevent drain clogs.

-Do not leave air conditioning on with windows and or doors open.

-Do not set A/C lower than 69 Degrees and return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to condo except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the condo with the sand washed of prior to condo entry.

- Do not give out assigned door code to any party not staying in the condo.

-No Running in common areas or stairwells.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-Use pedestrian crosswalks to cross the street to the beach.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

## Helpful Hints:

1. You enter the access code to unlock the door and when leaving just press the lock icon to lock. The door code will be set to the last four digits of your phone number. Code also control alarm system.

2. The kitchen is fully equipped, please feel free to use pots, pans, dishes, appliances (toaster, waffle maker, George Foremen grill, rice maker, blender, etc under cabinet). Help yourself to coffee -there is creamer available in the refrigerator.

3. There are games in the dining area in the drawers of the coffee bar and underneath. Also, you may help yourself to any of the books in the condo.

4. Bath towels are available in the linen closet. Soap, shampoo and conditioner are also provided. Extra blankets are in bedroom basket and closet.

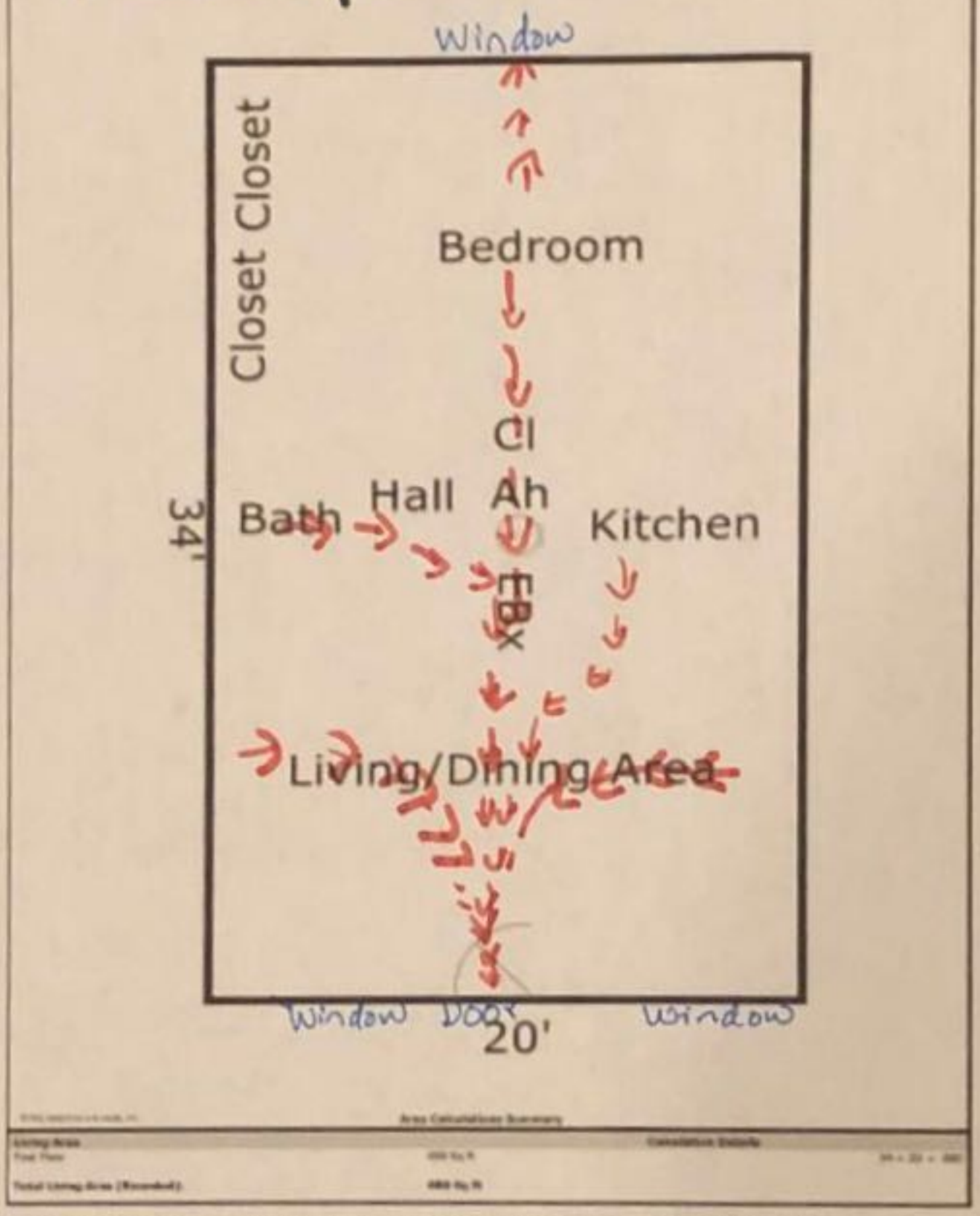
5. The bedroom closet has beach chairs, umbrellas, beach towels, and blankets for your use. Please do not take the bath towels onto the beach

6. Please leave dirty laundry in hamper in closet.

7. If you are a great cook (like me) and burn something, open door to air out- There is a smoke detector in the kitchen but if it goes to the hallway, that smoke detector will dispatch the fire department.

8. Contact me when checking out so that I may set the alarm, ordering cleaning, and send back the deposit.

# Fire Escape Route




Floor Plan for 715 South Ocean Drive, Unit E, Fort Pierce, Florida 34949

## Uses

Bedroom – rest/lounge
Bath - bodily care
Closet - storage
Living Room - lounge / entertainment
Kitchen - cooking / food prep
Dining Area - eating / entertainment

# VACATION RENTAL SHORT TERM LEASE AGREEMENT

This Vacation Rental Short Term Lease Agreement (this "Agreement") is made by and between Tiffany Wright Ofeimu ("Owner") and _____ ("Guest") as of the date last written on the signature page of this Agreement. Owner and Guest may be referred to individually as "Party" and collectively as "Parties." For good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

**1. Property.** The property is described as a condominium with one (1) bedrooms and one (1) bathrooms located at 715 South Ocean Dr Unit E, Fort Pierce, FL 34949 (the "Property"). The Property is owned by Owner. The Property is fully furnished by Owner and equipped for light housekeeping. The following amenities are included in the Property:

- microwave, stove, refrigerator
- small kitchen appliances, pots/pans, cooking utensils, dishes, silverware
- wifi
- bed and bath linens
- Beach towels, chairs, umbrellas
- books and games

A starter supply of household cleaning and hygiene products may be available in the Property for use. Guest is responsible for purchasing any additional supplies and all food and beverages.

**2. Rental Party.** All persons in the rental party will be bound by the terms of this Agreement. Only persons listed on this Agreement may stay in the Property. "Rental Party" means Guest plus the following persons:

| First Name & Last Name | Relationship to Guest |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

The total number of adults in the Rental Party will be _____2___. The total number of children in the Rental Party will be ____0_____.

**3. Maximum Occupancy.** The maximum number of persons allowed to stay in the Property is limited to two (2), unless the Owner gives its prior written consent. A charge of _____NA_____ per person per night will be assessed for each person who stays in the Property in addition to the Rental Party. Guest will be charged without notice for additional persons staying in the Property and not disclosed to Owner.

**4. Visitors.** A visitor is an occupant of the Property who is not staying overnight. The total number of persons permitted in the Property at any given time, including visitors, is five (5). Any visitor staying

overnight is subject to additional charges. No visitor will be allowed to use the common facilities, including any pools or tennis courts, when Guest is not on the Property.

**5. Rental Period & Check-In.** The term of this lease will be from _____("Arrival Date") to _____("Departure Date"). The Property will be ready for Guest's occupancy beginning at 3pm on the Arrival Date and the Property must be vacated by 11am on the Departure Date, unless otherwise agreed by Owner. If Guest or any member of the Rental Party remains on the Property beyond the Departure Date, Guest will be responsible to pay the rental rate prescribed in Section 8 below for the period of time between Departure Date and the actual date Guest and all members of the Rental Property vacate the Property. The Property requires a two (2) night minimum stay.

**6. Keys & Access Codes.** Owner will provide Guest with door and alarm access codes to the rental. Code is _____.

**7. Rental Rules & Restrictions.** Guest agrees to abide by the Rules and Regulations of Boardwalk Condominium and any other restrictions imposed by Owner (the "Rules"), attached to this Agreement as Exhibit A, at all times while on the Property and will cause all persons in the Rental Party and any visitors that Guest permits on the Property to abide by the Rules while on the Property. In addition, Guest agrees to abide by the following restrictions by Owner:

(A) Follow all city, state, and federal laws.
(B) No smoking in unit
(C) Pets only with approval

If any person in the Rental Party fails to follow any of the Rules, the Rental Party may be asked to vacate the Property and Guest will forfeit all rent paid.

**8. Reservation Deposit and Payment.** Guest agrees to pay the rent and fees described below (the "Total Amount Due"). A deposit in the amount of _____ (the "Reservation Deposit") is due and payable upon return of this signed Agreement in order to secure Guest's reservation. The Reservation Deposit is non-refundable and will be applied toward the rental rate. Payment in full of the following fees, less the Reservation Deposit, will be due within _____ days before the Arrival Date.

| | |
|---|---|
| Rental rate of 300 PER WEEK x 3 WEEKS | _____ |
| Cleaning service fee | _____ |
| Security Deposit | _____ |
| State and local sales/rental taxes (_EXEMPT___) | _____ |
| **Total Amount Due** | **_____** |
| (Less reservation deposit due immediately) | (_____) |
| **Total Balance Due** | **_____** |

Acceptable payment methods are:

- Electronic payment (PayPal, Zelle, Venmo, or CashApp) orcashier check

Checks should be made payable to: Tiffany Wright Ofeimu and sent to: 3122 Winchester Rd, West Bloomfield, MI 48322. A fee of $50.00 will be charged to Guest for dishonored checks.

**9. Security Deposit.** Owner reserves the right, at its discretion, to charge a security deposit at the time of reservation in the amount of $_____. This deposit will be refunded after Guest's departure and an inspection of the Property by Owner, less any deductions for damage to the Property or furnishings, excessive mess requiring additional cleaning or other costs incurred outside the normal course due to Guest's stay.

**10. Cancellation.** If Guest cancels the reservation less than five (5) days before the Arrival Date, the Total Amount Due will be forfeited.

**11. Cleaning.** Daily housekeeping services are not included in the rental rate. Throughout the rental period, Guest will be responsible for keeping the Property clean and in good condition. Any unsafe or dangerous condition must be reported to Owner immediately. Guest acknowledges that on the Arrival Date, the Property is in good condition, except for any defect Guest may report to Owner by the end of the first day following the Arrival Date. The Property should be left in the same condition as it was found by Guest on the Arrival Date. Guest promises to leave the Property in good repair. A cleaning fee of $200 will be charged to the Guest if you is left in poor condition.

**12. Furnishings.** The following furnishings will be provided with the Property:

- Fully furnished and equipped condo

Furnishings are subject to change without notice. Furniture, bedding, kitchen equipment, utensils, and any other personal property supplied with the Property must not be removed from the Property. Loss of any items within the Property or damage to the Property or furnishings in excess of normal wear and tear will be charged to Guest. The Property will be inspected by Owner after Guest's departure. All contents of the Property are the property of Owner. If an item should break, Guest must notify Owner immediately. Guest is not permitted to alter the wiring of any television, computer, or gaming equipment.

**13. Parking.** Parking is limited to one (1) spaces. Guest may only park in designated parking area-E. Any illegally parked cars may be subject to towing and/or fines.

**14. Mechanical Failures.** Owner attempts to properly maintain the Property. While all electrical and mechanical equipment within the Property are in good working order, Owner cannot guarantee against mechanical failure of electrical service, stopped plumbing, water supply, heating, air conditioning, audio visual equipment, internet access, cable service, or appliances. Guest agrees to report any inoperative equipment or other maintenance problem to Owner immediately. Owner will make every reasonable effort to have repairs done quickly and efficiently. Guest will allow Owner or a person permitted by Owner access to the Property for purposes of repair and inspection. Owner is not responsible for any inconvenience that may occur and no refunds or rent reductions will be made due to failure of such items.

**15. Acts of God.** If there is a storm or severe weather and a mandatory evacuation order is issued by state or local authorities, Guest shall be entitled to a prorated refund for each night Guest is unable to

occupy the Property. Owner will not be liable or deemed in default under this Agreement for any failure to perform or delay in performing any of its obligations due to or arising out of any act not within its control, including, without limitation, acts of God.

**16. Limitation on Liability.** Owner is not responsible for any accidents, injuries or illness that occur to any member of the Rental Party or Guest's visitors while in the Property or on the Property. Owner is not responsible for loss of personal belongings or valuables belonging to any member of the Rental Party or any of Guest's visitors. Guest agrees to assume the risk of any harm arising from use of the Property. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE, SHALL OWNER BE LIABLE TO GUEST OR ANY OTHER PERSON FOR ANY DAMAGES OF ANY NATURE WHATSOEVER INCLUDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR GUEST'S RENTAL OF THE PROPERTY OR USE OF THE PROPERTY. IN NO EVENT WILL OWNER BE LIABLE FOR ANY DAMAGES IN CONNECTION WITH THIS AGREEMENT, EVEN IF OWNER SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE.

**17. Indemnification.** Guest acknowledges that the use of the Property by the Rental Party and Guest's visitors is entirely at their own risk. Guest will indemnify and hold harmless Owner from any and all expenses, costs, damages, suits, actions, or liabilities whatsoever arising from or related to any and all loss of or damage to personal property, injury or death resulting from the use or occupancy of the Property or the failure of any member of Rental Party or Guest's visitors to observe the Rules and restrictions set forth in Paragraph 7.

**18. Violation of Agreement.** If Guest or any member of the Rental Party violates any of the terms of this Agreement, including but not limited to maximum occupancy, visitors and rental rules and restrictions, Owner may evict Guest and the Rental Party from the Property and Guest will forfeit all rent and security deposit paid.

**19. Governing Law.** This Agreement and all transactions contemplated by this Agreement will be governed by, and constructed and enforced in accordance with the laws of the State of Florida (not including its conflicts of laws provisions). Any dispute arising from this Agreement shall be resolved through mediation. If the dispute cannot be resolved through mediation, then the dispute will be resolved through binding arbitration conducted in accordance with the rules of the American Arbitration Association.

**20. Amendments.** This Agreement may be amended or modified only by a written agreement signed by both Owner and Guest.

**21. No Waiver.** Neither Owner nor Guest shall be deemed to have waived any provision of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly and in writing.

**22. Severability.** If any provision of this Agreement is held to be invalid or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid and enforceable as though the invalid or unenforceable parts had not been included in this Agreement.

**23. Notices.** Any notice or communication under this Agreement must be in writing and sent via one of the following options:

- electronic email transmission

**24. Successors and Assigns.** This Agreement will inure to the benefit of and be binding upon Owner, its successors and assigns, and upon Guest and its permitted successors and assigns.

**25. Entire Agreement.** This Agreement and Exhibit A represents the entire understanding and agreement between the Parties with respect to the subject matter of this Agreement and supersedes all other negotiations, understandings and representations (if any) made by and between the Parties.

## SIGNATURES

| | |
|---|---|
| **Owner** Signature | **Guest** Signature |
| Tiffany Wright Ofeimu | |
| **Owner** Name | **Guest** Name |
| Date | Date |

# EXHIBIT A
# RULES & REGULATIONS
# of
# 715 South Ocean Drive Unit E, Fort Pierce, Florida 34949

-Remove all trash and dispose of in the dumpster located in the back-parking lot

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in assigned parking space labeled “E” or “Guest”

-Do not litter

-Wash sand off at the front hose to prevent drain clogs.

-Do not leave air conditioning on with windows and or doors open.

-Do not set A/C lower than 69 Degrees and return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to condo except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the condo with the sand washed of prior to condo entry.

- Do not give out assigned door code to any party not staying in the condo.

-No Running in common areas or stairwells.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-Use pedestrian crosswalks to cross the street to the beach.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

## Helpful Hints:

1. You enter the access code to unlock the door and when leaving just press the lock icon to lock. The door code will be set to the last four digits of your phone number. Code also control alarm system.

2. The kitchen is fully equipped, please feel free to use pots, pans, dishes, appliances (toaster, waffle maker, George Foremen grill, rice maker, blender, etc under cabinet). Help yourself to coffee -there is creamer available in the refrigerator.

3. There are games in the dining area in the drawers of the coffee bar and underneath. Also you may help yourself to any of the books in the condo.

4. Bath towels are available in the linen closet. Soap, shampoo and conditioner are also provided. Extra blankets are in bedroom basket and closet.

5. The bedroom closet has beach chairs, umbrellas, beach towels, and blankets for your use. Please do not take the bath towels onto the beach

6. Please leave dirty laundry in hamper in closet.

7. If you are a great cook (like me) and burn something, open door to air out- There is a smoke detector in the kitchen but if it goes to the hallway, that smoke detector will dispatch the fire department.

8. Contact me when checking out so that I may set the alarm, ordering cleaning, and send back the deposit.

**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards**

**Lead Warning Statement**

*Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.*

**Owner's Disclosure**

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

i) ____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).
(ii) _x___ Owner has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the Owner (check (i) or (ii) below):

(i) ____ Owner has provided Guest with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).
(ii) _x___ Owner has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Guest's Acknowledgment** (initial)

(c) _____ Guest has received copies of all information listed above.

(d) _____ Guest has received the pamphlet Protect Your Family from Lead in Your Home.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

| | Tiffany Wright Ofeimu | |
|---|---|---|
| Signature of **Owner** | Name of **Owner** | Date |
| Signature of **Guest** | Name of **Guest** | Date |

# Property Management Agreement

This Agreement is entered between Tiffany Wright Ofeimu (Owner) and Alex Saffron (Property Manager) for the property management of 715 S. Ocean Drive, Unit E, Fort Pierce, FL 34949. Alex Saffron agrees to go on record with City of Fort Pierce as the Property Manager and carry out the duties as needed.

As Property Manager, the following responsibilities are included:

1. Ensure proper response and resolution to complaints and violations of city code.
2. Make basic repairs as needed and/or coordinate the appropriate repair company.
3. Respond to emergencies of guests. Phone number will be displayed in unit.
4. General safety maintenance – i.e.. check fire alarms, change filters
5. Notify owner if out of town during a guest stay.
6. Assist with check in/check out as needed.

In exchange for these duties, Property Manager will be paid for services and any materials. These payments will be mutually agreed on prior to the services rendered.

Signed on: April 9, 2020

Tiffany M. Wright Ofeimu signed electronically 4/9/2020 11:55am

Tiffany M. Wright Ofeimu (Owner)
3122 Winchester Rd.
West Bloomfield, MI 48322

Alex Saffron (Property Manager)
7402 Santa Rosa Pkwy.
Fort Pierce, Fl 34951

# Application for Conditional Use with no new construction

715 S. Ocean Dr.

Fort Pierce, FL 34949

# Tiffany Wright Ofeimu

- Applying to offer lodging less than 6 months with a minimum of 2 days.

- The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID 2401-504-001-000

# Rationale for application

- Less than 30 days permits owners to occupy property for their own use
- Ideal vacation area- property is directly across from beach and walking distance to waterfront restaurants
- Property rental will increase tourism to Fort Pierce and revenue to Fort Pierce businesses
- Property rental will bring forth revenue in the form of taxes to the City of Fort Pierce

# Conditions required per Planning Board Approval

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

✓ Alex Saffron 7402 Santa Rosa Parkway, Fort Pierce, Fl 34951

2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

✓ Requested from Heather Debevec- 7/8/2020, to be picked up 7/20/2020

3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

✓ To be completed immediately after approval. Applications are submitted to St Lucie County-pending processing after the Fort Pierce Business Tax Number is issued

4. There shall be a limitation of no more than two (2) vehicles at the site.

✓ One designated spot and 8 guests spots available for building use

5. The City of Fort Pierce Business Tax License number shall be included on all advertising.

✓ To be completed upon approval and issuance of License number

# Supportive information:

- Economic benefits to city will come from taxes and other revenue because generated from guests who will spend their money on other visitor related amenities, such as restaurants, bars and museums.
- Benefits to the renter over hotels: a kitchen, more room and privacy, flexible schedule, personal customer service
- Many short-term hosting companies do a certain amount of screening before they allow potential users access to their website listings.
- Commercially insured
- Property rights

# Witnesses in support

- Jordan Ofeimu-son (3122 Winchester, West Bloomfield, MI 48322)
- Gus Fort- Owner in Boardwalk Condos (715 S. Ocean Dr. Unit F)
- Sarah Saffron- Local realtor/spouse of property manager (7402 Santa Rosa Pkwy, For Pierce, FL 34951)
- Paul Schall- Local realtor (Coldwell Banker Paradise 411 N. US Hwy 1, Fort Pierce, Fl 34950)

# Letter of Support

To whom it may concern

I am writing in response to the application from Tiffany Wright Ofeimu for conditional use permit for under 30 days for a vacation rental at 715 S. Ocean Dr. Fort Pierce, FL 33949. I have been a tenant in a home owned by Tiffany Wright Ofeimu for over a year. She has been a great landlord to me -she responds to any needs or concerns in a timely fashion. If a need arises, she calls out an appropriate professional immediately I am sure she will put the same great care to her unit in Florida.

I am hoping to rent her condo in Fort Pierce for a vacation soon.

Thanks

Neke Jackson

505 Fildew Ave.

Pontiac MI 48341

1 (248) 722-1885

# Letter of Support

To whom it may concern

I am writing in response to the application from Tiffany Wright Ofeimu for conditional use permit for under 30 days for a vacation rental at 715 S. Ocean Dr. Fort Pierce, FL 33949. I have been a professional colleague and friend of Tiffany Wright Ofeimu for over 20 years. When she told me that she was buying a condo in Fort Pierce, I was surprised since that is not somewhere that we had visited in the past. I vacation in Florida at least once a year but I have never been to Fort Pierce. However after I recently visited Hutchinson Island, I knew why she chose it. This was a beautiful  vacation spot. I can see why she wants to share this with others.
I can attest that Tiffany will do whatever it takes to keep her condo safe and desirable to not only her tenants but also her neighbors. She takes great proud in her professional and personal life. If any need arises, she will address it expeditiously.
I look forward to bringing my husband to see Fort Pierce and all that it has to offer and renting her condo soon.

Sincerely,

Tonya Freeman

1301 Briarwood Drive

Waterford, MI 48327

1 (248) 632-4104

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

## PUBLIC NOTIFICATION CERTIFICATION

**PROJECT NAME:** Conditional Use - Wright-Ofeimu Vacation Rental - 715 S. Ocean Dr., Unit E

**NOTICES PROVIDED PURSUANT TO:** City Code Section 22-143. Public Hearings A,B,C, & D

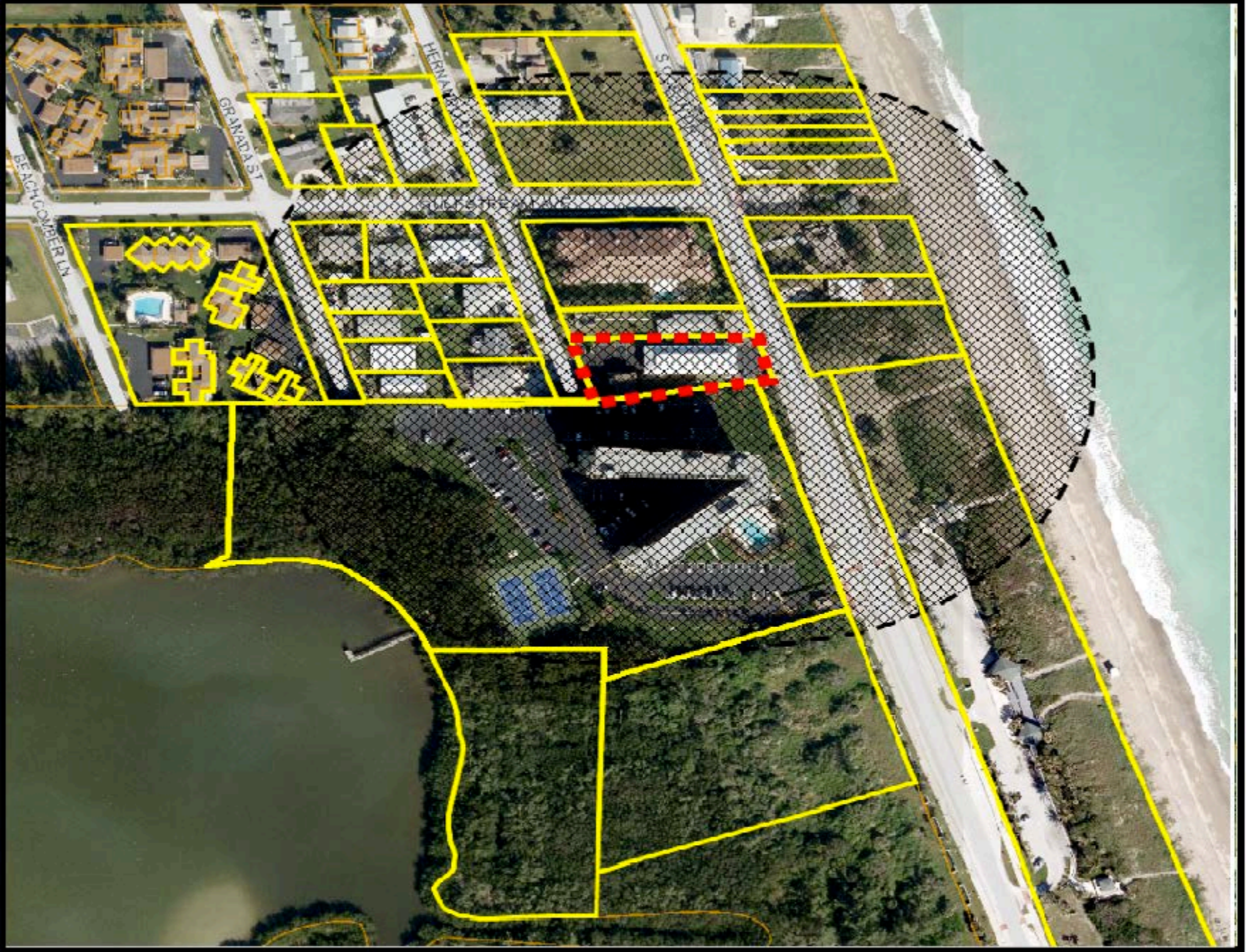
**NOTICE BY NEWSPAPER:** July 5th, 2020

**NOTICE BY MAIL:** July 2nd, 2020

**NOTICE BY SIGNS:** july 9th, 2020

**VERIFIED BY:** Vennis Gilmore **TITLE:** Planner

**SIGNATURE:** **DATE:** July 9th, 2020




**Location Map**

**715 S. Ocean Drive, Unit E**

**Wright-Ofeimu Vacation Rental**

THE SUNRISE CITY
FORT PIERCE
Florida

1
Tr Int Imp Trust Fund
3900 Commonwealth Blvd
Tallahassee; FL 32399-3000

2
Ft Pierce City Of
PO Box 1480
Fort Pierce; FL 34954-1480

3
Maurice Kodsi (TR)
6525 3rd ST; Unit Ste 409
Rockledge; FL 32955-5756

4
George H Muller
PO Box 3309
Fort Pierce; FL 34948-3309

5
Clementi Retirement Investments LLC
5711 NE 14th AVE
Ft Lauderdale; FL 33334-6105

6
Joseph DeFeo
3091 S Jog Rd
Greenacres; FL 33467-2005

7
Edward A Weiss
17343 10th ST
Montverde; FL 34756-3157

8
Richard E Greene
618 S Ocean DR
Fort Pierce; FL 34949-3210

9
Lawrence Drulard
620 S Ocean DR
Fort Pierce; FL 34949-3210

10
Suzanne T Felts
610 S Ocean DR
Fort Pierce; FL 34949-3210

11
Hyer Management LLC
1206 Mariner Bay BLVD
Fort Pierce; FL 34949-3608

12
Anthony Tepedino (TR)
3700 S Ocean BLVD; Unit Apt 1102
Highland Beach; FL 33487-3372

13
Mark Titone
606 Dahlia LN
Vero Beach; FL 32963-1844

14
Mark Titone
606 Dahlia LN
Vero Beach; FL 32963-1844

15
DPA Pearly Sands LLC
850 NW Federal HWY; Unit Ste 236
Stuart; FL 34994-1019

16
SAS Investment Services LLC
19C Trolley Sq
Wilmington; DE 19806-3355

17
Sun Development Tech LLC
3669 Park LN
Miami; FL 33133-6826

18
Fond De Blanc Inc
275 SW Lost River RD
Stuart; FL 34997-6294

19
Frances J Pollaci (TR)
321 S Ocean DR
Fort Pierce; FL 34949-3255

20
Richard Naugle Jr
1821 Gulfstream AVE; Unit Apt B
Fort Pierce; FL 34949-2825

21
Jessyca K Rossman
5108 Paleo Pines CIR
Fort Pierce; FL 34951-2342

22
Dario Chang (TR)
742 Granada ST
Fort Pierce; FL 34949-2821

23
Frank J Celentano Jr
1815 Melaleuca DR
Fort Pierce; FL 34949-3415

24
Louise A Brannan
6802 Tulip ST
Philadelphia; PA 19135-2406

25
Robin Whisnant
PO Box 211523
Royal Palm Beach; FL 33421-1523

26
Ann Faith Harris
28 NE 2nd NE AVE
Atlanta; GA 30317-2621

27
Donald L Botterbusch
732 Granada ST
Fort Pierce; FL 34949-2822

28
R and D Management/Investments
10380 SW Village Center DR; Unit # 333
Port Saint Lucie; FL 34987-1931

29
Gulfstream Villas Owners Assn
401 Osceola St
Stuart; FL 34994

30
James E Plumb
1771 Gulfstream AVE; Unit Apt B3
Fort Pierce; FL 34949-3540

31
John Welch Jr
1771 Gulfstream AVE; Unit Apt B4
Fort Pierce; FL 34949-3540

32
Kevin C Walsh Sr
1771 Gulfstream AVE; Unit Apt C1
Fort Pierce; FL 34949-3574

33
Joseph P Albano
1771 Gulfstream AVE; Unit Apt C2
Fort Pierce; FL 34949-3574

34
Pauline Kimple Gaskill
1771 Gulfstream AVE; Unit Apt C3
Fort Pierce; FL 34949-3574

35
Edwin H Francis
1771 Gulfstream AVE; Unit Apt C4
Fort Pierce; FL 34949-3562

36
Robert J O`Dell
702 S Ocean DR
Fort Pierce; FL 34949-3211

37
William E O`Dell
708 S Ocean DR
Fort Pierce; FL 34949-3211

38
William L Falkenhainer
423 Stobe AVE
Staten Island; NY 10306-5459

39
Boardwalk Condominium Association Inc
1100 Fort Pickens RD; Unit Apt A14
Gulf Breeze; FL 32561-3913

40
Marie Ortiz
715 S Ocean DR; Unit Apt A
Fort Pierce; FL 34949-3217

41
Judith Ross
3531 Eleven Mile RD
Fort Pierce; FL 34945-2502

42
Kenneth L Bradley
715 S Ocean DR; Unit Apt C
Fort Pierce; FL 34949-3217

43
Nicholas Alex Danaluk Jr
1425 SW Edinburgh DR
Port St Lucie; FL 34953-6531

44
Linda Lees
1927 Cypress AVE
Fort Pierce; FL 34949-3408

45
Augustus B Fort Jr
49 Woodland DR; Unit Apt 201
Vero Beach; FL 32962-3785

46
Roger J Hites Sr
7515 Twin Buttes DR; Unit # D-10
Pueblo; CO 81004-9761

47
Augustus B Fort Jr
2740 Night Hawk CT
Longwood; FL 32779-4845

48
Ricky Keller
5036 State Road 52
Jeffersonville; NY 12748

49
Christopher E Ehrhart
715 S Ocean DR; Unit Apt K
Fort Pierce; FL 34949-3217

50
Iraida L Quintero
1404 19th Ave N
Lake Worth; FL 33460

51
Margarita D Chess
4180 N A1A Unit 401B
Fort Pierce; FL 34949

52
Beach Cottage Condominium Association; Inc.
322 S Livingston AVE
Livingston; NJ 07039-3925

53
Gran Gulf LLC
22 Palmetto DR
Stuart; FL 34996-6718

54
Gran Gulf LLC
22 Palmetto DR
Stuart; FL 34996-6718

55
Gran Gulf LLC
22 Palmetto DR
Stuart; FL 34996-6718

56
Gran Gulf LLC
22 Palmetto DR
Stuart; FL 34996-6718

57
Sea Pointe Towers of Fort Pierce; a Condominium
801 South Ocean Drive #101
Fort Pierce; FL 34949

58
Craig A Walker
PO Box 29
Broomes Island; MD 20615-0029

59
Carol Kapostasy
801 S Ocean DR; Unit Apt 202
Fort Pierce; FL 34949-3380

60
Thomas Storer
18 Red Oak Way
Bridgewater; NJ 08807-2621

61
Philip J Hardwick
801S Ocean Dr Unit 204
Fort Pierce; FL 34949

62
Jesse Dowell
801 S Ocean DR; Unit Apt 205
Fort Pierce; FL 34949-3380

63
Joy H Lee
801 S Ocean Dr Apt 206
Fort Pierce; FL 34949-3380

64
John R Hawthorne
30 Church St
Bedford Hills; NY 10507

65
Olga M Bellekes
1031 Lakeshore Rd E
Oro-Medonte; ON L0L 1T0

66
Juan G Maya
10635 Ermine AVE
Boca Raton; FL 33428-4166

67
Eve-Marie Lacroix (LF EST)
801 S Ocean DR; Unit Apt 210
Fort Pierce; FL 34949-3315

68
G Jeffrey Vernis
884 US Hwy 1
North Palm Beach; FL 33408

69
Amina Chaoune
801 S Ocean Dr #302
Fort Pierce; FL 34949

70
Frank Edley (TR)
1427 Waterwood DR; Unit # 303
Lutz; FL 33559-6964

71
Anthony S Curatolo (EST)
801 S Ocean DR; Unit Apt 304
Fort Pierce; FL 34949-3380

72
Joanne Longo-Bates
801 S Ocean DR; Unit Apt 305
Fort Pierce; FL 34949-3380

73
Ronald Farmer
801 S Ocean Dr Apt 306
Fort Pierce; FL 34949-3380

74
Barbara K Maddox
3519 Rabbits Foot TRL
Lexington; KY 40503-3745

75
Ralph A Dee
801 S Ocean DR; Unit Apt 308
Fort Pierce; FL 34949-3380

76
Paul Taglieri
801 S Ocean Dr #401
Fort Pierce; FL 34949-3380

77
James R McDaniel
801 S Ocean DR; Unit Apt 402
Fort Pierce; FL 34949-3380

78
Dennis A Fein
801 S Ocean DR; Unit Apt 403
Fort Pierce; FL 34949-3380

79
Peter W Marovich
1801 Ols Eagle Lake Rd
Bartow; FL 33830

80
Elizabeth Berg
801 S Ocean Dr Apt 405
Fort Pierce; FL 34949-3380

81
Beverly Ginelli
801 S Ocean DR; Unit Apt 406
Fort Pierce; FL 34949-3380

82
Erskins L Searles Sr
801 S Ocean DR; Unit Apt 407
Fort Pierce; FL 34949-3380

83
Mary Chiffy 2014 Living Trust
23 Deerpath Dr
New Hartford; NY 13413

84
Barton J Hodge
801 S Ocean DR; Unit Apt 409
Fort Pierce; FL 34949-3381

85
Ralph Radtke
801 S Ocean DR; Unit Apt 410
Fort Pierce; FL 34949-3381

86
Larry E Greenwald
804 Brookwood DR
Lakeland; FL 33813-1701

87
Sheer Garcia
801 S Ocean DR; Unit Unit 502
Fort Pierce; FL 34949-3381

88
Bernice Gundling
801 S Ocean Dr Apt 503
Fort Pierce; FL 34949-3381

89
James W Dristiliaris
801 S Ocean Dr Apt 504
Fort Pierce; FL 34949-3381

90
Sharon L Rogers
801 S Ocean DR; Unit Apt 505
Fort Pierce; FL 34949-3381

91
Charles V Lacroix
85 Cherry St
Spencer; MA 01562

92
Christopher G Helwig
PO Box 519
Bolivar; OH 44612-0519

93
John Dillon Jr
775 Sunset Dr
Eagan; MN 55123

94
Bruce W Kinggard
17120 SW 83rd Ct
Miami; FL 33157

95
Anthony Sorrenti (LF EST)
801 S Ocean DR; Unit Apt 601
Fort Pierce; FL 34949-3381

96
Lloyd J Welch (TR)
801 S Ocean DR; Unit Apt 602
Fort Pierce; FL 34949-3381

97
Nicholas G Vlachos (TR)
801 S Ocean Dr 603
Fort Pierce; FL 34949-3381

98
Rose C Kovary (LF EST)
297 Evergreen Ave
Huntington Station; NY 11746-4536

99
Adams Housing LLC
504 S Camden AVE
Fruitland; MD 21826-1217

100
Gerald B Green
801 S Ocean DR; Unit Apt 606
Fort Pierce; FL 34949-3381

101
Alan E Maynard
801 S Ocean Dr Apt 607
Fort Pierce; FL 34949-3381

102
Dennis Fano
2219 SW Balata TER
Palm City; FL 34990-4331

103
Rocco Femia
44 S Hills Dr
New Hartford; NY 13413-3102

104
Doreen Moran
801 S Ocean DR; Unit Apt 610
Fort Pierce; FL 34949-3381

105
Robert Idzior
110 Cimmaron DR
Palm Coast; FL 32137-8929

106
J Fred Jackson (TR)
801 S Ocean DR; Unit Apt 702
Fort Pierce; FL 34949-3381

107
Patrick S Helwig
P O Box 613
Zoar; OH 44697

108
Wesley Charles Knepp
801 S Ocean DR; Unit Apt 704
Fort Pierce; FL 34949-3381

109
Philip A Capen
801 S Ocean Dr Unit 706
Fort Pierce; FL 34949-3381

110
Mary A Hakim
801 S Ocean DR; Unit Apt 707
Fort Pierce; FL 34949-3382

111
Mary Ann Durkin
8859 Manchester AVE
Philadelphia; PA 19152-1514

112
Phillip Preedy
40 Berwyn Rd Richmond
Richmond Surrey TW10 585

113
Audrey Mooney (LF EST)
801 S Ocean Dr # 710
Fort Pierce; FL 34949

114
Mike Stephens
22 Parkwood DR
Davenport; IA 52803-2324

115
John Bruyere
646 S Main ST; Unit Apt 3
Du Bois; PA 15801-1197

116
Elizabeth Mary Petermeier
801 S Ocean DR; Unit Apt 803
Fort Pierce; FL 34949-3382

117
Richard B Lounsberry
801 S Ocean Dr Unit 804
Fort Pierce; FL 34949-3382

118
Charles T Day Jr (TR)
801 S Ocean DR; Unit Apt 807
Fort Pierce; FL 34949-3382

119
Nancy Lee McCaskill (TR)
801 S Ocean Dr # 808
Fort Pierce; FL 34949

120
Steven C Maldonado
815 Bayside Ln
Weston; FL 33326

121
Kathleen F Broe
801 S Ocean DR; Unit Apt 810
Fort Pierce; FL 34949-3382

122
Barbara Strafella
801 S Ocean DR; Unit Apt 901
Fort Pierce; FL 34949-3382

123
Richard Mentzel
11244 NW 10th Manor
Coral Springs; FL 33071

124
David Hudon
801 S Ocean DR; Unit Apt 903
Fort Pierce; FL 34949-3382

125
Daniel Dahill
11 Tupelo Ln
East Islip; NY 11730

126
Dolores E Semler
914 SE 25th TER; Unit Apt 905
Cape Coral; FL 33904-2916

127
William Trewhella
801 S Ocean Dr Unit 907
Fort Pierce; FL 34949-3382

128
Anthony K Froitzheim
18 Windsor Rd
Baldwin; NY 11510-2944

129
Paul H Knight
31 Orchard Close
Grantham, Lincolnshire NG31 8HD

130
Arthur Demarchis (TR)
7 Westerly Rd
Ossining; NY 10562-4108

131
Graham Stikelether
801 S Ocean Dr Apt 1001
Fort Pierce; FL 34949-3382

132
Beverly D Butt (LF EST)
801 S Ocean DR; Unit Apt 1002
Fort Pierce; FL 34949-3382

133
William Below (TR)
801 S Ocean DR; Unit Apt 1003
Fort Pierce; FL 34949-3382

134
Mary M Hassel
801 S Ocean DR; Unit # PH104
Fort Pierce; FL 34949-3315

135
James D Epperlein
801 S Ocean DR; Unit Ph 105
Fort Pierce; FL 34949-3315

136
Lee E Keller
801 S Ocean Dr Apt 1006
Fort Pierce; FL 34949-3383

137
Anthony Stephen Reagan
801 S Ocean DR; Unit Apt 1007
Fort Pierce; FL 34949-3383

138
Sharon L Pellizzari
801 S Ocean DR; Unit Apt 1008
Fort Pierce; FL 34949-3383

139
Paul Marshall
801 S Ocean DR; Unit # PH109
Fort Pierce; FL 34949-3315

140
James G Brown Jr
4013 Glenridge St
Kensington; MD 20895-3708

141
Dean King
801 S Ocean DR; Unit Apt 1101
Fort Pierce; FL 34949-3383

142
Frank Blandino
900 Egret Ave
Fort Pierce; FL 34982-8323

143
Donna G Shepherd (TR)
801 S Ocean DR; Unit Apt 1103
Fort Pierce; FL 34949-3315

144
Heidi Elgert Dale
801 S Ocean DR; Unit # PH204
Fort Pierce; FL 34949-3315

145
Robert J Belgau
801 S Ocean DR; Unit Unit 1105
Fort Pierce; FL 34949-3383

146
Fannie Berg (TR)
801 S Ocean DR; Unit Apt 1106
Fort Pierce; FL 34949-3383

147
Eva G Heifetz (LF EST)
801 S Ocean DR; Unit Apt 1107
Fort Pierce; FL 34949-3383

148
Rodney B Merrifield
801 S Ocean DR; Unit Apt 1108
Fort Pierce; FL 34949-3383

149
Brenda L Wilson
801 S Ocean Dr #1109
Fort Pierce; FL 34949-3315

150
Cheryl Cassamasse
801 S Ocean DR; Unit Apt 1110
Fort Pierce; FL 34949-3383

151
Lynne Callagy
801 S Ocean DR; Unit Apt 1203
Fort Pierce; FL 34949-3383

152
Jean A Knapp
801 S Ocean Dr Apt 1204
Fort Pierce; FL 34949-3383

153
David Hudon
801 S Ocean DR; Unit PH305
Fort Pierce; FL 34949-3315

154
Timothy R Kline
801 S Ocean Dr # 1206
Fort Pierce; FL 34949-3383

155
David M Lamos
805 Delaware Ave
Fort Pierce; FL 34950

156
Robert B Russell
173 Lake Shore DR
Toronto; ON M8V 2A1

157
Richard E Jarvis
14 Pemberton TRL
Plymouth; MA 02360-3597

158
June E Cumings
801 S Ocean DR; Unit Apt 1210
Fort Pierce; FL 34949-3383

# Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

St Lucie News Tribune
1801 U.S. 1, Vero Beach, FL 32960
**AFFIDAVIT OF PUBLICATION**

**CITY OF FORT PIERCE**
100 N. U.S. 1

**FORT PIERCE, FL 34950**

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he/she is a legal clerk of the St Lucie News Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St Lucie News Tribune in the following issues below. Affiant further says that the said St Lucie News Tribune is a newspaper published in Fort Pierce in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St Lucie News Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

RECEIVED
JUL 14 2020
FINANCE DEPT.

**07/05/2020**

Subscribed and sworn to before on July 5, 2020:

Tara Mondloch

Notary, State of WI, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

My commission expires August 6, 2021

Publication Cost: $171.60
Ad No: 0004264829
Customer No: 1330883
PO #:

# of Affidavits 1

CITY OF FORT PIERCE
NOTICE OF PUBLIC HEARING

The City Commission of the City of Fort Pierce, Florida, pursuant to Section 22-143 of the Code of Ordinances of the City of Fort Pierce, will on Monday, July 20, 2020 hold Public Hearings in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida, at their meeting which begins at 6:30 p.m., to consider review and approval of the following:

1. Approval of a Conditional Use with no new construction submitted by applicant, Michelle Longarzo on behalf of Michael D. Robbins, property owner, to operate a Vacation Rental at 1014 S. 7th Street, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Single-Family Intermediate Density Zone (R-2), Parcel ID: 2415-601-0254-000-0.
2. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wright-Ofeimu, a Vacation Rental at 715 S. Ocean Drive, Unit E, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-504-0001-000.
3. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wood, a Vacation Rental at 1123 Hernando Street, Apt. B, offering lodging for less than six (6) months. The minimum rental period is identified as one (1) day. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-811-0018-000-6.
4. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Dreamchaser Preschool, LLC, to operate a 7,126 square foot preschool at 505 N. 7th Street. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2410-601-0134-000-8.

All interested parties may appear at the meeting and be heard with respect to the Applications. Said applications will be available for inspection in the City Clerk's Office, City Hall, 100 North U.S. #1, Fort Pierce, Florida.

ANY PERSON SEEKING TO APPEAL THE DECISION OF THE CITY COMMISSION AS TO THE FOREGOING IS ADVISED THAT A RECORD OF PROCEEDINGS IS REQUIRED IN ANY SUCH APPEAL AND THAT SUCH PERSON MAY NEED TO INSURE THAT A VERBATIM RECORD OF PROCEEDINGS IS MADE INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772)

467-3065 at least 48 hours prior to the meeting.

/s/ Linda W. Cox, City Clerk
Publish: 7/5/20

Pub July 5th 2020
TCN4264829

**City Commission Regular Meeting** **12. d.**

**Meeting Date:** 07/20/2020

**Re:** Conditional Use - Robbins Vacation Rental 1014 S. 7th Street

**Submitted For:** Jennifer Hofmeister, Planning Director, Planning & Zoning

---

**SUBJECT:**

Quasi-Judicial Hearing for a Conditional Use Approval with no new construction for a Vacation Rental located at 1014 S. 7th Street submitted by the applicant, Michelle Longarzo, for the property owner, Michael Robbins.

**SUMMARY:**

In accordance with Sections 22-22 and 22-76 of the City Code, the applicant is requesting review and approval of a Conditional Use to operate a Vacation Rental located at 1014 South 7 th Street. The subject single-family unit is a two (2)-bedroom and two (2)-bathroom single family home with approximately 1,883 gross square feet. The proposed Conditional Use will offer lodging of less than six (6) months with a minimum stay of 2 days to guests. The property has a Future Land Use designation of Residential Low (RL) with a compatible zoning classification of Single-family Intermediate Density (R-2).

**RECOMMENDATION:**

Approval with the following(6) Conditions:

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.
2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.
3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.
4. There shall be a limitation of no more than no two vehicles at the site.
5. The City of Fort Pierce Business Tax License number shall be included on all advertising.
6. Pave the required parking spaces per City Code Section 22-60(c)(6) Surface Material:

**ALTERNATIVES:**

Approval with alternate conditions or Denial

**RESPONSIBLE STAFF:**

Jennifer Hofmeister, AICP, LCAM

**COORDINATED WITH:**

Technical Review Committee

---

## Fiscal Impact

**OTHER INFORMATION:**
N/A

**OTHER INFORMATION:**
N/A

**OTHER INFORMATION:**
N/A

**OTHER INFORMATION:**
N/A

**OTHER INFORMATION:**
N/A

## Attachments

staff presentation
Staff Report & Supporting Documents
Applicant Packet & Supporting Documents
Affidavit of Mailing & Public Notice Certification
Proof of Publication

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Jennifer Hofmeister | 07/09/2020 10:27 AM |
| City Manager | Nick Mimms | 07/15/2020 11:06 AM |
| City Manager | Nick Mimms | 07/15/2020 02:31 PM |

Form Started By: Jennifer Hofmeister
Started On: 07/07/2020 04:00 PM
Final Approval Date: 07/15/2020

# Conditional Use

1014 South 7th Street

# Location Map

# Future Land Use Map

**Future Land Use**: Residential Low (RL)

**Current Zoning:** Single-Family Intermediate Density (R-2)

# Zoning Map

**Future Land Use**: Residential Low (RL)

**Current Zoning:** Single-Family Intermediate Density (R-2)

# Robbins Vacation Rental

Consideration of  a Conditional Use With No New Construction

- Approval of a Conditional Use to operate a Vacation Rental, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days.

- Staff recommends **APPROVAL** subject to six (6) conditions

# Synopsis for Recommendation

- Ordinance K-114 passed in 2001 establishing Dwelling Rentals as Conditional Uses in the Zoning Code
- FL Legislature - 2011
  - Prohibits cities from denying STR rights
  - Conditional uses are allowed
- Quasi-Judicial Hearing
  - No Validated Evidence (Consistent with Code)
  - No current Code Enforcement or Police Department violations
- Conditions of Approval are being added to protect the health, safety and welfare of the neighborhood

# Staff Recommendation

Staff recommends **APPROVAL** subject to six (6) conditions:

1) The property manager for the dwelling rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2) Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3) The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.

4) There shall be a limitation of no more than no two (2) vehicles at the site.

5) The City of Fort Pierce Business Tax License number shall be included on all advertising.

# Staff Recommendation

Staff recommends **APPROVAL** subject to six (6) conditions, continued:

6) Pave the required parking spaces per City Code Section 22-60(c)(6) Surface Material:

   a. Required parking spaces, access drives, and loading areas must be paved and maintained with concrete, asphalt or similar material of enough thickness and consistency to support anticipated traffic volumes and weights.
   b. Alternative paving materials or parking surfaces (including pervious surfaces) may be approved by the city engineer if such materials or surfaces are demonstrated to exhibit equivalent wear resistance and load bearing characteristics as concrete or asphalt.

# Planning Board Recommendation

**Recommendation of Approval**

| | |
|---|---|
| AYE: | 3 |
| NAY: | 1 |
| Other: | ABSTAIN |

# Possible Actions

**Possible actions of the City Commission:**

- APPROVAL of the proposed Conditional Use, subject to six (6) Conditions
- APPROVAL of the proposed Conditional Use with changes to the Conditions of Approval
- DENIAL of the proposed Conditional Use

# Conditional Use

1014 South 7th Street

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

| | |
|---|---|
| **TO:** | Nick C. Mimms, P.E., ICMA-CM, City Manager |
| **FROM**: | Jennifer Hofmeister, AICP, LCAM, Planning Director |
| **RE:** | **Conditional Use Approval – Robbins Vacation Rental**<br>**1014 South 7th Street (20-04000004)** |
| **BOARD DATE:** | July 20, 2020 |

**STAFF REPORT**

| | |
|---|---|
| **Owner:** | **Michael D. Robbins**<br>**1014 South 7th Street**<br>**Fort Pierce, FL 34950** |
| **Applicant:** | **Michelle Longarzo**<br>**1425 SW Edinburgh Drive**<br>**Port St. Lucie, FL 34953** |
| **Applicant's Request:** | Approval of a Conditional Use with no new construction to operate a Dwelling Rental, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. |
| **Location(s):** | 1014 S 7th Street |
| **Parcel ID:** | 2415-601-0254-000-0 |
| **Future Land Use:** | Residential Low (RL) |
| **Current Zoning:** | Single-Family Intermediate Density (R-2) |

**Surrounding FLU:**

| North | East | South | West |
|---|---|---|---|
| RL | RL | RL | RL |

**Surrounding Zoning:**

| North | East | South | West |
|---|---|---|---|
| R-2 | R-2 | R-2 | R-2 |

| | |
|---|---|
| **Utilities:** | FPUA |

**Staff Analysis:**

***Request***

In accordance with Sections 22-22 and 22-76 of the City Code, the applicant is requesting review and approval of a Conditional Use to operate a Vacation Rental located at 1014 South 7th Street. The subject single-family unit is a two (2)-bedroom and two (2)-bathroom single family home with approximately 1,883 gross square feet. The proposed Conditional Use will offer lodging of less than six (6) months with a minimum stay of 2 days to guests.

The property is within in the Pinewood neighborhood, generally situated north of Sunrise Boulevard and south of Parkway Drive. The subject site is surrounded by single family housing to the north, south, east, and west. The subject property has a Future Land Use designation of Residential Low (RL) with a compatible zoning classification of Single-Family Intermediate Density (R-2).

***Dwelling Rentals***

Pursuant to City Code Section 22-3. – Definitions - Generally, the rental of any dwelling unit for less than six (6) months, is classified as a "Dwelling Rental (dwelling unit)," and defined as follows: "One or more rooms connected together in a building, constituting a separate, independent housekeeping establishment, other than a motel/hotel, for purposes of rental on a daily, weekly or longer basis."

The State of Florida provides further classification of a dwelling that is rented for periods of less than one (1) month. Pursuant to Florida State Statute 509.242, declaring the use a "Vacation Rental," defines such use as any unit that is also a transient public lodging establishment but that is not a timeshare project, which is rented

to guests more than three (3) times in a calendar year for periods of less than 31 days or one (1) calendar month, whichever is less or which is advertised or held out to the public as a place regularly rented to guests. A dwelling rental, as locally defined, is also a "Vacation Rental" if the duration of stays are less than 31 days. The rental of a dwelling for periods at a minimum of 31 days, but less than six (6) months, is a "Dwelling Rental," but not a "Vacation Rental."

Table 1, below, presents general characteristics to clarify Dwelling Rentals, and the transitioning threshold for Vacation Rentals.

**Table 1 – Dwelling & Vacation Rental Definitions**

| | **Dwelling Rental** | **Vacation Rental** |
|---|---|---|
| ***Length of Stay*** | Less than six (6) months | 30 days or less |
| ***Lodging Type(s)*** | Non-Transient<br>(more than 30 days) | Transient Lodging |
| ***State License Requirement*** | If rented 30 days or less<br>(Vacation Rental) | Division of Hotels and Restaurants – Vacation Rental |
| ***Public lodging establishment (ADA & Misc. Regulations)*** | If rented 30 days or less<br>(Vacation Rental) | Public lodging establishment |

***Future Land Use & Zoning***

The purpose and intent of the R-2 zoning district is designed mainly for areas of single-family dwellings with an average net density of less than five (5) units per acre for conventional developments. In addition to housing, various public facilities and other nonresidential uses are permitted under the conditions and safeguards.

***Parking***

Pursuant to City Code Section 22-60 (d)b, motels, hotels and resort hotels shall provide 1.6 spaces for each unit 500 square feet or larger.

***Conditional Use***

As stated in City Code Section 22-74, the purpose of the Conditional Use process is to allow, when desirable, uses that would not be appropriate generally or without restriction throughout a particular zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would not adversely affect the public health, safety, comfort, good order, appearance, convenience, and the general welfare.

***Technical Review Committee***

All affected departments have reviewed the proposed Conditional Use with regards to the requirements of the City Code. Findings from the review by corresponding departments and the associated responses by the applicant are provided.

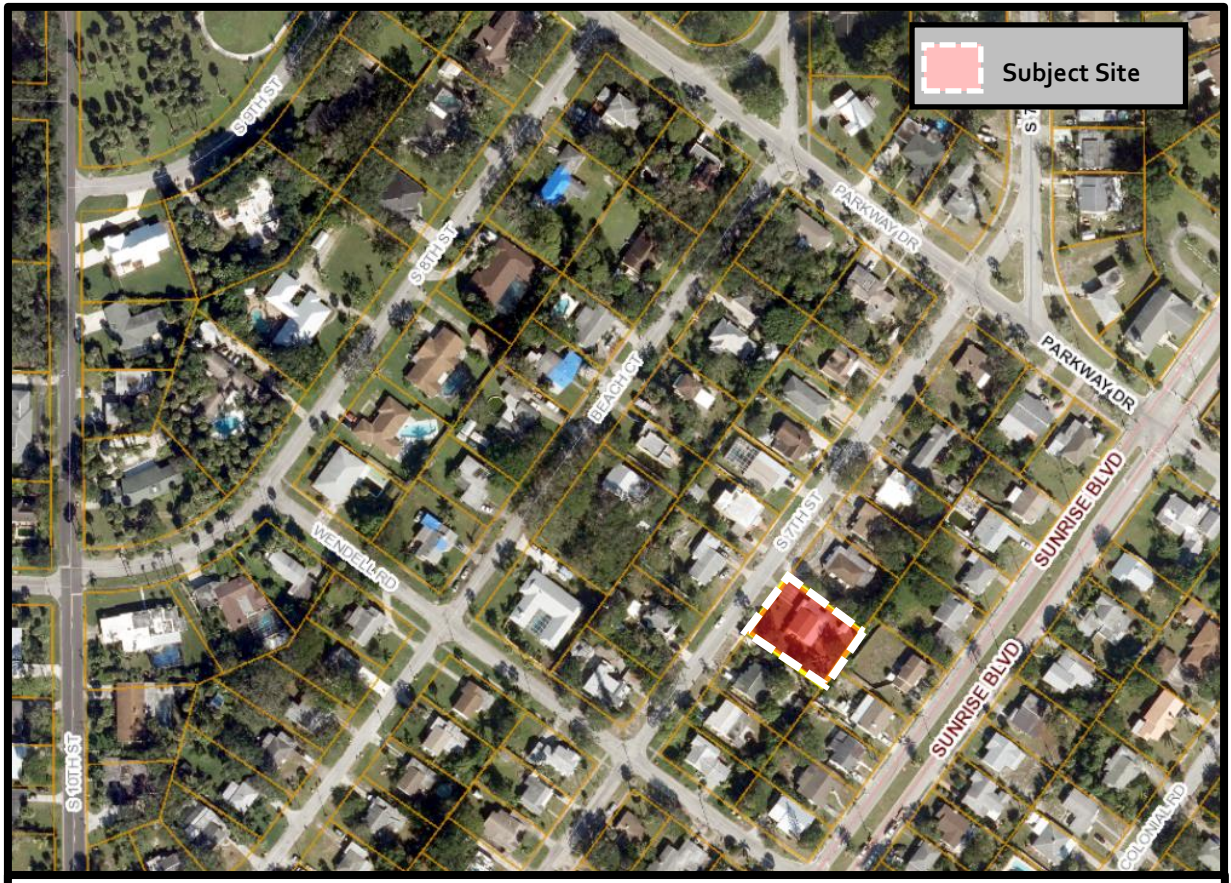
***Staff Recommendation***

The proposed use presents the provision for short-term lodging accommodations to the general public, representing a limited commercial use that is compatible with the surrounding neighborhood, and is generally consistent with the City's Land Development Code and Comprehensive Plan with appropriate restrictions. Therefore, Staff recommends **APPROVAL** with the following six (6) conditions:

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.
2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.
3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.
4. There shall be a limitation of no more than no two vehicles at the site.
5. The City of Fort Pierce Business Tax License number shall be included on all advertising.
6. Pave the required parking spaces per City Code Section 22-60(c)(6) Surface Material:
    a. Required parking spaces, access drives, and loading areas must be paved and maintained with concrete, asphalt or similar material of enough thickness and consistency to support anticipated traffic volumes and weights.
    b. Alternative paving materials or parking surfaces (including pervious surfaces) may be approved by the city engineer if such materials or surfaces are demonstrated to exhibit equivalent wear resistance and load bearing characteristics as concrete or asphalt.

***Planning Board Recommendation***

The Planning Board, at their June 9, 2020 meeting, voted 3-1 with one recusal to recommend **APPROVAL** of the request.




THE SUNRISE CITY
FORT PIERCE
Florida

**Conditional Use – Dwelling Rental**
**1014 South 7th Street**
**Aerial Map**

N
W E
S

THE SUNRISE CITY FORT PIERCE Florida

**Conditional Use – Dwelling Rental**
**1014 South 7th Street**
**Future Land Use Map**

N W E S

THE SUNRISE CITY FORT PIERCE Florida

**Conditional Use – Dwelling Rental**
**1014 South 7th Street**
**Zoning Map**

N W E S

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

May 20, 2020

Michelle Longarzo
Slice of Paradise
sliceofparadiseflorida@gmail.com

**Subject:** **1014 S. 7th Street TRC Comments for May 21, 2020 conference call**

Dear Michelle,

Below please find a summary of the comments for the City of Fort Pierce Pre-App meeting.

Fort Pierce Planning Department

1. The property manager for the vacation rental shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.

2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.

3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of Conditional Use approval.

4. There shall be a limitation of no more than no two vehicles at the site.

5. The City of Fort Pierce Business Tax License number shall be included on all advertising.

6. The maximum occupancy of the home shall ensure compliance with City Code Section 8.5-43. - Required space in dwelling units, based upon the size of each unit.

Fort Pierce Engineering Department

1. No comment.

Fort Pierce Building Department

1. Vacation rental properties, including transient rentals, shall be regulated through the DBPR, Florida Statute 509.242(c), Florida Administrative Code 61A-43 and will be amended by any future legislation or directives from the State of Florida.

2. A change of use may be required if converting to a transient use (rental for 30 days or less), which may trigger the requirements of the Florida Accessibility Code.

3. The requirement for fire sprinklers will be enforced by the Fire Marshall per chapter 633 of the National Fire Prevention Code. All vacation rental properties shall comply with the minimum safety requirements found in DBPR Form HR 5025-753.

Fort Pierce Police Department

1. No comment.

Fort Pierce Utility Authority

1. No comment.

St. Lucie County Public Works

1. No comment.

RECEIVED

APR 03 2020

CITY OF FORT PIERCE
PLANNING & ZONING

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

# Conditional Use – No New Construction

Property address or Location 1014 SOUTH 7th STREET

Parcel ID #(s) 2415-601-0254-000-0

Project description SHORT TERM RENTAL

| | |
|---|---|
| MICHAEL D. ROBBINS | MICHELLE LONGARZO |
| Property Owner(s) | Applicant/Representative, Title, Company |
| 1014 SOUTH 7th STREET | 1425 SW EDINBURGH DRIVE |
| Street Address | Street Address |
| FORT PIERCE FL 34950 | PORT ST. LUCIE, FL 34953 |
| City State Zip | City State Zip |
| 863-514-3979 | 772-708-4557 |
| Phone Number | Phone Number |
| SLICE OF PARADISE FLORIDA@GMAIL.COM | SLICEOFPARADISEFLORIDA@GMAIL.COM |
| Email Address | Email Address |

***Property Owner(s) Acknowledgements:*** *- This application will not be considered complete without the signature of all property owners of record, which shall serve as an acknowledgement of the submission of this application. The property owner's signature below shall also authorize the Applicant (if other than the property owner) and/or Representative to act in his/her behalf for the purposes of seeking approval for the the application described herein.*

• Michael D Robbins
*Property Owner(s) Signature(s)*

STATE OF FLORIDA -- COUNTY Polk

The foregoing instrument was acknowledged before me this 17 day of March, 20 20, by Michael D Robbins who is personally known to me or has produced Florida Dr. License as identification.

Misty J. Darling
Signature of Notary (seal)

MISTY J. DARLING
Notary Public - State of Florida
Commission # GG 945017
My Comm. Expires Feb 18, 2024

***INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3729***

**TO BE COMPLETED BY STAFF**

| Zoning | Future Land Use | Total Acres | Historic District | Historic Designation |
|---|---|---|---|---|
| | | | | Contributing Individual<br>Non-Contributing None |

Pre-Application Meeting Date_____ Fees_____ Control #_____ B. Permit #_____

Intake Planner_____

Planner Assigned_____

Approved By_____ Date _____

Comments_____

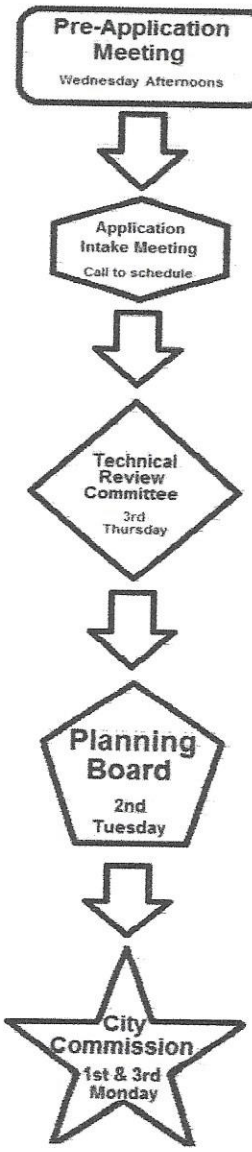
Intake Date Stamp

# ☒ CONDITIONAL USE: NO NEW CONSTRUCTION

***Submit one original, seven (7) hard copies and one (1) CD of the following for initial submittal, subsequent submittals will be required:***

- ☑ *If no site improvements are required:*
  - ☑ As-built survey
  - ☑ Floor plan of existing building(s)
- ☐ *If parking and drainage improvements are required:*
  - ☐ As-built survey;
  - ☐ Site plan, to scale, including existing improvements and proposed parking, driveways, landscaping & storm drainage;
  - ☐ Lighting plan
- ☑ Complete, notarized application

**Application Outlook**




*Application Type:*

- ☒ Conditional Use: No new construction with no site improvements
- ☐ Conditional Use: No new construction with parking and drainage improvements

***Site Information:***

Building Size 1923 Parking Spaces: 1.6

Surrounding Uses: *(i.e. single family home, retail, industrial, etc.)* SINGLE FAMILY RES.

| North | South | East | West |
|---|---|---|---|
| R-2 | R-2 | R-2 | R-2 |

The application for conditional use with the application for site plan review, when not exempt in accordance with the requirements of section 22-75, shall be reviewed as a unit in accordance with the requirements of section 22-58 except that:

(1) The city commission shall hold a public hearing in accordance with the provisions of section 22-143 prior to acting on the application for conditional use.

(2) In the event the city planning board disapproved the application for conditional use or in case of a protest against said application signed by twenty (20) per cent of the owners within five hundred (500) feet of the area included in said application, such application shall not be approved except by a four-fifths vote by the city commission.

(3) In permitting a conditional use or the modification of an existing conditional use, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

## RULES & REGULATIONS of 1014 S, 7th Street, Fort Pierce, Florida 34950:

-Remove all trash and dispose of in the provided trash can

-Peaceful enjoyment of common areas at reasonable hours without excessive noise or music

-Pets need to remain in compliance with local leash and pet fecal disposal laws.

-Smoking is prohibited

-Park in the drive way

-Do not litter

-Do not leave air conditioning on with windows open.

-Return A/C to 77 Degrees when check out occurs.

-Do not remove any property belonging to house except beach towels, beach folding chairs, sand toys and umbrellas. The exception items need to be returned to the house with the sand washed of prior to entry.

- Do not give out copies of keys to any one other than registered guest.

-Do not disturb or harass local wildlife such as sea turtles, manatees and any other wildlife.

-It is unlawful to walk on the sand dunes only use designated walkways.

-No illegal drugs allowed on property.

-No toxic chemicals allowed on property.

-Follow all local and state laws.

## Management of Property 1014 South 7th Street, Fort Pierce, Florida 34950:

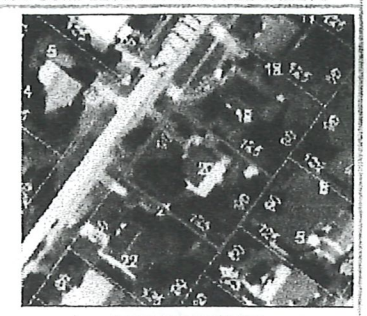
1) Provide direct customer service with 24/7 service available by phone, text and e-mail. Michelle Longarzo 561-332-6718 and sliceofparadiseflorida@gmail.com
2) Access to emergency contractors in plumbing, electrical and HVAC.
3) Maintain records of clientele, Name, address, contact number and e-mail.
4) Ensure all taxes are paid to the state and the county.
5) Provide clean linens, towels, dishware, glasses and beach towels.
6) Keep all appliances in clean and good working order.
7) Keep Heating & ventilation at minimum of 68 degrees Fahrenheit.
8) Maintain (1) locking device that cannot be opened by master key on the interior.
9) Maintain smoke alarms in every unit.
10) Maintain all electrical wires.
11) Maintain a fire extinguisher that is fully charged.
12) Maintain well lighted common areas.
13) Maintain notifications in the residence that all dishware is cleaned and sanitized by dishwasher only.
14) Maintain all areas odor free, clean and in good repair.
15) Keep all toxic chemicals labeled and properly stored.
16) Supply adequate potable water.
17) Protect ice machines from self-contamination.
18) Maintain the unit vermin free.
19) Maintain extermination throughout the unit bi-weekly.
20) Maintain Hot / Cold in every sink.
21) Removal of trash

## Narrative of Property 1014 South 7th Street, Fort Pierce, Florida 34950:

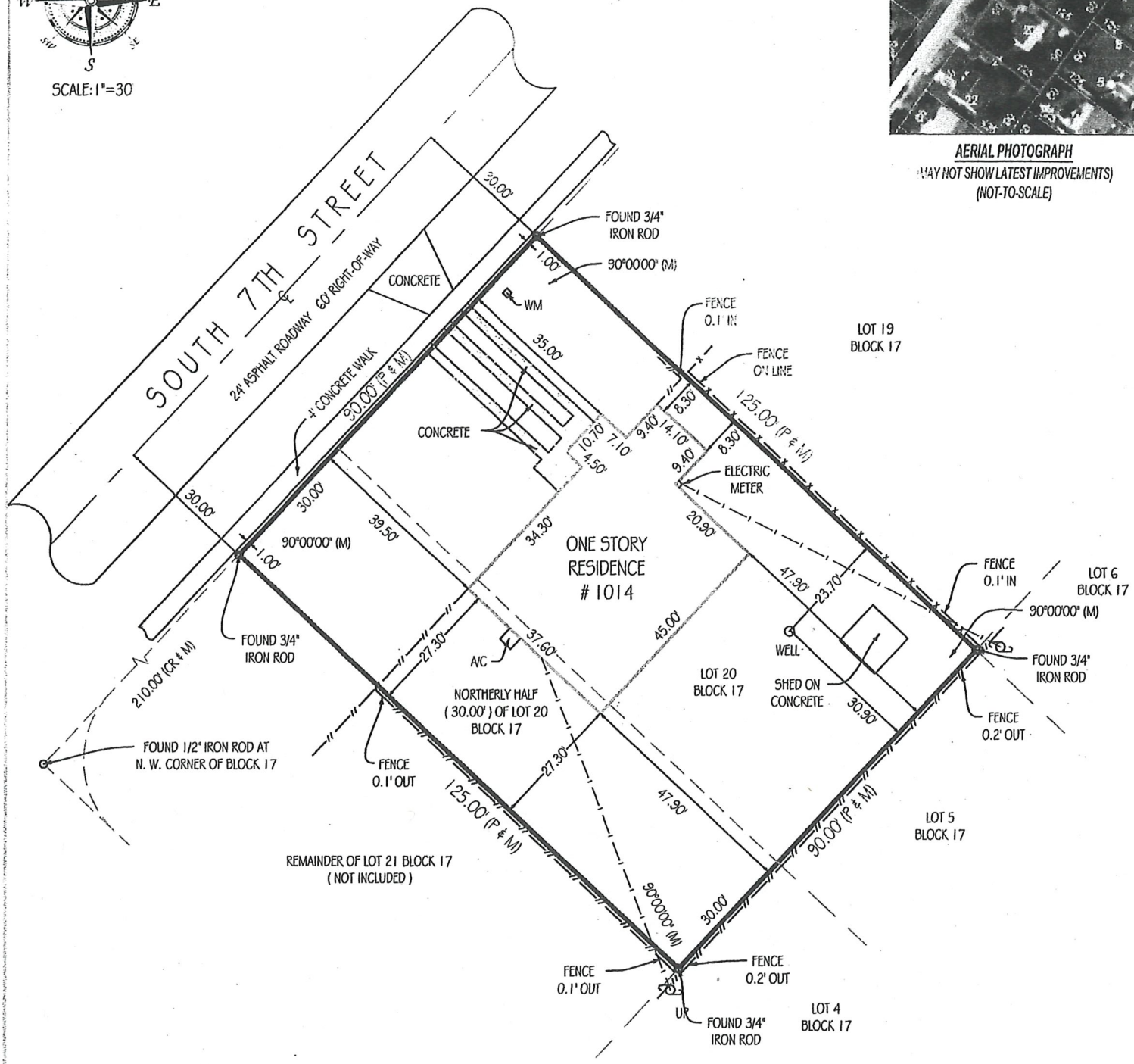
1) Transient rentals from 2 days to 6 months to bring out of area Florida and interstate revenue to promote new tourism in Fort Pierce.
2) Register for DBPR, Florida Sales Tax, St. Lucie Business Tax Receipt. Register for Sunbiz, File for EIN # and Fort Pierce Business Tax Receipt.
3) Intent to rent with Air BNB and VRBO

BEARING REFERENCE:
NONE. RECORD INFORMATION RELIANT UPON ANGULAR DATA ONLY.
ALL ANGULAR DATA SHOWN HEREON REFERENCED THERETO.

SCALE: 1"=30



**AERIAL PHOTOGRAPH**
(MAY NOT SHOW LATEST IMPROVEMENTS)
(NOT-TO-SCALE)




*Platted Easements, Notable or Adverse Conditions (unplatted easements also listed if provided by client):*
EVIDENCE OF A UTILITY EASEMENT ALONG WESTERLY PROPERTY LINE ( WATER METER )

This survey has been issued by the following Landtec Surveying office:
600 Fairway Drive - Ste. 101
Deerfield Beach, FL. 33441
Office: (561) 367-3587 Fax: (561) 465-3145
www.LandtecSurvey.com

*PLEASE NOTE:*
*SUBJECT PROPERTY IS SERVICED BY PUBLIC UTILITIES.*
*NO APPROVAL FOR CONSTRUCTION HAS BEEN MADE BY THIS OFFICE.*

| | |
|---|---|
| Job Number : 87558-SE | Rev.: |
| Drawn By : B. ZAB | Rev.: |
| Date of Field Work : 02/13/2018 | Rev.: |

LANDTEC SURVEYING
Proudly Serving Florida's Land Title & Real Estate Industries
... measurably better!

LEGAL DESCRIPTION:
ALL OF LOT 20 AND THE NORTHERLY HALF OF LOT 21, BLOCK 17, PINEWOOD, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE(S) 24, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, THE SAID NORTHERLY HALF OF LOT 21 BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE LINE DIVIDING SAID LOT 20 AND 21 WITH THE EASTERLY HALF OF SOUTH SEVENTH STREET; RUN THENCE SOUTHWESTERLY ALONG SAID EASTERLY LINE OF SOUTH SEVENTH STREET A DISTANCE OF 30 FEET; THENCE RUN SOUTHEASTERLY PARALLEL WITH SAID LINE DIVIDING SAID LOTS 20 AND 21 A DISTANCE OF 125 FEET TO THE REAR LINE OF SAID LOT 21; THENCE RUN NORTHEASTERLY ALONG THE REAR LINE OF SAID LOT 21 AND A DISTANCE OF 30 FEET SAID LOT 20; THENCE RUN NORTHWESTERLY ALONG SAID LINE DIVIDING SAID LOTS 20 AND 21 TO THE POINT OF BEGINNING.

PROPERTY ADDRESS:
1014 SOUTH 7TH STREET
FORT PIERCE, FL 34950

INVOICE NUMBER: 87558-SE
DATE OF FIELD WORK: 02/13/2018

CERTIFIED TO
PATCH REEF TITLE COMPANY, INC.
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
CENTERSTATE BANK, NATIONAL ASSOCIATION, ISAOA/ATIMA
MICHAEL D. ROBBINS

FLOOD ZONE: X
FLOOD MAP: 12111C
PANEL: 0187
SUFFIX: J
PANEL DATE: 02/16/2012

**GENERAL NOTES:**
1. THIS SURVEY IS BASED UPON RECORD INFORMATION PROVIDED BY CLIENT. NO SPECIFIC SEARCH OF THE PUBLIC RECORD HAS BEEN MADE BY THIS OFFICE UNLESS OTHERWISE NOTED.
2. IF THIS SURVEY HAS BEEN PREPARED FOR THE PURPOSES OF A MORTGAGE TRANSACTION, ITS SCOPE IS LIMITED TO THE DETERMINATION OF TITLE DEFICIENCIES. NO FUTURE CONSTRUCTION SHALL BE BASED UPON THIS SURVEY WITHOUT FIRST OBTAINING APPROVAL AND/OR UPDATES FROM LANDTEC SURVEYING. LANDTEC SURVEYING ASSUMES NO RESPONSIBILITY FOR ERRORS RESUL TING FROM FAILURE TO ADHERE TO THIS CLAUSE.
3. ANY FENCES SHOWN HEREON ARE ILLUSTRATIVE OF THEIR GENERAL POSITION ONLY. FENCE TIES SHOWN ARE TO GENERAL CENTERLINE OF FENCE. THIS OFFICE WILL NOT BE RESPONSIBLE FOR DAMAGES RESULTING FROM THE REMOVAL OF, OR CHANGES MADE TO, ANY FENCES UNLESS WE HAVE PROVIDED A SURVEY SPECIFICALLY LOCATING SAID FENCES FOR SUCH PURPOSES. DETERMINATION OF FENCE POSITIONS SHOULD BE BASED SOLELY ON THEIR PHYSICAL RELATIONSHIP TO THE MONUMENTED BOUNDARY LINES.
4. GRAPHIC REPRESENTATIONS MAY HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE MEASURED RELATIONSHIPS - DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALED POSITIONS.
5. UNDERGROUND IMPROVEMENTS HAVE NOT BEEN LOCATED EXCEPT AS SPECIFICALLY SHOWN.
6. ELEVATIONS ARE BASED UPON NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929) OR NORTH AMERICAN VERTICAL DATUM (N.A.V.D. 1988) AS SHOWN ABOVE.
7. ALL BOUNDARY AND CONTROL DIMENSIONS SHOWN ARE FIELD MEASURED AND CORRESPOND TO RECORD INFORMATION UNLESS SPECIFICALLY NOTED OTHERWISE.
8. CORNERS SHOWN AS "SET" ARE IDENTIFIED WITH A CAP MARKED LS (LICENSED SURVEYOR) # 5639.

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYS, AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND M APPERS IN CHAPTER 5J-17.051 & 5J-17.052 OF THE FLORIDA ADMINISTRATIVE CODE , PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES AS SET FORTH IN CHAPTER 5J-17.062. PURSUANT TO SECTION 472.025, FLORIDA STATUTES.

Andrew Snyder License Number LS 5639 STATE OF FLORIDA Professional Surveyor and Mapper

Digitally signed by Andrew Snyder
DN: cn=Andrew Snyder, o=Landtec Surveying, Inc., ou, email=asnyder@landtecsurvey.com, c=US
Date: 2018.02.13 17:42:13 -05'00'

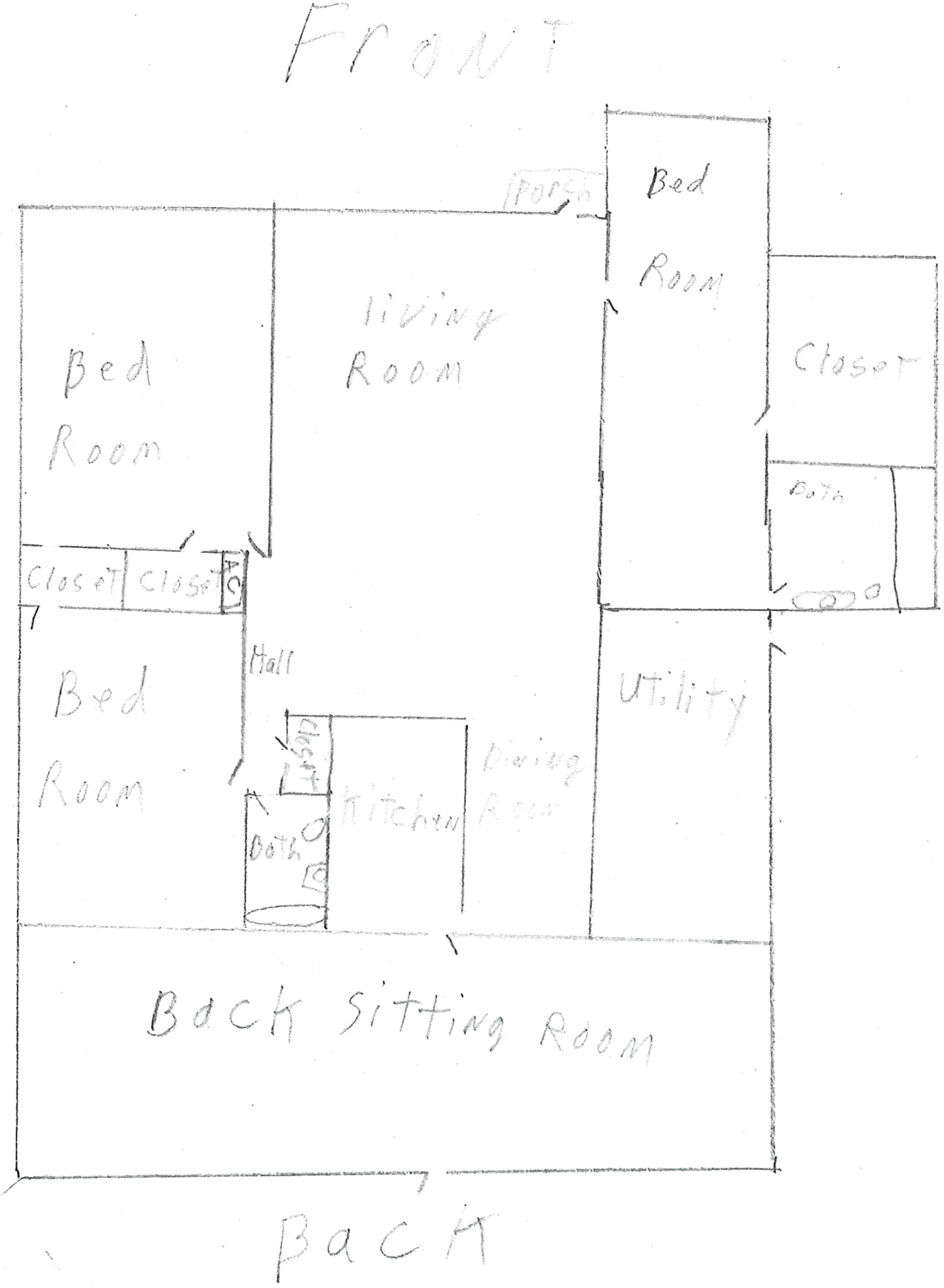
SIGNATURE_____ DATE: 02/13/2018
ANDREW SNYDER - PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION No. 5639 (NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER SHOWN ABOVE)

LEGEND:

| | | |
|---|---|---|
| A - DENOTES ARC LENGTH | P - DENOTES PLAT | BOUNDARY LINE |
| CA - DENOTES CENTRAL ANGLE | PK - DENOTES PARKER KALON NAIL | BUILDING LINE |
| CATV - DENOTES CABLE T.V. BOX | PH - DENOTES POOL HEATER | CENTERLINE |
| CH - DENOTES CHORD DISTANCE | PP - DENOTES POOL PUMP | EASEMENT LINE |
| DE - DENOTES DRAINAGE EASEMENT | R - DENOTES RADIUS | METAL FENCE |
| FN - DENOTES FOUND NAIL | TR - DENOTES TELEPHONE RISER | WOODEN FENCE |
| L - DENOTES LEGAL | UE - DENOTES UTILITY EASEMENT | PVC FENCE |
| M - DENOTES MEASURED | UP - DENOTES UTILITY POLE | OVERHEAD CABLE |
| OHC - DENOTES OVERHEAD CABLE | WM - DENOTES WATER METER | |

LANDTEC SURVEYING
Proudly Serving Florida's Land Title & Real Estate Industries
... measurably better!

1014 7Th ST SouTh



Michelle Franklin, CFA -- Saint Lucie County Property Appraiser -- All rights reserved.

## Property Identification

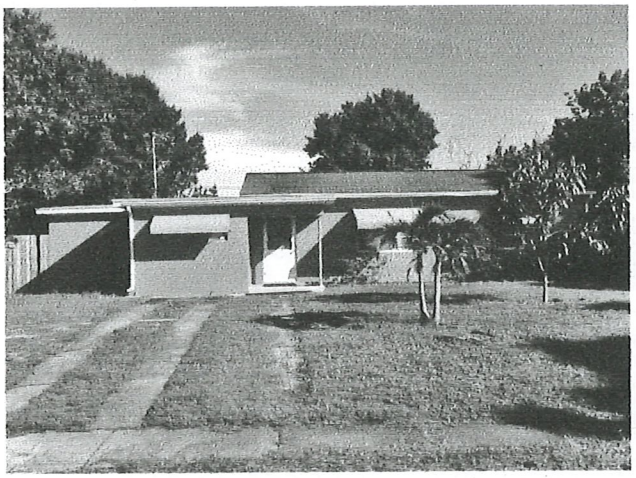
| | |
|---|---|
| Site Address: | 1014 S 7th ST |
| Parcel ID: | 2415-601-0254-000-0 |
| Account #: | 24676 |
| Map ID: | 24/15N |
| Use Type: | 0100 |
| Zoning: | SF Interme |
| City/County: | Fort Pierce |

## Ownership

Michael D Robbins
309 5th St S
Dundee, FL 33838-4313

## Legal Description

PINEWOOD S/D BLK 17 LOT 20 AND NLY1/2 OF LOT 21 (OR 4102-2715)



## Current Values

| | |
|---|---|
| Just/Market Value: | $108,900 |
| Assessed Value: | $108,900 |
| Exemptions: | $0 |
| Taxable Value: | $108,900 |

**Property taxes are subject to change upon change of ownership.**

- **Past taxes are not a reliable projection of future taxes.**
- **The sale of a property will prompt the removal of all exemptions, assessment caps, and special classifications.**

## Total Areas

| | |
|---|---|
| Finished/Under Air (SF): | 1,883 |
| Gross Sketched Area (SF): | 1,923 |
| Land Size (acres): | 0.26 |
| Land Size (SF): | 11,250 |

Taxes for this parcel: SLC Tax Collector's Office
Download TRIM for this parcel: Download PDF

## Sale History

| | |
|---|---|
| Date: | Feb 28, 2018 |
| Book/Page: | 4102 / 2715 |
| Sale Code: | 0001 |
| Deed: | WD |
| Grantor: | Camargo Jaime B |
| Price: | $123,000 |
| Date: | Sep 9, 2011 |
| Book/Page: | 3323 / 2610 |
| Sale Code: | 0001 |
| Deed: | WD |
| Grantor: | Davis John R |
| Price: | $51,500 |
| Date: | Jul 13, 2006 |
| Book/Page: | 2653 / 2263 |
| Sale Code: | XX01 |
| Deed: | WD |

Michelle Franklin, CFA -- Saint Lucie County Property Appraiser -- All rights reserved.

## Property Identification

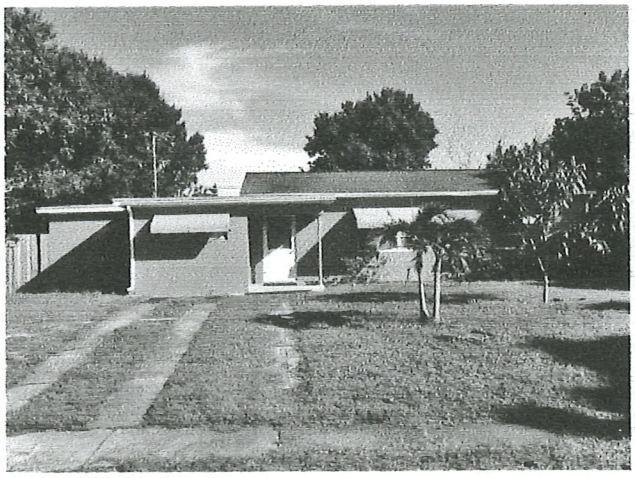
| | |
|---|---|
| Site Address: | 1014 S 7th ST |
| Parcel ID: | 2415-601-0254-000-0 |
| Account #: | 24676 |
| Map ID: | 24/15N |
| Use Type: | 0100 |
| Zoning: | SF Interme |
| City/County: | Fort Pierce |

## Ownership

Michael D Robbins
309 5th St S
Dundee, FL 33838-4313

## Legal Description

PINEWOOD S/D BLK 17 LOT 20 AND NLY1/2 OF LOT 21 (OR 4102-2715)



## Current Values

| | |
|---|---|
| Just/Market Value: | $108,900 |
| Assessed Value: | $108,900 |
| Exemptions: | $0 |
| Taxable Value: | $108,900 |

**Property taxes are subject to change upon change of ownership.**

- **Past taxes are not a reliable projection of future taxes.**
- **The sale of a property will prompt the removal of all exemptions, assessment caps, and special classifications.**

## Total Areas

| | |
|---|---|
| Finished/Under Air (SF): | 1,883 |
| Gross Sketched Area (SF): | 1,923 |
| Land Size (acres): | 0.26 |
| Land Size (SF): | 11,250 |

Taxes for this parcel: SLC Tax Collector's Office
Download TRIM for this parcel: Download PDF

All information is believed to be correct at this time, but is subject to change and is provided without any warranty.
© Copyright 2020 Saint Lucie County Property Appraiser. All rights reserved.

| | |
|---|---|
| Grantor: | Davis Harold E |
| Price: | $100 |
| Date: | Jan 1, 1900 |
| Book/Page: | |
| Sale Code: | |
| Deed: | |
| Grantor: | |
| Price: | $0 |

## Building Information (1 of 1)

Finished Area: 1,883 SF

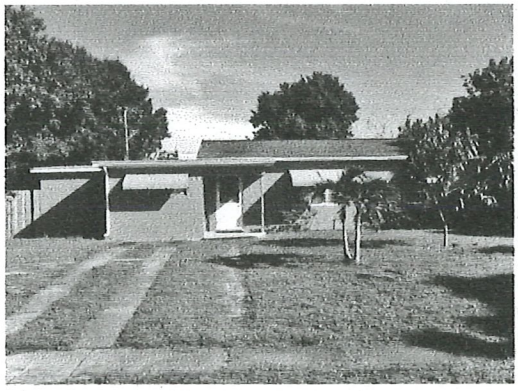
Gross Sketched Area: 1,923 SF

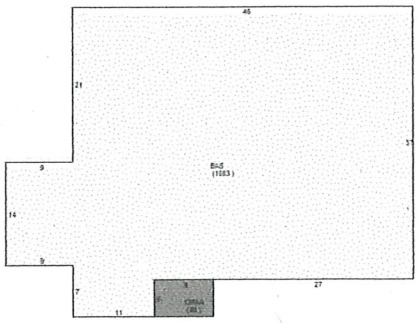
### Exterior Data

| | | |
|---|---|---|
| View: | Roof Cover: Dim Shingle | Roof Structure: Gable |
| Building Type: HC- | Year Built: 1949 | Frame: |
| Grade: C- | Effective Year: 1978 | Primary Wall: CB Stucco |
| Story Height: 1 Story | No. Units: 1 | Secondary Wall: |

### Interior Data

| | | |
|---|---|---|
| Bedrooms: 2 | Electric: MINIMUM | Primary Int Wall: |
| Full Baths: 2 | Heat Type: FrcdHotAir | Avg Hgt/Floor: 0 |
| Half Baths: 0 | Heat Fuel: ELEC | Primary Floors: Tile-Ceramic |
| A/C %: 100% | Heated %: 100% | Sprinkled %: 0% |






## Special Features and Yard Items

| | |
|---|---|
| Type: | UTILITY AVG |
| Quantity: | 1 |
| Units: | 100 |
| Year Built: | 1999 |
| Type: | WOOD FEN 6' |

| | |
|---|---|
| Quantity: | 1 |
| Units: | 80 |
| Year Built: | 2017 |

## Current Year Values

Current Values Breakdown

| | |
|---|---|
| Building: | $90,800 |
| Land: | $18,100 |
| Just/Market: | $108,900 |
| Ag Credit: | $0 |
| Save Our Homes or 10% Cap: | $0 |
| Assessed: | $108,900 |
| Exemption(s): | $0 |
| Taxable: | $108,900 |

Current Year Exemption Value Breakdown

Current Year Special Assessment Breakdown

| Start Year | AssessCode | Units | Description | Amount |
|---|---|---|---|---|
| 1999 | 0041 | 1 | Fort Pierce Stormwater Charge | $69.00 |

This does not necessarily represent the total Special Assessements that could be charged against this property. The total amount charged for special assessments is reflected on the most current tax statement and information is available with the SLC Tax Collector's Office.

## Historical Values

## Permits

| | |
|---|---|
| Number: | R90000179R |
| Issue Date: | Feb 1, 1990 |
| Description: | Roof |
| Amount: | $2,000 |
| Fee: | $2,000 |
| Number: | RF20041320 |
| Issue Date: | Nov 2, 2004 |
| Description: | Roof |
| Amount: | $6,760 |
| Fee: | $0 |
| Number: | MC2006106 |
| Issue Date: | May 16, 2006 |
| Description: | Air Conditioning Only |
| Amount: | $8,350 |
| Fee: | $159 |
| Number: | DEM |
| Issue Date: | Nov 17, 2006 |
| Description: | Demolition |
| Amount: | $0 |
| Fee: | $130 |
| Number: | SH200683 |
| Issue Date: | Nov 15, 2006 |
| Description: | Shed |

| | |
|---|---|
| Amount: | $1,000 |
| Fee: | $50 |
| Number: | BP17-0815 |
| Issue Date: | Mar 23, 2017 |
| Description: | Fence |
| Amount: | $1,900 |
| Fee: | $0 |

Notice: This does not necessarily represent all the permits for this property.
Click the following link to check for additional permit data in Fort Pierce

All information is believed to be correct at this time, but is subject to change and is provided without any warranty.
© Copyright 2020 Saint Lucie County Property Appraiser. All rights reserved.

# RENTAL AGREMENT

_____, owner as a consideration of the agreements of the tenant hereby rents the dwelling located at _____
For the period beginning the _____ day of _____ and monthly thereafter until this agreement is terminated.

TENANT HEREBY AGREES:

1. To pay as rental, the sum of $ _____ per month, payable in advance from the first day of every month. This amount may be adjusted to compensate for the inflation or additional costs.
2. To pay a late a late charge of 10% of the rent amount each time rent is not received by 4:00 P.M. on the due date regardless of the cause, including dishonored checks. All returned checks will be subject to the cost and $50.00. In the event a collection agency becomes necessary to collect any amounts due on this agreement, tenant agrees to pay said commission plus attorney fees.
3. To use property as _____ only.
4. **TENANT TO PAY ALL ATTORNEY AND COURT COSTS INCURRED BY THE OWNER IN ENFORCING THIS AGREEMENT.**
5. Tenant agrees not to assign or sublet any part of this property.
6. Owner may enter the property at any time to inspect, repair, show the property for sale or rent, or to insure compliance with this agreement.
7. This agreement may be terminated at any time by the owner giving fifteen days written notice to the renter. Owner may change any provisions of this agreement in a like manner.
8. Failure to pay rent by the due date at the address of _____ or any other violation of the provisions of this agreement shall result, at the option of the owner, in the termination of this agreement without notice. In the event, owner may enter the property, take possession and exclude tenants there-from. Any personal property of the tenant may be removed and stored at the expense of the tenant.
9. Tenant agrees to pay for any damage caused by negligence on their part. This refers to the following. This is not all inclusive.
    - screens pushed out by children,
    - nail or screw holes in the walls or woodwork,
    - broken windows,
    - all maintenance on property & structure,
    - grass cut,
    - maintain parking area,
    - light bulbs,
    - air conditioning filter must be kept clean,
10. There are to be **NO PETS of any kind** on said property inside or outside the residence.
11. Landlord shall have the lien granted by law upon all furniture and other property of the tenant for the payment of their rent and any property damage.
12. Owner shall not be liable for any loss of property by fire or any other reason. Tenant agrees to carry insurance on their possessions and to make no claim on the landlord for any reason.
13. Tenant agrees to be responsible for the payment of all utilities including the removal of garbage and rubbish.
14. Tenant agrees to pay a charge of cost plus $ 50.00 should it ever become necessary to deliver a notice to pay the rent or eviction notice.
15. Release of all deposits will be subject to the following conditions; however, landlord shall have the right to recover any excess cost for cleaning or damage above the deposit.
    - At least one year of rental time has elapsed and written notice of intent to vacate is received by the owner fifteen day prior to vacating.

- The entire dwelling is clean. This includes everything. There is not damage to the property other than normal wear and tear.
- There are no unpaid charges including late charges and unpaid rent outstanding. All keys must also be returned.
- All debris, rubbish and garbage are removed from the property and a forwarding address is left with the owner.

16. Tenant agrees to be responsible for lawn maintenance or pay a charge of $50.00 plus cost for cutting the lawn.
17. Tenant agrees to be responsible for pest control or pay a charge.
18. Tenant agrees that any changes to the structure or the property must be approved by the owner prior to initiating changes. Any structure changes to building or property will become permanent fixture to the building or property, shall not be removed if tenant vacates property, and said change shall become property of the owner. If Tenant requests changes it must be in writing and is approved by the owner. Tenant is financially responsible for all costs of requested changes and will not be reimbursed by owner.
19. No storage of any kind on the property.
20. To use property as a living quarters only for _____ adults and _____ children.

CLAUSE FOR VISTORS:

There will be an additional cost for visitors after **two** days, $100.00 per person per week. The first day there is a **pet of any kind**, in the residence; there will be a $500.00 deposit plus $500.00 per month pet fee. Yard dog; there will be a $200.00 deposit plus $100.00 per month pet fee.

_____ _____ _____

Tenant Signature Co-Tenant Signature Co-Tenant Signature

_____ _____ _____

Tenant Printed Name Co-Tenant Printed Name Co-Tenant Printed Name

Signed by the above parties this _____ day of _____, 20_____.

_____

Owners Signature

Accepted by Owner this _____ day of _____, 20_____.

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

# AFFIDAVIT OF
# NOTIFICATION AND MAILING

I, the undersigned, do hereby declare that I did mail copies of a notice of public hearings to each owner of the property located, or having any part thereof, situated within five hundred (500) feet of any point of the property for which the request has been made and to the owner of the property for which the request has been made, as required by Chapter 22, Article X, Section 22-143 of the Code of Ordinances.

Project: Conditional Use for Robbins Vacation Rental at 1014 S. 7th Street

Staff Name: Jennifer Hofmeister, AICP, LCAM, Planning Director

Staff Signature:

Date Mailed: July 2, 2020

Number of Mailed Letters: 73

**Attachments:**
Copy of notice of public hearings
Mailing list
Map of properties notified

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

## PUBLIC NOTIFICATION CERTIFICATION

**PROJECT NAME:** Conditional Use with No New Construction

**NOTICES PROVIDED PURSUANT TO:** 22-142

**NOTICE BY NEWSPAPER:** 7-5-2020

**NOTICE BY MAIL:** 7-2-2020

**NOTICE BY SIGNS:** 7-9-2020

**VERIFIED BY:** Jennifer Hofmeister, AICP **TITLE:** Planning Director

**SIGNATURE:** **DATE:** 7-9-2020

| Owner | Mailing Ad | Mailing Ad | Mailing City State Zip |
|---|---|---|---|
| Ann M Kah | 602 Wendell RD | | Fort Pierce; FL 34950-5052 |
| Ronald J Zr | 1017 Colonial Rd | | Fort Pierce; FL 34950-1516 |
| William J C | 1013 Colonial Rd | | Fort Pierce; FL 34950-5065 |
| SJ Coastal I | 3 Harbour Isle Dr E; Un | | Fort Pierce; FL 34949-2755 |
| Raynold Su | 1009 Colonial Rd | | Fort Pierce; FL 34950-5065 |
| Phillip Mos | 1007 Colonial RD | | Fort Pierce; FL 34950-5065 |
| Anthony Ri | 1003 Colonial Rd | | Fort Pierce; FL 34950-5065 |
| Dieufils Isa | 505 Parkway Dr | | Fort Pierce; FL 34947-5076 |
| Florida Cot | 2825 N Indian River DF | | Fort Pierce; FL 34946-1810 |
| Felix Guerr | 1008 Sunrise Blvd | | Fort Pierce; FL 34950-5048 |
| Jenskye Re | 4902 River PL | | Fort Pierce; FL 34982-4110 |
| Ellande Del | 1016 Sunrise BLVD | | Fort Pierce; FL 34950-5048 |
| Carol A Gra | PO Box 1346 | | Fort Pierce; FL 34954-1346 |
| Michael Mi | 1020 Sunrise Blvd | | Fort Pierce; FL 34950-5048 |
| Belle Maisc | 3008 Summit St | | Fort Pierce; FL 34982 |
| Justin Arvil | %Richard C | 1839 Bruce | Atlanta; GA 30329-2508 |
| Christophe | 236 SW Harbor View D | | Palm City; FL 34990-4300 |
| Eduardo Pa | 2751 Plam Aire Dr N #: | | Pompano Beach; FL 33069 |
| John Hems | 1023 Sunrise Blvd | | Fort Pierce; FL 34950 |
| Erika N Bar | 1705 Ponce De Leon P | | Fort Pierce; FL 34982 |
| Janet G He | 1019 Sunrise BLVD | | Fort Pierce; FL 34950-5047 |
| Michelle P | 2508 Gray Twig Ln | | Fort Pierce; FL 34981 |
| William M | 1013 Sunrise Blvd | | Fort Pierce; FL 34950-5047 |
| Jam Fernar | 1007 Sunrise BLVD | | Fort Pierce; FL 34950-5047 |
| Carlson Far | 2103 Sunrise Blvd | | Fort Pierce; FL 34950 |
| Andres F M | 1001 Sunrise BLVD | | Fort Pierce; FL 34950-5047 |
| Lazatha Mu | 3403 Avenue P | | Fort Pierce; FL 34947-1838 |
| James Mav | 1002 S 7th ST | | Fort Pierce; FL 34950-9317 |
| Catherine S | 1004 S 7th St | | Fort Pierce; FL 34950-9317 |
| Ricardo Pe | 1006 S 7th St | | Fort Pierce; FL 34950 |
| David Casti | 1008 S 7th ST | | Fort Pierce; FL 34950-9317 |
| Naresa A G | 1010 S 7th St | | Fort Pierce; FL 34950-9317 |
| Michael D I | 309 5th St S | | Dundee; FL 33838-4313 |
| Gilberto He | 1018 S 7th ST | | Fort Pierce; FL 34950-9317 |
| Herby Inno | 1020 S 7th St | | Fort Pierce; FL 34950 |
| Robert B Pl | 1022 S 7th ST | | Fort Pierce; FL 34950-9317 |
| Julie A Har | 1021 S 7th St | | Fort Pierce; FL 34950 |
| Douglas G | 1017 S 7th St | | Fort Pierce; FL 34950-9318 |
| Thomas Mc | 2817 Stoneway LN; Un | | Fort Pierce; FL 34982-4338 |
| Lucy Baroc | 1011 S 7th ST | | Fort Pierce; FL 34950-9318 |
| Ronald C St | 8360 Waverly Rd | | Owings; MD 20736-3121 |
| Ronal Rigel | 1007 S 7th ST | | Fort Pierce; FL 34950-9318 |
| BCAG LLC | 2210 S 34th ST | | Fort Pierce; FL 34947-4509 |
| JMH1 LLC | 990 South End | | Woodmere; NY 11598 |
| Charles Eb | 701 Parkway DR | | Fort Pierce; FL 34950-9362 |
| Michael C T | 1000 Beach Ct | | Fort Pierce; FL 34950 |

| | | |
|---|---|---|
| Christophe | 1006 Beach Ct | Fort Pierce; FL 34950-9340 |
| Steven Vor | 1020 Beach CT | Fort Pierce; FL 34950-9340 |
| Shawn P Cr | 4163 SE Oakland St | Stuart; FL 34997 |
| Philip J Ma | 1034 Beach Ct | Fort Pierce; FL 34950-9340 |
| Edward R K | 1040 Beach Ct | Fort Pierce; FL 34950 |
| Etude Lero | 1021 Beach CT | Fort Pierce; FL 34950-9341 |
| Margaret C | 1017 Beach Ct | Fort Pierce; FL 34950 |
| David Dickl | 1015 Beach CT | Fort Pierce; FL 34950-9341 |
| Karen Sum | 1011 Beach Ct | Fort Pierce; FL 34950 |
| Carl F Moo | 1009 Beach CT | Fort Pierce; FL 34950-9341 |
| Beatriz Par | % Josefina | 8964 W Fla Miami; FL 33174-3914 |
| Fannie M H | 1105 S 7th St | Fort Pierce; FL 34950-9320 |
| Sarah E Bri | 509 S 10th ST | Fort Pierce; FL 34950-8539 |
| Antonio Ba | 1914 Wren Ave | Fort Pierce; FL 34982 |
| Alberto G C | 1102 Beach CT | Fort Pierce; FL 34950-9342 |
| Maurice Ca | 1104 Beach Ct | Fort Pierce; FL 34950-9342 |
| Haygar Ent | 3050 Sunrise Blvd | Fort Pierce; FL 34982 |
| Paul G Wri | 926 SW Grand Reserve | Port St Lucie; FL 34986-2343 |
| Barbara A \ | 1103 Sunrise BLVD | Fort Pierce; FL 34950-5049 |
| Shaniece L | 605 Wendell Rd | Fort Pierce; FL 34950-9301 |
| Alane B Lul | 1112 Beach CT | Fort Pierce; FL 34950-9342 |
| James Wills | 107 Bellevue DR | Cleburne; TX 76033-5331 |
| R & D Man | 10380 SW Village Cent | Port Saint Lucie; FL 34987-1931 |
| Francisco J | 1103 Colonial RD | Fort Pierce; FL 34950-5067 |
| Kevin Edwa | 801 SE Johnson Ave #1 | Stuart; FL 34995 |
| Thomas A A | 1104 Sunrise Blvd | Fort Pierce; FL 34950-5050 |

# Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

St Lucie News Tribune
1801 U.S. 1, Vero Beach, FL 32960
**AFFIDAVIT OF PUBLICATION**

**CITY OF FORT PIERCE**
100 N. U.S. 1

**FORT PIERCE, FL 34950**

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he/she is a legal clerk of the St Lucie News Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St Lucie News Tribune in the following issues below. Affiant further says that the said St Lucie News Tribune is a newspaper published in Fort Pierce in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St Lucie News Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

RECEIVED
JUL 14 2020
FINANCE DEPT.

**07/05/2020**

Subscribed and sworn to before on July 5, 2020:

Tara Mondloch

Notary, State of WI, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

My commission expires August 6, 2021

Publication Cost: $171.60
Ad No: 0004264829
Customer No: 1330883
PO #:

# of Affidavits 1

CITY OF FORT PIERCE
NOTICE OF PUBLIC HEARING

The City Commission of the City of Fort Pierce, Florida, pursuant to Section 22-143 of the Code of Ordinances of the City of Fort Pierce, will on Monday, July 20, 2020 hold Public Hearings in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida, at their meeting which begins at 6:30 p.m., to consider review and approval of the following:

1. Approval of a Conditional Use with no new construction submitted by applicant, Michelle Longarzo on behalf of Michael D. Robbins, property owner, to operate a Vacation Rental at 1014 S. 7th Street, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Single-Family Intermediate Density Zone (R-2), Parcel ID: 2415-601-0254-000-0.
2. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wright-Ofeimu, a Vacation Rental at 715 S. Ocean Drive, Unit E, offering lodging for less than six (6) months. The minimum rental period is identified as two (2) days. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-504-0001-000.
3. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Tiffany Wood, a Vacation Rental at 1123 Hernando Street, Apt. B, offering lodging for less than six (6) months. The minimum rental period is identified as one (1) day. The property is zoned Hutchinson Island Medium Density Residential Zone (R-4A), Parcel ID: 2401-811-0018-000-6.
4. Approval of a Conditional Use with no new construction submitted by property owner and applicant, Dreamchaser Preschool, LLC, to operate a 7,126 square foot preschool at 505 N. 7th Street. The property is zoned Medium Density Residential Zone (R-4), Parcel ID: 2410-601-0134-000-8.

All interested parties may appear at the meeting and be heard with respect to the Applications. Said applications will be available for inspection in the City Clerk's Office, City Hall, 100 North U.S. #1, Fort Pierce, Florida.

ANY PERSON SEEKING TO APPEAL THE DECISION OF THE CITY COMMISSION AS TO THE FOREGOING IS ADVISED THAT A RECORD OF PROCEEDINGS IS REQUIRED IN ANY SUCH APPEAL AND THAT SUCH PERSON MAY NEED TO INSURE THAT A VERBATIM RECORD OF PROCEEDINGS IS MADE INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772)

467-3065 at least 48 hours prior to the meeting.

/s/ Linda W. Cox, City Clerk
Publish: 7/5/20

Pub July 5th 2020
TCN4264829

**City Commission Regular Meeting** **12. e.**

**Meeting Date:** 07/20/2020

**Re:** 20-014 Code Update

**SUBJECT:**

Legislative Hearing - Ordinance 20-014 adopting new Code of Ordinances. SECOND READING

**SUMMARY:**

The City Commission directed that the City Attorney work with MuniCode to update the City's Code of Ordinances and Charter. After many months and coordinating with Department Heads, the rewrite and update is in final form and ready to be adopted.

**RECOMMENDATION:**

Adopt Ordinance 20-014

**ALTERNATIVES:**

Adopt with revisions.

**RESPONSIBLE STAFF:**

Pete Sweeney, City Attorney
Linda Cox, City Clerk

**COORDINATED WITH:**

Nick Mimms, City Manager
Department Heads

**Fiscal Impact**

**OTHER INFORMATION:**

No fiscal impact.

**Attachments**

20-014
City Attorney Memo
Working Proof
Proof of Publication

**Form Review**

Form Started By: Linda Cox Started On: 06/22/2020 10:53 AM
Final Approval Date: 07/08/2020

**ORDINANCE NO. 20-014**

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

**BE IT ORDAINED** by the City Commission of the City of Fort Pierce, Florida as follows:

**Section 1.** The Code entitled "The Code of Ordinances of the City of Fort Pierce, Florida," published by Municipal Code Corporation, consisting of chapters 1 through 125, each inclusive, is adopted.

**Section 2.** All ordinances of a general and permanent nature enacted on or before March 16, 2020, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

**Section 4.** Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding $500.00 or imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment except as otherwise provided by law or ordinance: (i) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense; and (ii) With respect to other violations, each act constitutes a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

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

**Section 6.** Ordinances adopted after March 16, 2020, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

**Section 7.** If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this article, which shall be deemed separate, distinct, and independent provisions to the fullest extent possible.

**Section 8.** This Ordinance shall be and become effective immediately upon final passage.

APPROVED AS TO
FORM AND CORRECTNESS:

_____
Peter J. Sweeney, Esq.
City Attorney

STATE OF FLORIDA
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 20-014 was duly advertised by title only in the St. Lucie News Tribune on July 10, 2020; copy of said Ordinance was made available at the Office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on July 6, 2020; and was duly introduced, read by title only, and passed on second and final reading on July 30, 2020, by the City Commission of Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 20th day of July, 2020.

_____
Linda Hudson, Mayor

ATTEST:

_____
Linda W. Cox, City Clerk

(SEAL)

THE SUNRISE CITY
FORT PIERCE
CITY ATTORNEY'S OFFICE Florida

To: Honorable Mayor and Members of the City Commission

From: Peter J. Sweeney, City Attorney

Subject: City of Fort Pierce Code of Ordinances rewrite

Date: June 30, 2020

The City Commission tasked the City Attorney's Office with a complete review and rewrite of the Code of Ordinances for the City of Fort Pierce, which was last completed in 1983. In conjunction with the City Clerk, my office engaged Municipal Code Corporation to assist with this undertaking. Over the last several months, our two offices have coordinated with all of the City's departments, as well as invested a significant number of hours individually, in reviewing, rewriting and editing/proofing the new code.

In all, the code has been reorganized into 65 new chapters, arranged alphabetically, which includes over 1,000 pages of code text. A copy of the proof with redline edits is provided with this memo for reference.

There are several noteworthy issues to advise the Commission of:

- First and foremost, by working in conjunction with Municode's assigned Senior Code Attorney Roger Merriam, ordinances that have been superseded by Florida or Federal law have been removed.

- Additionally, ordinances that are now historically inaccurate (such as former Section 11-12.1 "Sounding of train horns and whistles prohibited during certain hours at specific crossings") have also been removed.

- Fees have been removed from the code of ordinances, as much as possible, so that they can be addressed by resolution. This will allow the City Commission to move more nimbly in the event there is a need to change a fee in short-order, as a resolution only requires one reading.

- Penalties have been standardized, as much as possible, to create uniformity for infractions of the code of ordinances. There are still specific penalties for certain infractions, as requested by the individual department for particular enforcement purposes.

- Definitions have been reviewed, cross-referenced and edited to match Florida state statutes on the same subject in order to remove ambiguity and/or conflicting usage of specific terms of art.

- Several sections of the City Charter have been edited due to the application of Florida statute section 166.021. This statute identifies provisions of municipal charters that are limitations on home rule power and decrees that they should be stricken from said municipal charter. In the event the problematic charter language should instead be considered an ordinance, it was moved to the appropriate section of the code of ordinances.

- Finally, and perhaps most importantly, several other sections of the City Charter have been corrected because they included language that was not properly approved by referendum, as required by Florida statute section 166.031. As identified by Mr. Merriam, this language was added to the Charter by ordinance without a referendum and is legally null and void. As a result, the Charter language must revert back to the original Charter language from 1965.

As this is a comprehensive document with over 1,000 pages and several hundred edits, I am happy to speak with any of you individually if you have any questions.

Sincerely,

Peter J. Sweeney

Cc: Nick Mimms, City Manager
Linda Cox, City Clerk

TABLE OF CONTENTS

PART I CHARTER*....6
ARTICLE I. IN GENERAL....6
ARTICLE II. POWERS*....12
ARTICLE III. CITY COMMISSION*....22
ARTICLE IV. CITY MANAGER....26
ARTICLE V. CITY DEPARTMENTS AND AGENCIES....26
ARTICLE VI. ELECTIONS*....31
ARTICLE VII. CIVIL SERVICE AND MERIT SYSTEM*....35
ARTICLE VIII. FINANCES*....40
ARTICLE IX. ASSESSMENT AND TAXATION*....44
ARTICLE X. UTILITIES*....46
ARTICLE XI. IMPROVEMENTS*....48
ARTICLE XII. FORT PIERCE UTILITIES AUTHORITY*....56
PART II CODE OF ORDINANCES....64
SUBPART A GENERAL ORDINANCES....64
CHAPTER 1 GENERAL PROVISIONS....64
ARTICLE I. IN GENERAL....64
ARTICLE II. CODE ENFORCEMENT*....70
DIVISION 1. GENERALLY....70
DIVISION 2. SPECIAL MAGISTRATE*....70
DIVISION 3. SUPPLEMENTAL PROCEDURES*....73
CHAPTER 2 ADMINISTRATION*....78
ARTICLE I. IN GENERAL....78
ARTICLE II. CITY COMMISSION*....78
DIVISION 1. GENERALLY....78
DIVISION 2. MEETINGS*....79
ARTICLE III. CITY MANAGER....82
ARTICLE IV. OFFICERS AND EMPLOYEES*....82
DIVISION 1. GENERALLY....82
DIVISION 2. TRAVEL EXPENSES*....84
DIVISION 3. SOCIAL SECURITY*....87
SUBDIVISION I. IN GENERAL....87
SUBDIVISION II. EMPLOYEES GENERALLY....87
SUBDIVISION III. POLICE OFFICERS....88
DIVISION 4. GENERAL EMPLOYEES' RETIREMENT SYSTEM....90
SUBDIVISION I. IN GENERAL....90
SUBDIVISION II. RETIREMENT BOARD....111
DIVISION 5. POLICE OFFICERS' RETIREMENT/PENSION FUNDS*....112
SUBDIVISION I. IN GENERAL....112
SUBDIVISION II. POLICE OFFICERS' RETIREMENT TRUST FUND....113
ARTICLE V. FINANCE*....126
ARTICLE VI. PURCHASING*....127
ARTICLE VII. PUBLIC RECORDS*....146
DIVISION 1. GENERALLY....146
DIVISION 2. DECONSTRUCTION OF OBSOLETE RECORDS*....146
ARTICLE VIII. BOARDS, COMMISSIONS AND COMMITTEES....147
CHAPTER 3 RESERVED....148
CHAPTER 4 ALCOHOLIC BEVERAGES*....149
CHAPTER 5 RESERVED....155
CHAPTER 6 ANIMALS*....156

PROOFS

ARTICLE I. IN GENERAL ....156
ARTICLE II. ADMINISTRATION AND ENFORCEMENT ....159
DIVISION 1. GENERALLY ....159
DIVISION 2. IMPOUNDMENT ....161
ARTICLE III. ANIMAL CONTROL ....164
ARTICLE IV. DOG AND CAT REGISTRATION ....171
CHAPTER 7 RESERVED ....174
CHAPTER 8 COMMUNITY DEVELOPMENT* ....175
ARTICLE I. IN GENERAL ....175
ARTICLE II. REDEVELOPMENT AGENCY* ....175
CHAPTER 9 RESERVED ....180
CHAPTER 10 CULTURAL AFFAIRS* ....181
ARTICLE I. IN GENERAL ....181
ARTICLE II. ART IN PUBLIC PLACES ....181
CHAPTER 11 RESERVED ....185
CHAPTER 12 ELECTIONS* ....186
CHAPTER 13 RESERVED ....188
CHAPTER 14 EMERGENCY MANAGEMENT AND EMERGENCY SERVICES* ....189
ARTICLE I. IN GENERAL ....189
ARTICLE II. EMERGENCY MANAGEMENT* ....189
ARTICLE III. ALARM SYSTEMS ....191
CHAPTER 15 RESERVED ....200
CHAPTER 16 ENVIRONMENT* ....201
ARTICLE I. IN GENERAL ....201
ARTICLE II. TREES ....201
DIVISION 1. GENERALLY ....201
DIVISION 2. TREE BOARD ....203
ARTICLE III. SEA TURTLE PROTECTION* ....204
ARTICLE IV. MINING AND EXCAVATION OPERATIONS ....205
ARTICLE V. FERTILIZER* ....207
CHAPTER 17 RESERVED ....212
CHAPTER 18 FIRE PREVENTION AND PROTECTION ....213
ARTICLE I. IN GENERAL ....213
ARTICLE II. FIREWORKS* ....213
CHAPTER 19 RESERVED ....217
CHAPTER 20 HEALTH* ....218
ARTICLE I. IN GENERAL ....218
ARTICLE II. TOBACCO PRODUCTS* ....218
CHAPTER 21 RESERVED ....220
CHAPTER 22 LICENSES, TAXATION AND BUSINESS REGULATIONS* ....221
ARTICLE I. IN GENERAL ....221
ARTICLE II. BUSINESS TAX* ....221
ARTICLE III. ADULT ENTERTAINMENT ....244
DIVISION 1. GENERALLY ....244
DIVISION 2. PERMIT ....251
DIVISION 3. ZONING AND DISTANCE RESTRICTIONS ....256
DIVISION 4. CONSUMPTION OF ALCOHOL ....257
DIVISION 5. GENERAL OPERATIONAL RULES ....258
DIVISION 6. VIOLATIONS AND PROHIBITED ACTS ....261
ARTICLE IV. LATE NIGHT RETAIL STORES ....265
ARTICLE V. FLEA MARKETS ....267
ARTICLE VI. GARAGE SALES ....268
ARTICLE VII. JUNKYARDS ....268

PROOFS

ARTICLE VIII. VENDORS, SOLICITORS AND CANVASSERS....270
DIVISION 1. GENERALLY....270
DIVISION 2. PERMIT....272
DIVISION 3. MOBILE VENDING....275
ARTICLE IX. VEHICLES FOR HIRE....277
DIVISION 1. GENERALLY....277
DIVISION 2. CERTIFICATION....277
CHAPTER 23 RESERVED....284
CHAPTER 24 NUISANCES*....285
ARTICLE I. IN GENERAL....285
ARTICLE II. PROPERTY NUISANCES GENERALLY....285
ARTICLE III. DRUG-RELATED, PROSTITUTION-RELATED, OR STOLEN-PROPERTY-RELATED PUBLIC NUISANCES AND CRIMINAL GANG ACTIVITY NUISANCES*....290
ARTICLE IV. LOT CLEANING....292
ARTICLE V. BUILDINGS AND STRUCTURES....293
CHAPTER 25 RESERVED....295
CHAPTER 26 OFFENSES AND MISCELLANEOUS PROVISIONS....296
ARTICLE I. IN GENERAL....296
ARTICLE II. NOISE....306
ARTICLE III. YOUTH PROTECTION....312
CHAPTER 27 RESERVED....316
CHAPTER 28 PARKS, RECREATION AND SPECIAL EVENTS*....317
ARTICLE I. IN GENERAL....317
ARTICLE II. PARKS AND RECREATION....319
ARTICLE III. SUNRISE THEATRE....322
ARTICLE IV. SPECIAL EVENTS....322
CHAPTER 29 RESERVED....331
CHAPTER 30 SOLID WASTE*....332
ARTICLE I. IN GENERAL....332
ARTICLE II. COLLECTION AND DISPOSAL....332
CHAPTER 31 RESERVED....339
CHAPTER 32 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*....340
ARTICLE I. IN GENERAL....340
ARTICLE II. NEWSRACKS AND PUBLIC RIGHTS-OF-WAY....353
CHAPTER 33 RESERVED....358
CHAPTER 34 TRAFFIC AND VEHICLES*....359
ARTICLE I. IN GENERAL....359
ARTICLE II. STOPPING, STANDING AND PARKING*....362
ARTICLE III. TRAFFIC SAFETY VIDEO ENFORCEMENT*....365
ARTICLE IV. WRECKER QUALIFICATIONS AND ALLOCATION SYSTEM....371
ARTICLE IV. VEHICLE IMPOUNDMENT....376
CHAPTER 35 RESERVED....379
CHAPTER 36 UTILITIES*....380
ARTICLE I. IN GENERAL....380
ARTICLE II. LIENS....380
ARTICLE III. WATER SYSTEM....381
ARTICLE IV. SEWER CONNECTIONS....384
ARTICLE V. WASTEWATER DISCHARGE RESTRICTIONS....386
DIVISION 1. GENERALLY....386
DIVISION 2. REGULATIONS....394
DIVISION 3. WASTEWATER DISCHARGE PERMITS....408
DIVISION 4. REPORTING REQUIREMENTS....414
SUBDIVISION I. IN GENERAL....414

PROOFS

SUBDIVISION II. ENFORCEMENT AND PENALTIES....419
DIVISION 5. MISCELLANEOUS REQUIREMENTS....422
ARTICLE VI. STORMWATER MANAGEMENT SYSTEM....425
DIVISION 1. GENERALLY....425
DIVISION 2. STORMWATER MANAGEMENT UTILITY*....425
DIVISION 3. STORMWATER MANAGEMENT FEES AND CREDITS APPEALS BOARD....429
ARTICLE VII. NON-STORMWATER DISCHARGES TO STORM DRAINAGE SYSTEM....430
CHAPTER 37 RESERVED....437
CHAPTER 38 WATERWAYS*....438
ARTICLE I. IN GENERAL....438
ARTICLE II. CITY MARINA....438
ARTICLE III. BOATING SAFETY*....442
DIVISION 1. GENERALLY....442
DIVISION 2. NO WAKE AND MINIMUM WAKE ZONES*....444
DIVISION 3. IDLE SPEED AND SLOW SPEED ZONES*....446
CHAPTERS 39--100 RESERVED....453
SUBPART B LAND DEVELOPMENT ORDINANCES*....454
CHAPTER 101 GENERAL AND ADMINISTRATIVE PROVISIONS....454
ARTICLE I. IN GENERAL....454
ARTICLE II. CITY PLANNING BOARD*....454
CHAPTER 102 RESERVED....457
CHAPTER 103 BUILDINGS AND BUILDING REGULATIONS*....458
ARTICLE I. IN GENERAL....458
ARTICLE II. BUILDING CODE....458
DIVISION 1. GENERALLY....458
DIVISION 2. PERMIT FEES....488
ARTICLE III. CONTRACTORS*....495
DIVISION 1. GENERALLY....495
DIVISION 2. CERTIFICATION AND REGISTRATION....500
ARTICLE IV. BUILDING NUMBERING....510
ARTICLE V. BUILDING DRAINAGE....512
ARTICLE VI. WORKFORCE HOUSING PROGRAM....513
ARTICLE VII. COASTAL CONSTRUCTION CODE*....518
ARTICLE VIII. MOVING OF BUILDINGS....523
ARTICLE IX. PROPERTY MAINTENANCE ORDINACE AND HOUSING CODE....525
ARTICLE X. LOCAL HOUSING ASSISTANCE PROGRAM*....528
CHAPTER 104 RESERVED....537
CHAPTER 105 CONCURRENCY MANAGEMENT*....538
CHAPTER 106 RESERVED....551
CHAPTER 107 EROSION AND SEDIMENT CONTROL*....552
CHAPTER 108 RESERVED....556
CHAPTER 109 FLOODPLAIN MANAGEMENT*....557
ARTICLE I. IN GENERAL....557
ARTICLE II. ADMINISTRATION AND ENFORCEMENT....563
ARTICLE III. FLOOD-RESISTANT DEVELOPMENT....571
CHAPTER 110 RESERVED....577
CHAPTER 111 HISTORIC PRESERVATION*....578
ARTICLE I. IN GENERAL....578
ARTICLE II. HISTORIC PRESERVATION ORDINANCE....578
DIVISION 1. GENERALLY....578
DIVISION 2. ADMINISTRATION AND ENFORCEMENT....581
SUBDIVISION I. IN GENERAL....581
SUBDIVISION II. HISTORIC PRESERVATION BOARD....584

PROOFS

DIVISION 3. DESIGNATION OF HISTORIC SITES ....587
DIVISION 4. CERTIFICATE OF APPROPRIATENESS ....591
ARTICLE III. HISTORIC PRESERVATION TAX EXEMPTION....597
DIVISION 1. GENERALLY ....597
DIVISION 2. APPLICATION PROCESS FOR EXEMPTION ....600
DIVISION 3. ADMINISTRATIVE PROVISIONS....604
CHAPTER 112 RESERVED ....606
CHAPTER 113 IMPACT FEES* ....607
CHAPTER 114 RESERVED ....625
CHAPTER 115 MISCELLEANOUS PROVISIONS* ....626
ARTICLE I. IN GENERAL ....626
ARTICLE II. DREDGE DISPOSAL SITE REQUIREMENTS ....626
CHAPTER 116 RESERVED ....632
CHAPTER 117 SIGNS* ....633
CHAPTER 118 RESERVED ....644
CHAPTER 119 STORMWATER MANAGEMENT AND SITE DEVELOPMENT TECHNICAL REGULATIONS* ....645
CHAPTER 120 RESERVED ....652
CHAPTER 121 SUBDIVISIONS* ....653
CHAPTER 122 RESERVED ....665
CHAPTER 123 VEGETATION* ....666
ARTICLE I. IN GENERAL ....666
ARTICLE II. LANDSCAPING ....671
ARTICLE III. TREE PROTECTION ....676
CHAPTER 124 RESERVED ....680
CHAPTER 125 ZONING....681
ARTICLE I. IN GENERAL ....681
ARTICLE II. ADMINISTRATION AND ENFORCEMENT ....690
DIVISION 1. GENERALLY ....690
DIVISION 2. NONCONFORMING LOTS, USES, STRUCTURES AND CHARACTERISTICS OF USES ....695
DIVISION 3. VARIANCES ....698
DIVISION 4. AMENDMENTS* ....702
ARTICLE III. ESTABLISHMENT OF ZONES ....703
ARTICLE IV. BASIC ZONING DISTRICTS....712
ARTICLE V. CONDITIONAL USES ....767
ARTICLE VI. EXCEPTIONS....780
ARTICLE VII. SUPPLEMENTARY REGULATIONS....781
DIVISION 1. GENERALLY ....781
DIVISION 2. WIRELESS COMMUNICATION FACILITY SITING....820
DIVISION 3. SIDEWALK CAFES AND SUPPLEMENTARY SIDEWALK....827

PROOFS

# PART I

## CHARTER*

***Editor's note**--Published in this part in the city Charter, being Laws of Fla. ch. 57-1331. Amendments are indicated by parenthetical history notes following amended sections. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

### ARTICLE I. IN GENERAL

**Sec. 1. Existing municipality abolished.**

The present municipal government of the City of Fort Pierce, Florida, is hereby abolished.

**Sec. 2. Establishment of a new municipality.**

The inhabitants of the City of Fort Pierce, Florida, as the limits are hereinafter established, shall be and continue to be a body politic and corporate to be known and designated as the "City of Fort Pierce," and as such shall have perpetual succession.

**Sec. 3. Boundaries.**

[Text deleted.]

~~The territorial boundaries of the City of Fort Pierce, Florida, and over which such municipal corporation shall have its jurisdiction and powers shall be as follows, to wit: Beginning at the Northwest corner of the Southwest quarter of the Northeast quarter of Section 5, Township 35 South, Range 40 East and running thence South along the North and South bisecting line of Sections 5, 8, and 17 said Township 35 South, Range 40 East to the South line of said Section 17, at the Southwest corner of the Southeast quarter thereof; thence west along the line between said Section 17 and Section 20 a distance of 660 feet more or less to the Northwest corner of Northeast quarter of Northeast quarter of Northwest quarter of said Section 20, thence South a distance of 1650 feet, more or less, to the Southwest corner of the Northwest quarter of the Northeast quarter of the Southeast quarter of the Northwest quarter of said Section 20; thence East a distance of 1650 feet, more or less, to the Southeast corner of the Northwest quarter of the Northeast quarter of the Southwest quarter of the Northeast quarter of said Section 20; thence North a distance of 1650 feet, more or less, to the North line of said Section 20 at the Northeast corner of the Northwest quarter of the Northeast quarter of the Northwest quarter of the Northeast quarter of said Section 20, Township 35 South, Range 40 East; thence East along the North line of said Section 20 and the North line of Section 21, said Township 35 South, Range 40 East, to the Northeast corner of the Northwest quarter of said Section 21; thence South along the North and South bisecting line of said Section 21 to the Southwest corner of the Southeast quarter of said Section 21; thence East along the south line of said Section 21 and the South line of Section 22, Township 35 South, Range 40 East to a point 200 feet West of the Southeast corner of said Section 22 thence in a southeasterly direction along a straight line to a point 111 feet East of the Southeast corner of the Northeast quarter of Section 27, said Township and Range; thence in a southeasterly direction along a straight line a distance of 2247.3 feet to a point lying 650 feet North and 1550 feet East of the Southwest corner of Section 26 said Township and Range; thence South along a line 1550 feet East of and parallel to the West line of Southwest quarter of said Section 26, a distance of 650 feet to a point on the South line of said Section 26 lying 1550 feet East of the Southwest corner of said section; thence continuing South along a line parallel to and 1550 feet East of the West Line of the Northwest quarter of Section 35, said Township and Range, a distance of 1775 feet to a point; thence in a Southeasterly direction along a straight line, a distance of 4180.1 feet, more or less, to a point on the South line of said Section 35 at a distance of 3850 feet East of the Southwest corner of said Section 35; thence East along the South line of said Section 35 a distance of 400 feet, more or less, to the Southeast corner of the Southwest quarter of the Southeast quarter of said Section 35; thence North along the quarter quarter [sic] line to a point 170 feet due South of the Northeast corner of the Northwest quarter of the Northeast quarter of said Section 35; thence along a straight line in a Northwesterly direction to a point on the North line of said Section 35 at a distance of 176 feet due West of the Northeast corner of the Northwest quarter of the Northeast quarter of said Section 35; thence West along the North line of said Section~~

PROOFS

35 a distance of 1144 feet, more or less, to the Southeast corner of the Southeast quarter of the Southwest quarter of Section 26, said Township and Range[;] thence North along the quarter section line to the Northeast corner of the Southeast quarter of the Southwest quarter of said Section 26; thence West along the quarter section line to the Northwest corner of the Southeast quarter quarter [sic] of the Southwest quarter of said Section 26; thence North along the quarter quarter section line to a point 235 feet due South of the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 26, thence along a straight line in a Northwesterly direction to a point on the North line of said Section 26, said point being 233 feet West of the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 26; thence East along the South line of Sections 23 and 24, said Township 35 South, Range 40 East, to a point on the Section line where it intersects the West bank of the channel (or canal) of the Inter-coastal [sic] Waterway in Indian River; then in a Northwesterly direction parallel to the West bank of the channel (or canal) of the Intercoastal [sic] Waterway, through Sections 24, 23, and 14, said Township 35 South, Range 40 East, to a point where the West bank of said channel (or canal) intersects the North line of said Section 14; thence continue from the North line of said Section 14 in a Northwesterly direction parallel to the west bank of the channel (or canal) of the Intercoastal Waterway in Indian River approximately 2000 feet; thence at right angles to the said channel of the Intercoastal Waterway, run Northeasterly to a point on the easterly shore of Indian River which is the point of intersection of said easterly shore of Indian River and the Westerly extension of the north line of Lot 6, Block 5 of Surfside Subdivision, as per plat thereof recorded in Plat Book 2, Page 6, of the public records of St. Lucie County, Florida; from said point of intersection run Easterly along the westward extension of said Lot 6 to the Northwest corner of Lot 6 of Block 5 of said Surfside; thence Southerly along the west line of Lot 6, Block 5, of said Surfside Subdivision to the Southwest corner of said Lot 6; thence Easterly along the South Line of Lots 6 and 5 in Blocks 5, 6, 7 and 8, and the South line of Lot 2 of Block 9, of said Surfside Subdivision and across the intervening streets, alleys and boulevards shown on said plat of said Surfside, to the West line of Lot 10 of Block 10 of said Surfside; thence Southeasterly along the west line of said Lot 10, Block 10 of said Surfside to the Southwest corner of said Lot 10; thence northeasterly on the dividing line between Lots 10 and 11 of Block 10 of Surfside Subdivision to the intersection of said dividing line, or the Easterly extension thereof, with the shore of the Atlantic Ocean and the East boundary line of St. Lucie County; thence meandering in a Northwesterly direction along the East boundary of St. Lucie County (Atlantic Ocean) to a point in the center of the mouth of Fort Pierce Ship Channel in the Atlantic Ocean; thence in a Southwesterly direction along the centerline of the said ship channel to a point in said channel located 1900 feet, more or less and approximately North 88 degrees 45 minutes East of Post No. 5 of survey of Tract No. 3 as surveyed by the trustees of the internal improvement board of Florida; thence Northwesterly along a line which has a bearing of approximately North 57 degrees West a distance of 5200 feet more or less to a point; thence along a line approximately due North a distance of 2200 feet, more or less, to a point; thence Southwesterly along a line which has a bearing of approximately South 48 degrees 45 minutes West a distance of 1900 feet, more or less, to a point; thence along a line approximately due West a distance of 400 feet, more or less, to a point; thence Northwesterly along a line which has a bearing of approximately North 58 degrees 30 minutes West a distance of 1100 feet, more or less, to a point which is Post No. 21 of said Tract No. 3 as surveyed by the trustees of the internal improvement board of Florida, which point lies on the North line of Section 34, Township 34 South, Range 40 East; thence west along the North line of said Section 34 to the West line of Indian River Channel; thence in a Southeasterly direction following the West line of the channel of Indian River to a point opposite the center of the mouth of Taylor Creek; thence westerly and Southwesterly along the centerline of Taylor Creek to a point where it intersects the West right-of-way line of Old Dixie Highway; thence in a Southeasterly direction along the west right-of-way line of said Old Dixie Highway to the point where it intersects the South line of Government Lot 1 in Section 3, Township 35 South, Range 40 East; thence West on the South line of said Government Lot 1 to the West line of said Section 3; thence to the Southeast corner of the Northeast quarter of the Northeast quarter of Section 4, said Township and Range; thence West along the quarter quarter section line, along the South line of the North half of the Northeast quarter and the Northwest quarter of said Section 4; and along the South line of the North half of the Northeast quarter of Section 5, said Township 35 South, Range 40 East, to the Northwest corner of the Southwest quarter of the Northeast quarter of said Section 5, the Point of Beginning. All of Government Lots 1 and 2, Section 12, Township 35 South, Range 40 East, and all of Government Lots 1, 2, 3 and 4 of Section 7, Township 35 South, Range 41 East, St. Lucie County, Florida; less the following: Beginning at the Northeast corner of Government Lot 1, Section 12, Township 35 South, Range 40 East, St. Lucie County, Florida; run thence West along the North line of said Government Lot 1 to the easterly shore of Indian River thence meandering the Easterly shore of Indian River, run Southerly approximately 500 feet to a point of intersection of

PROOFS

the Easterly shore of Indian River and the Westerly extension of the North line of Lot 6, Block 5 of Surfside Subdivision, as per plat thereof recorded in Plat Book 2, Page 6, of St. Lucie County, Florida, public records; from said point of intersection run Easterly along the westward extension of the north line of said Lot 6 to Northwest corner of Lot 6 of Block 5 of said Surfside Subdivision; thence Southerly along the west line of said Lot 6 to the Southwest corner thereof; thence Easterly along the South lines of Lots 6 and 5 in Blocks 5, 6, 7 and 8, and the South line of Lot 2, Block 9 of Surfside Subdivision and across the intervening streets, alleys and boulevards shown on said plat, to the West line of Lot 10 of Block 10 of said plat of Surfside Subdivision; then Southeasterly along the West line of said Lot 10, Block 10 of Surfside to the Southwest corner of said Lot 10[;] thence Northeasterly on the dividing line between Lots 10 and 11 of Block 10 of said Surfside Subdivision to the intersection of said dividing line, or the Easterly extension thereof, with the shore of the Atlantic Ocean; thence in a Northwesterly direction, meandering the shore of the Atlantic Ocean, to a point of intersection with the North line of Government Lot 1, Section 7, Township 35 South, Range 41 East; thence Westerly along the North line of said Section 7 to the corner common to Sections 7-35-41 and 12-35-40, and the point of beginning. Lots 1 and 2, Block 1, Golfview, as per plat thereof on file in Plat Book 6, page 36, Public Records of St. Lucie County, Florida. Lots 1 through 6 inclusive, and Lots 10 through 15 inclusive, Paseo Park Subdivision, as per plat thereof on file in Plat Book 10, page 61, of the Public Records of St. Lucie County, Florida. Lots 7 and 8 of the Plat of Garden City Farms, as recorded in Plat Book 2, page 5, of the Public Records of St. Lucie County, Florida. The SW¼ of the NE¼ of the SW¼, Section 8, Township 35 South, Range 40 East, lying and being in St. Lucie County, Florida, together with the improvements thereon, containing nine acres, more or less, and excepting the following: (1) Beginning at a concrete monument on the North line of Delaware Avenue extended 30 feet North, 910.2 feet West of the Southeast corner of the NE¼ of the SW¼ of Section 8, Township 35 South, Range 40 East, North 150 feet; thence East parallel to the North line of Delaware Avenue a distance of 124.6 feet, thence South 150 feet to the North line of Delaware Avenue; thence West 124.6 feet to the point of beginning; and (2) Beginning at a concrete monument on the North line of Delaware Avenue extended 30 feet North, 910.2 feet West of the Southeast corner of the NE¼ of the SW¼ of Section 8, Township 35 South, Range 40 East, North 150 feet to a concrete monument; thence West parallel to the North line of Delaware Avenue a distance of 150 feet; thence South 150 feet to the said North line of Delaware Avenue; thence East along the North line of Delaware Avenue 150 feet to the point of beginning; also: The SE¼ of the NE¼ of the SW¼ of Section 8, Township 35 South, Range 40 East, lying and being in St. Lucie County, Florida, containing ten acres more or less, including dedicated road rights-of-way. From the NW corner of NE¼ of NE¼ of Section 20, Township 35 South, Range 40 East, run East 440 feet, South 149.28 feet to Point of Beginning, thence continue South 345.72 feet, East 440 feet, North 367.31 feet to South R/W of Virginia Avenue, thence Westerly on R/W 439.87 feet to Point of Beginning. From the NW corner of NE¼ of NE¼ run East 25 feet, South 149.59 feet to the Point of Beginning, thence continue South 345.41 feet, East 415 feet, North 345.72 feet to South R/W of Virginia Avenue, thence Westerly on R/W 415 feet to the Point of Beginning, in Section 20, Township 35 South, Range 40 East, lying and being in Fort Pierce, St. Lucie County, Florida. The N½ of the NE¼ of the SE¼ of the NW¼ of Section 21, Township 35 South, Range 40 East, lying and being in Fort Pierce, St. Lucie County, Florida. All land lying South of the centerline of Canal C-25 West of the Inland Waterway Channel and East of 12th Street projected North to the centerline of Canal C-25 in Fort Pierce, St. Lucie County, Florida.

Provided, however, that the lands incorporated within the city limits of the City of Fort Pierce by virtue of this act, not heretofore having been included within the city limits of the City of Fort Pierce by provisions of Chapter 12746, Laws of Florida, Acts of 1927, or any ordinance of the City of Fort Pierce, shall not be taxed or assessed in any manner for the payment of any bonds heretofore issued by the City of Fort Pierce or any interest due, or which may become due thereon or any refunding bonds which may have been issued or may be issued, interest thereon, refunding any of the bonded indebtedness of the said City of Fort Pierce, existing at the time of the passage of this Act.

(Laws of Fla., Ch. 65-1552, § 1)

**Editor's note--**The provisions of section 3 have been deleted as obsolete in light of subsequent annexations.

**Sec. 4. Obligation not impaired.**

No obligation, or contract, of said municipality shall be affected or impaired by the enactment of this charter, but all debts, contracts and obligations, shall be obligations upon and enforceable against the new municipality.

**Sec. 5. Title to property.**

PROOFS

The title, right and ownership of property, uncollected taxes, dues, claims, judgments, decrees and choses in action, held or owned by the city abolished by Section one (1) of this act, shall pass to and be vested in the municipal corporation hereby organized to succeed said municipality.

**Sec. 6. Present ordinances to remain in effect.**

All ordinances and parts of ordinances now in force in the city, which are not in conflict with the provisions of this act, or with the constitution and laws of the State of Florida, shall be and remain in full force and effect until repealed by law or ordinance.

**Sec. 7. Validating assessments and levies.**

All assessments, levies and collections of taxes heretofore done, made, and performed by the city are hereby legalized and declared valid and of full force and effect and binding in law and equity.

**Sec. 8. General description.**

The form of government of the city shall be that known as the "commission manager plan". The city commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt regulations and appoint a chief administrative officer to be known as the "city manager" and to exercise all other powers hereinafter provided.

**Sec. 9. Term of office of present commission.**

~~The term of office of the city commissioners, heretofore elected as city commissioners, and now qualified and acting as such, shall not be affected by this act and such officers shall be and remain city commissioners of the city under this charter until their successors are elected, or are appointed as hereinafter provided, and qualified. The acting city commission, now in office, shall have power to perform all the duties of the city commission under this act.~~

[Text deleted.]

**Editor's note--**The provisions of section 9 have been deleted as obsolete.

**Sec. 10. Oath of office.**

~~Every officer of the city shall before entering upon the duties of his office, take and subscribe to an oath or affirmation to be filed and kept in the office of the city clerk, which oath shall be in the form prescribed for state officers by the constitution of the state.~~

[Text deleted.]

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 10 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code.

**Sec. 11. Official bonds.**

Any officer, clerk or employee who handles city funds shall be bonded in an amount to be determined by the city commission or the city manager. The city commission or the city manager shall determine whether any other officer, clerk or employee shall be bonded, and the amount thereof. ~~All bonds shall be procured from a regularly accredited surety company authorized to do business under the laws of the State of Florida and the City of Fort Pierce, the premiums on such bonds to be paid by the city. All such bonds shall be filed in the office of the city clerk, excepting the bond of the city clerk, which shall be filed with the clerk of the circuit court of St. Lucie County, Florida, after it has been approved by the city commission. When the office of the city clerk is combined with another office, the bond for such office shall be filed with said clerk of the circuit court.~~

(Laws of Fla., Ch. 65-1552, § 2)

[Text deleted.]

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 11 (first two sentences excepted) were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code.

**Sec. 12. Dedication of streets.**

PROOFS

No street or alley hereafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, under the care or control of the city, unless the dedication be accepted by motion or resolution or confirmed by ordinance passed for such purpose.

[Text deleted.]

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 12 were either repealed as a limitation on power or assumed ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

### Sec. 13. Sale or lease of certain city owned property; notice; deposit or bond.

(a) The city commissioners of the city are hereby expressly authorized to lease or sell and convey any property, real or personal, belonging to the city and not required for public purposes, provided, however, that no lease beyond a term of one year or sale of any real property shall be made unless notice thereof shall be published once a week for two (2) consecutive weeks in some newspaper of general circulation published in the said city, calling for bids for the lease or purchase of the real estate so advertised to be leased or sold and in each case the bid of the highest bidder complying with the terms and conditions set forth in such notice shall be accepted unless the commissioners shall reject any and all bids. The city commissioners may require a deposit to be made or a surety bond to be given in such form or in such amount as the commission shall determine with each bid submitted.

(b) In exercising the powers conferred in section 13(a) of this charter the city commissioners may lease or sell any such property, real or personal, for such price and upon such terms and conditions as the said commissioners shall deem proper provided, however, that in giving notice for the lease or sale of the real estate the terms and conditions shall be stated in such notice. In making any lease or sale or [of] property under this act, the commission is hereby authorized and empowered to lease or convey title to such property to the lessee or purchaser thereof and to execute a proper lease or conveyance thereof.

(c) Whenever, in the opinion of the commission of the city, the city holds and possesses any real or personal property not needed for city purposes and such property may be to the best interest of the city, exchanged for other real or personal property which the city may desire to acquire for city purposes, the said commission of the city is authorized and empowered to make such an exchange; provided, however, before any exchange of property shall be effected a notice setting forth the terms and conditions of any such exchange of property shall be first published once a week for two (2) consecutive weeks in a newspaper of general circulation published in the city before the adoption by the commission of a resolution authorizing the exchange of such properties.

(d) If the United States of America, or any department or agency thereof, the State of Florida or any political subdivision or agency thereof, or any municipality of this state should desire any real or personal property that may be owned by the city for public or community interest and welfare, then the United States of America, or any department or agency thereof, state or political subdivision[,] agency or municipality may apply to the commission for a conveyance or lease of such property. The commission, if satisfied that such property is required for such use and is not needed for city purposes, may thereupon convey or lease the same at private sale to the applicant for such price, whether nominal or otherwise, as such commission may fix regardless of the actual value of such property. The fact of such application being made, the purpose for which the property is to be used and the price or rent therefor shall be set out in a resolution duly adopted by such commission. In case of a lease the terms of such lease shall be recited in such resolution. No advertisement shall be required.

(e) The provisions of section 13, subsections a, b, c, and d, shall not be construed to cover the sale or disposition of those lands conveyed to the city for a specific purpose and containing a reversionary clause whereby said lands shall revert to the grantor or grantors upon failure to use said real property for such purposes.

(f) The provisions of this section shall not apply to the sale of any public utility plant owned by the city.

(g) The provisions of this section shall not apply to the sale or exchange by the city of any obsolete, outmoded, unusable or unserviceable piece of equipment or parts or supplies therefor.

[Text deleted]

(Laws of Fla., Ch. 65-1556, § 1)

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 13 were either repealed as a limitation on power or assumed

PROOFS

ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

**Secs. 13.1—13.4. [Repealed by F.S. § 171.022(b).]**

PROOFS

## ARTICLE II. POWERS*

### Sec. 14. Powers of the city.

Subject only to the necessary extent of the constitutional limitations and laws of the United States and the State of Florida, the city shall have full power and authority as provided by law to:

(1)--(32) [Text deleted.]

(1) (a) *Acquiring, maintaining and disposal of properties for specified purposes.* The city shall have full power and authority to receive, acquire, take, hold, control and dispose of property, real, personal and mixed, both within and without its corporate limits, or partially within and partially without its corporate limits, for the use, benefit, welfare and interest of the city, by acquisition, condemnation or otherwise, and to purchase, own, build, construct, alter, repair, lease, maintain and operate, either individually or in connection with any of the political subdivisions of St. Lucie County or with the board of public instruction of St. Lucie County or with the board of county commissioners of St. Lucie County, within or without its corporate limits or partially without its corporate limits, all buildings and appurtenances necessary for the proper administration of the city affairs, hospitals, libraries, cemeteries, airports, landing fields, training fields, schools, forest and game preserves, playgrounds, recreational centers, buildings and grounds for recreational, educational[,] amusement and commercial purposes, television or radio broadcasting stations or substations for municipal purposes, telephone systems, golf courses, baseball, football and athletic fields, trailer parks, parks, causeways, bridges, docks, wharves, warehouses, slips and piers, abattoirs and the appurtenances thereto found by the said city to be expedient or necessary, and the exercise of the power by the said city to own, build, construct, alter, repair, lease, maintain and operate the same is hereby declared to be a proper municipal purpose, and to issue its negotiable bonds or revenue certificates or other evidences of indebtedness for the purpose of exercising each or any of the above enumerated powers; provided, however, any bonds issued for said purposes shall be issued and sold as provided elsewhere in this act, and any revenue certificates hereinafter issued for said purposes shall be paid solely from revenues derived from the operating, leasing and hiring that which was created or acquired by the exercise of any of the above enumerated powers; and to sell, lease or otherwise dispose of any and all property, real or personal, which may belong to said city, except the utility plants of the city, which may only be sold, leased or disposed of as otherwise herein specifically provided, to the same extent as natural persons may do; that the city commission may prescribe by ordinance the manner of making such conveyances.

**Amendment note** — Ch. 67-1391, § 1, amended, § 14(1)(a) by adding libraries to the grant of general authority therein.

(b) *Authority to acquire and use property.* To acquire by the exercise of eminent domain[,] purchase, gift, devise, grant or exchange, or in any lawful manner, such property, real or personal or any estate or interest therein, within or without the city, that the city may deem necessary for the purpose of carrying into effect any of the powers granted to the city, and to improve, sell, lease, mortgage, pledge, exchange or otherwise dispose of the same or any part thereof or interest or estate therein.

**State Law reference** — Eminent domain, F.S. §§ 166.401, 166.411.

(c) *Acquiring property for use of federal or state government.* To acquire real estate by purchase, gift, devise, condemnation or otherwise located within or without the territorial limits of the city for the purpose of giving, granting or conveying the same to the United States of America or to the State of Florida, or any lawful agency thereof, under such conditions as may be deemed by the city commission to be beneficial or to the best interests of the city.

(d) *Decision of commission on eminent domain final.* In exercising the right of eminent domain, the decision of the commission shall be considered final as to the necessity of exercising the right of eminent domain on any occasion.

(e) *Granting leases and concessions on certain property.* Leases or concession rights on, in or to public property of the city operated in a proprietary capacity, for a period not exceeding ninety-nine (99) years, may be granted or executed upon four-fifths ( 4/5 ) vote of the commission at any time. Included in properties operated in a proprietary capacity are airports and airport property, public recreational facilities, including golf courses, tennis courts, recreational halls, stadiums, football fields, baseball fields, playgrounds, public beaches, swimming pools, fishing piers, yacht basins and restaurants, parking

PROOFS

areas, docks and wharves, which enumeration shall not be deemed exclusive but merely indicative of the class of public property deemed to be operated in a proprietary capacity.

**Amendment note** — Ch. 67-1391, § 2, amended § 14(1)(e) by changing the maximum lease period from twenty to ninety-nine years.

(f) *Purchase of properties for public use.* The city is authorized to acquire by the exercise of the right of eminent domain, condemnation, purchase or otherwise, waterworks, electric light plant, gas plant, sewers, drains, parks, parking lots, hospitals, golf courses, waterways, canals and transportation systems, and also any franchise, right, or privilege of any person, firm, or corporation in any street or part thereof, or other public place or any easement over private property, and to enter into and execute contracts, leases or mortgages thereon, subject to constitutional limitations, for the purchase price thereof, provided, however, that the date of payment shall in no case be for a period longer than thirty (30) years, nor shall the rate of interest on such payment exceed the rate of seven (7) percent per annum. The commission is authorized to issue such evidence of indebtedness for the purchase price, as it may deem best. All net revenues derived from any of the properties so purchased shall be applied to the payment of interest and to create a sinking fund for the redemption of such obligations. Any obligation issued under this section shall be exclusive of and in addition to the limitation of the power of the city to issue bonds and revenue certificates as elsewhere provided in this charter.

**Amendment note** — Ch. 69-1064 amended § 14(1)(f) by changing the maximum interest rate from six percent to seven percent.

(2) *Borrow money.* To borrow at a rate of interest as allowed by Florida Statutes for municipalities, not exceeding sixty seven million dollars ($67,000,000.00) and to execute negotiable notes therefor.

**State Law reference** — Municipal borrowing, F.S. § 166.101 et seq.

(3) *Limitation on current indebtedness.* To purchase supplies, materials, equipment or other personal property, provided, however, that the city shall not owe at any time upon open account an amount in excess of one hundred thousand dollars ($100,000.00), provided that nothing herein contained shall limit the entering into contracts for construction work or contracts for equipment, materials and supplies for construction work or improvements which are to be paid for out of bond issues for such construction.

(4) Contract and be contracted with.

(5) Sue and be sued.

(6) Plead and be impleaded in all the courts of the state.

(7) *Bonds, issuance.* Issue and sell bonds upon its property, both within and without its corporate limits, or on the earning thereof, or both, for any lawful municipal purpose.

(8) *Police, housing, zoning and sanitary laws.* Adopt and enforce local police, housing, zoning, sanitary and other similar regulations not in conflict with state laws.

(9) *Removal of buildings and nuisances.* The city commission shall have power to provide by resolution for the removal and/or abatement of any building or structure that constitutes a menace to business, health, or safety, or any building or structure that constitutes a fire hazard or which is unsightly or does not conform in architecture to adjacent or surrounding buildings which are hereby designated and declared to be a nuisance; that the city commission shall have the power to designate other things that may constitute a nuisance. When any such building or structure shall have been declared a nuisance by resolution of the city commission and its removal or destruction required in such resolution as a nuisance and/or menace to business, health, safety, or as constituting a fire hazard or because said building or structure is unsightly or does not conform in architecture to adjacent or surrounding buildings, such resolution shall require the owner, agent or any person, firm or corporation having a lien on or interest in said building or structure, which lien or interest is a matter of record in the public records of St. Lucie County, Florida, of such building or structure to show cause, at a time and place to be fixed and named by the resolution, why said building or structure should not be by the city commission condemned and its removal or destruction required. Notice of which hearing shall be made by mailing by registered or certified mail a certified copy of said resolution to the hereinbefore named persons, firms or corporations at least ten (10) days prior to the date of said hearing by the city clerk of the City of Fort Pierce.

PROOFS

After such hearing if no good and sufficient cause be shown to the contrary the city commission shall pass a resolution requiring the removal or destruction of such building or structure within a reasonable time to be named by the city commission in said resolution.

If such building or structure be not removed or destroyed within the time fixed by said resolution the city commission may:

(a) By order authorize the removal or destruction of the said building or structure in the name of the City of Fort Pierce. Any person, firm or corporation having any lien on, or interest in the property ordered condemned or removed, shall have the right to appeal from said resolution in the same manner as provided in section 47* of Article V of this act, providing for appeals from judgment of the municipal court, provided, however, such appeal shall not operate as a supersedeas until appeal bond has been filed with the clerk of the circuit court for St. Lucie County, Florida, the amount of which bond shall be set by the judge of the circuit court of St. Lucie County, Florida, in an amount sufficient to cover all costs, attorney's fees and expenses of the City of Fort Pierce, reasonably incurred by the said city in protecting the public from dangers and damages arising from an incident to the building or structure involved in the said appeal. Provided, however, writ of error shall be sued out within three (3) days (Sundays excluded) and made returnable within fifteen (15) days from the date of said resolution.*

(1) And it is further provided that the cost of the removal and/or destruction of the building or structure hereinbefore referred to shall be charged against the real estate upon which such building or structure shall be located and shall constitute a lien thereon superior in rank and dignity to all other liens, encumbrances, titles and claims to or against the real property involved whether or not recorded prior to the lien herein. The lien thereon shall continue until such costs of removal or destruction including interest on such cost, together with all costs reasonably incurred in connection therewith, for the filing, recording, enforcement, foreclosure or otherwise of said lien, including reasonable attorney's fees and costs through the appellate level [shall have been fully paid off and discharged.]

(b) By action in equity in the name of the said city, cause the same to be destroyed or removed in procedure in substantial compliance with the general laws of the State of Florida providing for the abatement of nuisances. The final decree of the court in such cause may provide for the removal and/or destruction of such building within a time to be fixed by such decree and may further provide that upon the failure of the parties required to remove and/or destroy such building that the City of Fort Pierce cause the same to be destroyed and/or removed and that the cost of such removal and/or destruction shall be charged against the real estate upon which such building may be located, and be and constitute a lien thereon until such cost of removal, including interest on such cost and a reasonable solicitor's fee to be fixed by the court, shall have been fully paid off and discharged.

**State Law reference** — Nuisances, F.S. § 386.01 et seq.

**Annotations** — What constitutes a nuisance, *City of Miami Beach v. Texas Co.*, 141 Fla. 616, 194 So. 368, 128 A. L. R. 350 (1940); *Knowles v. Central Allapattae Properties*, 145 Fla. 123, 198 So. 819 (1940).

(10) *Utility tax.* The city commission of the City of Fort Pierce, within the limitations of this act, shall have the power by ordinance in its discretion to levy an excise tax upon the gross sale, or purchases or consumption within the city, of electric lights, electric power, water, telephone service, metered or bottled gas (natural liquefied petroleum gas or manufactured), or any services rendered by any person, firm or corporation operating public utilities, including the City of Fort Pierce, to fix the rate of taxation on the sales or purchases or consumption of said commodities or said services within the power of selection of the sales or purchases or consumption of said commodities or services to be so taxed, and with the power to fix the rate of tax to be paid upon the sales or purchases or consumption of the said commodities or services so taxed.

**State Law reference** — Municipal public service tax, F.S. §§ 166.231, 166.232.

**Annotation** — The city was required to follow former language in the charter requiring the proceeds of the tax to be used for operating expenses and not for debt service requirements. *State v. City of Fort Pierce*, 88 So.2d 135(1956).

(11) *Insuring officers and employees.* The City of Fort Pierce shall have full power and authority to insure or

PROOFS

cause to be insured its officers and employees against any loss or risk whatever including hospitalization insurance, pension and retirement plans and any other type insurance which the city commission shall deem proper, under such terms and conditions which the city commission may by resolution or ordinance deem proper, and the payment of premiums in whole or part by said city due upon any policy of insurance, including the right to deduct from the salaries of its employees all or part of the sums necessary to pay said insurance premiums, provided the said employee, or employees, agree to participate in such insurance plan.

**State Law reference** — Group insurance for public officers and employees, F.S. § 112.08.

(12) *Accepting benefits under state or federal acts.* The City of Fort Pierce may by resolution or ordinance accept the benefits or liabilities imposed or granted under any statute, rule or regulation of the State of Florida or the United States, heretofore or hereafter enacted, or any branch, department[,] bureau or division thereof, or any organization, firm or corporation organized and existing under the laws of the State of Florida or the United States for the benefit of the people of the City of Fort Pierce or the officers and employees thereof.

(13) *Powers not limited in defense of state or U.S.* The powers of the City of Fort Pierce shall be in no wise limited or curtailed when the exercise thereof shall be in the furtherance of the defense of the State of Florida and the United States of America.

**State Law reference** — Disaster preparedness, F.S. Ch. 252.

(14) *Merit system and civil service.* The City of Fort Pierce may by ordinance prescribe any merit system or civil service plan for the employment, suspension, discharge and retirement of its officers and employees as it may deem expedient and proper.

(15) *Penalty for violation of ordinances.* The City of Fort Pierce shall have full power and authority to make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this charter or by any general law and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations or any of them by fine not exceeding five hundred dollars ($500.00) or imprisonment at hard labor on the streets or other works of the city, for a term not exceeding sixty (60) days, or both.

(16) *Misdemeanors of state.* The violation of any law of the State of Florida which by statute declared to be a misdemeanor shall be a violation of the ordinances of the City of Fort Pierce and shall be punishable when the punishment is not otherwise specifically provided for by ordinance by fine or imprisonment or both within the limits heretofore set forth herein.

(17) *Cleaning lots, etc.* To require property owners or persons having charge of or control over property to clear and clean and remove the same of weeds, undergrowth, rubbish, debris, brush, trees and unsightly and unsanitary matters and conditions, including discarded or old metals or similar products or materials, auto parts or motor vehicle frames, and to fill lots and any and all unsanitary excavations and depressions thereon and to maintain any casuarina tree (Australian pine) now in existence at a height not exceeding thirty (30) feet. When the commission shall determine that any property situate within the city shall be so cleaned or maintained in the manner aforesaid, it shall so declare by resolution giving a description of the property to be improved and fixing a date in the resolution not less than twenty (20) days from the passage thereof, and if the owner or owners or persons interested in such property, including lessees, do not comply with any such requirements within the time limited and fixed by the resolution, the city commission shall make or cause said work to be done and make the cost thereof, including advertising and all other administration costs, a charge and lien against such property of and to the same extent and character as any lien now granted or which may hereafter be granted to the city by law for special assessments for the cost of local improvements; which charge and lien shall be superior in rank and dignity to all other liens, encumbrances, titles and claims, to or against the real property involved whether or not recorded prior to said lien. Said liens shall be forthwith due and payable, with the same penalties, including all costs of collection and a reasonable attorney's fee for representation of the city therein being assessed in favor of the city, through the appellate level, and the same rights of collection and sale to forfeiture as may be provided by law for assessments or local improvements. Whenever the word "trees" is used herein, the same shall mean and have reference to dead or unsightly trees or those that block, hinder or impair the view at street intersections or those which are noxious, constitute a hazard or nuisance or constitute a menace to health and safety.

**Amendment note** — Ch. 65-1552, § 3, amended subsection (17) of § 14, by adding the definition of "trees." Ch. 67-1391, § 3,

PROOFS

amended subsection (17) by adding discarded or old metals and similar items.

(18) *Mosquito eradication.* To do any and all things necessary and expedient for the eradication and control of mosquitoes within the city, and without the city limits in territory adjoining and contiguous thereto.

(19) *Abatement of nuisances.* To determine [the] existence and to compel the abatement and removal of all nuisances within the city or upon the property owned by the city beyond its corporate limits, at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be; to require all lands, lots or other premises within the city to be kept clean, sanitary and free from weeds, wild growth and rubbish, or to clean and make them so at the expense of the owner or occupants thereof.

(20) *Garbage and trash collection.* The city commission may by ordinance provide for, charge and collect fees for the collection of garbage, trash or other similar matter, under rates and under such terms and conditions as it may find necessary.

**State Law reference** — Fixing of fees by city, F.S. §§ 180.13, 180.191 et seq.

(21) *Sewage and collection and disposal.* To collect and dispose of sewage, offal, carcasses of dead animals and other refuse, inside and outside the city limits, and to acquire and operate reduction, cremation, neutralization or other plants for the utilization of such materials, or for any of them, inside and outside the city limits; and to contract for and regulate the collection and disposal thereof. The city commission may, if it deems it expedient or necessary, make reasonable charges for sewerage service or the use of the city's sewers to any person, firm or corporation using the same.

**State Law reference** — Municipal sewerage systems, F.S. § 180.07.

**Annotation** — Under former charter language, the proceeds of a utility tax could not be used for sewer purposes, even though an earlier general law contained no such restriction. *State v. City of Fort Pierce*, 88 So.2d 135(1956).

(22) *Dairies, slaughterhouses and animals.* To regulate or prevent slaughterhouses or other noisome or offensive businesses within the city; to provide for inspecting and regulating the sanitary condition of all dairies, butcher pens and slaughterhouses within and without the city limits where the products of the same are sold within the city limits; to regulate and prohibit the keeping of animals and fowl within the city limits.

**State Law reference** — Nuisances, F.S. § 386.01 et seq.

(23) *Licensing the keeping of dogs.* The city commission may, by ordinance, provide for licensing the keeping of dogs and for the destruction of dogs, when the owners and keepers thereof shall not comply with the regulations prescribed by ordinance in effect thereto and for the punishment of persons violating the city ordinances on this subject.

(24) Regulation of use of streets.

(a) The city commission is authorized and empowered to permit the use of its streets and alleys to only such persons and vehicles and under such terms and conditions, as may be consistent with the constitution and laws of the State of Florida, as it may by ordinance find necessary or expedient to promote the public safety or to protect and maintain its said streets and alleys, including the right to require examination of said persons to determine the extent of their proficiency and ability to operate vehicles on said streets and alleys, and the right to require inspection and examination of said vehicles to determine whether or not their operation or use on the streets and alleys of the City of Fort Pierce will create a hazard or be detrimental to the public safety or to the said streets and alleys or the pavements thereof.

(b) The city commission may fix, charge and collect, reasonable fees for the examinations and inspections herein provided for, and in addition thereto may issue and sell permits for the vehicular use of its streets and alleys under such terms and conditions as it deems necessary or expedient to protect and maintain the streets and alleys of the City of Fort Pierce and to promote the public safety.

**State Law reference** — Local issuance of drivers' licenses prohibited, F.S. § 322.41.

**Annotation** — Requiring permit for use of city streets by vehicles authorized, *Tomlinson v. State ex rel Gilbert*, 143, Fla. 895, 197 So. 521. See, however, F.S. § 322.41.

(25) *Traffic.* To license, control, tax and regulate traffic and sales upon the streets, sidewalks, and public places within the city; to make, enact, adopt and promulgate regulations governing the traffic on the public streets

PROOFS

or parts of the streets as may be necessary or convenient; to regulate the operation and speed of all cars and vehicles using the same; to provide for parking spaces on the streets and at any time to discontinue the right to use such parking spaces; to install and operate parking meters, on, near or adjacent to the public streets or on city-owned or leased property, regulating the parking of vehicles upon any portion of the public streets of the city on or city-owned or leased property, and to levy and impose a charge or fee for the use of such parking space, by requiring the same to be deposited in the parking meter; and generally, to exercise any and all powers necessary for the regulation of traffic upon the public streets and highways within the city limits.

**State Law reference**— Traffic control powers of local authorities, F.S. § 316.008; speed zones, F.S. § 316.187 et seq.

(26) *Off-street parking.* To acquire property, both real and personal, improved or unimproved, above, at or below the surface of the earth, by purchase, lease, gift, devise, condemnation, or otherwise, for the purpose of providing off-street automobile parking; to plan, design, locate, finance, acquire property for, construct, develop, improve, alter, enlarge, use, maintain, operate, lease (either as lessor or lessee), subject to constitutional limitations, otherwise provide and foster off-street automobile parking facilities, either acting alone or in cooperation with any federal, state or local agency as deemed necessary or desirable; to create automobile parking agencies answerable to the city for the purpose of establishing, operating and maintaining public off-street parking facilities; to fix, levy and collect fees, rents or charges for the use of such facilities; to install, establish, maintain and control parking meters in or on such off-street parking facilities and regulate the use thereof; to prohibit curb parking on streets in the area or vicinity of such off-street parking facilities as desired; to issue general obligation bonds within the legal debt limitation for the purpose of acquiring, developing and improving property for off-street parking of motor vehicles and for the creation of parking facilities; to issue revenue bonds or certificates payable solely out of the revenue derived from the use of such parking facilities; to make general fund appropriations to the extent deemed necessary and desirable; to receive state, federal and local aid by gift, bequest, devise, grant or otherwise; to do all acts and things necessary and convenient to carry out the powers expressly provided herein. The legislature of the State of Florida hereby declares and finds that excessive curb parking of motor vehicles on roads and streets in the city and the lack of adequate off-street parking facilities create congestion, obstruct the free circulation of traffic, diminish property values, and endanger the health, safety and general welfare of the public, [and] that conveniently located off-street parking facilities, provided by the city for the parking of automobiles off the public streets and open to public use, with or without charge, are therefore necessary to alleviate such condition; and that the establishment of public off-street automobile parking facilities is deemed to be [a] proper public purpose.

**State Law reference**— Local bonds, Fla. Const. Art. VII, § 12; F.S. § 166.101 et seq.

(27) Public carriers.

(a) To license, cause to be registered, control, tax, regulate or prohibit on designated streets or parts of streets, carriages, omnibuses, motor buses, cars, wagons, drays, jitney buses and all other vehicles for hire, and to cancel any such licenses which may have been issued, upon good cause shown, in the discretion of the commission, providing that such cause be inimical to the health, safety, welfare, [or] morals of the people of the city; [and] to license, cause to be registered, and control the drivers thereof.

(b) To require all vehicles [sic] for the carriage of all persons for hire to execute a bond or provide [an] insurance policy to be conditioned as required by ordinance for the protection of passengers and of the public, and to make such bond or provide [sic] insurance policy inure to the benefit of persons or property which may be injured or damaged by the operation of such vehicles for hire, and to require such bond or insurance policy with such security to be furnished by all vehicles for hire operating upon the streets of the city whether such operation be wholly within the city limits or between the city and other cities, towns and places outside the city.

(c) To regulate the service to be rendered and the rates to be charged by buses, motor cabs, taxicabs, or other vehicles for the carriage of passengers, freight and baggage for hire within the city and to the public works beyond the city limits.

**State Law reference**— Carriers in suburban areas, F.S. § 323.054; nonpublic intercity bus services, F.S. § 341.102.

(28) *Railroads and locomotives.* To regulate, suppress or prohibit the blowing of whistles or the making of unusual noises by any engine, locomotive or train within the city; to abolish and prevent grade crossings over streets and highways by railroads; to limit and regulate the rate of speed and manner in which any engine, locomotive,

PROOFS

train, car or cars of any railway company may be operated within the city limits; to limit the time that any engine, locomotive, train, car or cars may stand upon, obstruct or block any such street or other public crossing; to require any street or other railway company operating any engine, locomotive, train, car or cars in or through the said city to provide gates and stations and keep watchmen at such public crossings of such railway within the city as the commission may designate by ordinance, to care for and protect the public while passing over or crossing such track or tracks.

**State Law reference** – Speed of trains in cities, F.S. § 351.03.

(29) *Aircraft.* To prescribe or regulate the flying height and manner of flight and size of airplanes and other aerial conveyances, including the operation of aircraft for advertising purposes for which a permit and fee shall be prescribed, over, above and within the area of the city limits; and to impose and enforce adequate penalties for violation of such rules and regulations.

**State Law reference** – Aircraft registration fee prohibited, F.S. § 330.17.

(30) Streets and sidewalks.

(a) To acquire, hold, establish, open, locate, relocate, pave, repave, curb, macadamize, remacadamize, vacate, alter, widen, extend, grade, regrade, improve, adorn, beautify, repair, construct, reconstruct, maintain[,] sprinkle, drain and clean, within or without the limits of the city, public highways, streets, boulevards, trafficways, parkways, sidewalks, alleys, public grounds, parks and squares, memorials, bridges, subways, tunnels, conduits, aqueducts, pipe lines, reservoir sites and reservoirs, sewers, sewer outlets and drains, or any of them, and all things appurtenant thereto; and to do all other things deemed beneficial to the use and enjoyment thereof; to have and exercise full, complete and exclusive control over the same, and regulate the use thereof, and to keep and maintain the same in an open, safe and clean condition, and to make and enforce all needful regulations therefor.

(b) To lay off such parks, public squares, streets, avenues, lanes, highways, canals, and other public ways, as may [be deemed] necessary and expedient for the public health or interest, and open, fill in, grade, pave, dig, dredge, widen, deepen, and otherwise enlarge, change and improve the same; and the said city or commission may alter, widen, fill in, grade, pave, change or divert the use of all or any part thereof or discontinue any public park, public square, street, avenue, highway or any other way which has heretofore been or shall hereafter be laid out, either by cities or persons, natural or artificial, fixed or established in any manner whatsoever; provided that no authority herein granted shall be applicable to any designated state road without the concurrence of the state department of transportation.

(c) The commission shall have the power by resolution or ordinance to prescribe the width of every street, alley or sidewalk in the city and the material of which the same shall be constructed, and shall have power on such notice as may be prescribed by resolution to require owners of property to lay, construct or repair sidewalks in front of their property. Upon failure of the property owners to lay, construct or repair such sidewalks, the commission shall have power to cause such sidewalks to be laid or repaired and to assess the cost and expenses of laying or repairing the same against the abutting property in the manner provided in sections 151 through 156, and such assessment shall create a lien against the property. Nothing herein contained shall prevent the city from constructing sidewalks and providing for the payment therefor as elsewhere in this charter provided.

(31) *Plats and maps of city.* To prepare, approve and adopt a plat or map covering all lands within the city limits showing all lands and streets, avenues, parks, public buildings and public ways, to be known as the "Official Map of the City of Fort Pierce"; and to change the names of subdivisions, streets and avenues thereon from time to time when conflicts exist or changes are deemed necessary. Such plat or map, when adopted and approved by the city commission, shall be prepared in duplicate, one (1) copy to be filed with the city clerk, [and] one (1) copy to be filed with the clerk of the circuit court of St. Lucie County, Florida, for public use; and such plat or map, so adopted and filed, shall be the official map of the city.

**State Law reference** – Platting, F.S. § 177.011 et seq.

(32) *Water supply.* To acquire by the exercise of the rights of eminent domain or in any lawful manner within or without the city in any county of the state, or without the state, such water, lands and lands under water as the

PROOFS

city may deem necessary for the purposes of providing an adequate water supply for the city and piping or conducting the same; to lay all necessary mains; to erect and maintain all necessary dams, pumping stations and other works in connection therewith, to make reasonable rules and regulations for promoting the purity of its water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such supply wherever such lands may be located in this state; to impose and enforce adequate penalties for violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and for the purpose of acquiring lands or materials for any such use to exercise within the state all powers of eminent domain. For any of the purposes aforesaid, the city may acquire by condemnation, purchase or otherwise, any estate or interest in such lands or any of them, or any right or easement therein, or may acquire such lands or any of them, or any right or easement therein, or may acquire such lands or any of them in fee, reserving to the owner or owners thereof such rights or easements therein as may be prescribed in the ordinance providing for such condemnation or purchase. The city may sell or supply to persons, firms, industries, or municipal corporations residing or located outside of the city limits, any surplus water it may have over and above the amount required to supply its own inhabitants.

**State Law reference** — Eminent domain, F.S. §§ 166.401, 166.411.

(33) *Creation of utilities authority.* The city commission, by ordinance subject to referendum shall have the power to create and establish a utilities authority to be known and designated as the Fort Pierce Utilities Authority, which shall consist of five (5) members, and to prescribe the powers and duties of said utilities authority.

**Amendment note** — Ord. No. F-399, passed April 24, 1972, was approved by a majority of the electors voting on a referendum at a special election held on May 30, 1972, and becoming effective June 29, 1972, amended § 14(33) by deleting "Fort Pierce Utilities Commission" and substituting in lieu thereof "Fort Pierce Authority."

**State Law reference** — Municipal public works, F.S. Ch. 180.

(34) *Police powers.*

(a) To exercise all of the powers of local self-government and to do whatever may be deemed necessary or proper for the safety, health, convenience or general welfare of the inhabitants of the city; to exercise full police powers to do and perform all acts and things permitted by the laws of the State of Florida, and comprehended as duties in the performance of anything recognized as a "municipal purpose," whether now existing and recognized, or hereby [sic] recognized as a municipal purpose by statute, law or court decision. [Text deleted.]

(b) Police protection. To establish and maintain a police department for the benefit of the city and to furnish police protection within one-half mile of the corporate limits, provided that this extension of power shall not exceed into any other municipal corporation.

(35) *General laws of state.* All general laws of the state, applicable to municipal corporations, heretofore or hereafter enacted and which are not in conflict with the provisions of this charter or with ordinances or resolutions hereafter enacted by the commission pursuant to authority conferred by this charter, shall be applicable to said city; provided, however, that nothing contained in this charter shall be construed as limiting the power of the commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this charter.

**State Law reference** — Municipal powers generally, F.S. § 166.021.

**Annotation** — Later special act prevails over general act where in conflict, *State v. City of Fort Pierce*, 88 So.2d 135(1956).

(36) *Enumerated powers not exclusive.* The special and general powers granted by this charter shall be construed as objects, purposes and powers of the city and shall be construed to be in furtherance and not in limitation of general powers conferred by the laws of the state upon cities and towns; and it is specifically provided that no limitation, expression or declaration of specific powers and purposes enumerated in this charter shall be deemed to limit or restrict or to be exclusive. Whenever this charter shall grant or confer upon the city the rights, powers and privileges now belonging to or conferred upon cities and towns by the general laws of the state, such rights, powers, and privileges enjoyed by cities and towns under the general laws of this state and hereby [sic] granted and conferred upon the city, shall extend but not restrict or infringe upon or limit the rights, privileges and powers conferred by

PROOFS

this charter. The city, in receiving and exercising the rights, privileges and powers conferred upon cities and towns under authority of either special or general laws of the state, shall not thus be subjecting itself to any other duties, limitations or obligations naturally a part of such rights, privileges and powers, except those herein specifically provided; and finally in addition to any enumerated particular powers or adoption of powers of other cities and towns in the state granted either by general or special laws of the state, the city shall have and exercise all other powers which under the state constitution it would be competent for the legislature to enumerate specifically.

(37) *Industrial development.* The city shall have full power and authority to receive, acquire, take, hold, control and dispose of real property, both within and without its corporate limits or partially within and partially without, by acquisition, condemnation or otherwise, and to purchase, own, develop, lease, maintain and operate, either individually or in connection with any of the political subdivisions of St. Lucie County or with the board of county commissioners of St. Lucie County, said real property for an industrial park or parks and for grounds and sites for industrial development, businesses or enterprises, including appurtenances thereto found by the city to be expedient or necessary; to regulate the use thereof; and to sell, lease or otherwise dispose of any and all such property which may belong to the city or in which the city may have an interest therein. The city may become a member of and contribute financially to any agency or organization, deemed and found appropriate by the city whose objectives include the attraction of industrial enterprises for location in St. Lucie County or in the City of Fort Pierce and which thereby will serve and be for the benefit, welfare and interest of the city. The city commission may prescribe by ordinance or resolution the manner of exercising the foregoing powers.

(35)--(37) [Text deleted.]

(Laws of Fla., Ch. 59-1287, § 1; Laws of Fla., Ch. 59-1290, § 1; Laws of Fla., Ch. 65-1552, § 3; Laws of Fla., Ch. 67-1391, §§ 1—4; Laws of Fla., Ch. 69-1064, §§ 1, 2; Laws of Fla., Ch. 71-643, § 2; Ord. No. F-399, § 17, 4-24-72; Ord. No. H-143, § 1, 8-18-80; Ord. No. I-190, § 2, 11-3-86; Ord. No. I-209, § 2, 3-2-87; Ord. No. I-281, § 2, 5-2-88; Ord. No. I-351, § 2, 11-6-89; Ord. No. I-446, § 2, 12-17-90; Ord. No. I-447, § 2, 12-17-90; Ord. No. J-02, § 2, 2-18-92; Ord. No. J-385, § 2, 1-20-98; Ord. No. K-30, § 2, 10-2-00; Ord. No. K-116, § 2, 10-15-01; Ord. No. K-158, § 1, 9-16-02; Ord. No. K-236, § 1, 9-2-03; Ord. No. K-273, § 1, 5-17-04; Ord. No. K-312, § 1, 12-20-04)

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 14 (subsections (33) and (34)(b) excepted) either were repealed as a limitation on power or assumed ordinance status. Except for the provisions of subsections (9) and (17), such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code. See the code comparative table for the 1957 Charter for their location in the Code. The provisions of subsection (34)(b), insofar as they confer extraterritorial powers upon the city, retain their status as a special act. See F.S. § 166.021. Subsection (33) was added by Ord. No. F-399 and was approved at referendum.

### Sec. 15. Retirement fund or pensions for city employees—Referendum required.

The city commission of the City of Fort Pierce, shall have the power to establish, upon ratification thereof by the majority of the qualified electors of the City of Fort Pierce, actually voting in the general election, or special election, called for that purpose, a retirement fund or system providing an account of persons in the classified or unclassified service of said city, retirement benefits payable on account of service or length of service, disability, old age or death; provided that the ordinance establishing such retirement fund shall make due provisions for contributions thereto, by the members thereof and by said city.

[Text deleted.]

**State Law reference**— Firemen's and policemen's retirement systems, F.S. Chs. 175, 185; social security in cities, F.S. § 650.05; Florida Retirement System, F.S. Ch. 121; financial matters pertaining to political subdivisions, F.S. Ch. 218.

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 15 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been carried forward into the Code and are, therefore, repealed by the adoption of the Code.

### Sec. 16. Same—Computing rate of contributions and benefits; receiving donations, etc.

The ordinance establishing the retirement fund under the provisions of this act shall provide that the rate of interest used for the purpose of computing rates of contributions and benefits thereunder may be set from time to time by the administrative board as hereinbefore provided for by ordinances of such retirement fund, and that except in case of retirement on account of disability or in respect to benefit credits allowed for service rendered prior to the establishment of such retirement fund or in respect to death benefits not more than five-eighths ( 5/8 ) of the

PROOFS

cost of the benefits under such retirement fund shall be provided for contributions made thereto by said city. The benefits of such fund shall be related to salary and to the years of creditable service as determined by the ordinances establishing such retirement fund, or the benefits of such retirement fund may be related to the contributions made thereto by the members thereof, or a combination of these conditions may be adopted.

The fund or system may receive gifts, devises and bequests of money or property for the benefit thereof, contributions from members, earnings or investments and deposits and contributions from the City of Fort Pierce, and said city shall have the power to raise amounts needed for the purpose herein provided, upon the express condition that amounts necessary shall not be raised by taxation upon any real property located within the City of Fort Pierce, Florida.

(Laws of Fla., Ch. 61-2176, § 1; Ord. No. I-246, § 2, 10-19-87)

**Sec. 17. Same—Membership.**

The ordinances establishing the retirement fund under the provisions of this act shall provide that all employees of the city, in service on the effective date of such retirement fund shall become members thereof as a condition of their employment; provided, however, that day laborers and temporary employees employed by the city shall not become members thereof.

(Laws of Fla., Ch. 65-1552, § 4)

PROOFS

## ARTICLE III. CITY COMMISSION*

***State law reference**—Procedure for adoption of ordinances and resolutions, F.S. § 166.041.

### Sec. 18. Creation of city commission.

(1) A city commission is hereby created, to consist of a mayor-commissioner and four (4) commissioners, who shall be qualified as hereinafter prescribed and whose term of office shall begin on the second (2nd) regular meeting of the city commission after the general election in November.

(2) In the event of a special election held pursuant to Section 52(h), the term of office shall begin on the second (2nd) regular meeting of the city commission after the special election.

(Laws of Fla., Ch. 65-1553, § 1; Laws of Fla., Ch. 65-1556, § 2; Laws of Fla., Ch. 69-1065, § 1; Ord. No. G-252, § 1, 12-8-75; Ord. No. I-137, § 2, 10-21-85; Ord. No. L-96, § 1, 11-2-09; Ord. No. L-152, § 1, 1-18-11)

**State law reference--**Changing terms of office by ordinance, F.S. § 166.021(4).

### Sec. 19. [Repealed]

(Ord. No. G-371, § 2, 10-17-77)

### Sec. 20. Powers of commission.

All powers of the city and determination of all matters of policy shall be vested in the city commission. Without limitation of the foregoing, the commission shall have power:

(a) To appoint and remove with or without cause (1) the city manager, (2) the city clerk, (3) the city attorney, (4) the city prosecuting attorney and (5) the city auditor.

(b) To create and abolish departments other than those created by the charter, and establish their functions.

~~(c) To adopt the annual budget.~~

~~(d) Subject to the limitations provided by law, to levy taxes and special assessments and to borrow money.~~

(c), (d) [Text deleted.]

(e) To serve as trustees of the sinking fund and of such bonds as may be issued by the city and to manage and control such sinking funds [sic] subject to the provisions of general laws and city ordinances.

**State law reference**—Municipal borrowing, F.S. § 166.101 et seq.

(f) To inquire as a body into the conduct of any officer, department or agency of the city and investigate municipal affairs whenever it deems such actions to be in the public interest.

(g) To appoint members of the civil service board, the city planning board and the zoning board of appeals, and such other boards created under this charter, acts amendatory thereto and not otherwise provided for, or by the city commission.

~~(h) To adopt plats.~~

~~(i) To adopt and modify the official map of the city.~~

~~(j) To regulate private property for zoning purposes, and provide and designate fire districts and zones.~~

~~(k) To provide for the removal of any building or structure that constitutes a menace to business, health, or safety, or any building or structure that constitutes a fire hazard or which is unsightly or does not conform in architecture to adjacent or surrounding buildings and to designate other things that may constitute a nuisance.~~

~~(l) To pass all such ordinances and laws, not inconsistent with the constitution and laws of the United States and this state, as may be expedient and necessary for the preservation of the public peace and order, for the suppression of riots and disorderly assemblies, for the good order and government of the city and for effectuating the provisions of this charter, and to impose such fines, penalties and forfeitures as may be needed to carry the same into effect; provided, that for no offense made punishable by the laws and ordinances of said city shall a fine of not [sic] more than five hundred dollars ($500.00) or imprisonment for a period of time longer than sixty (60) days or both, be imposed.~~

PROOFS

~~(m) To exercise any right or authority given or permitted by the constitution and laws of the State of Florida to city councils not inconsistent with the provisions of this act.~~

~~**State Law reference**—Municipal powers generally, F.S. § 166.021.~~

~~**Annotations**—A regularly enacted municipal ordinance will be presumed to be valid until the contrary is shown, and a party seeking to overthrow same has the burden of establishing its invalidity. *State ex rel office Realty Co. v. Ehinger*, 46 So.2d 601(1950). Reasonableness of ordinance is subject to judicial review, *Gustafson v. City of Ocala*, 53 So.2d 658(1951); *Brown v. Foley*, 29 So.2d 870(1947). Partial invalidity of ordinance, *McCall v. State ex rel Daniels*, 23 So. 2d 492(1945).~~

~~(n) To provide for an annual independent audit of the finances of the city.~~

**State law reference**—Audits, F.S. § 166.241.

~~(o) Upon the taking effect of this act and every five (5) years thereafter, the city commission shall employ a qualified actuary with pension experience to conduct an evaluation of the city's existing pension and retirement funds and recommend such measures as he may deem wise for efficient operation of the system and for assuring its future solvency.~~

(Laws of Fla., Ch. 65-1552, § 5)

**Editor's note--**Except for subsections (a), (b), and (e)--(g), pursuant to F.S. § 166.021, the provisions of section 20 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been carried forward into the Code and are, therefore, repealed by the adoption of the Code.

### Sec. 21. Other powers of commission.

All powers of the city except such as are vested in the jurisdiction of the municipal court and except as otherwise provided by this charter, or by the constitution and laws of the State of Florida are hereby vested in the city commission; and except as otherwise provided by this charter, or by the constitution and laws of the State of Florida, the city commission may by ordinance or resolution prescribe the manner in which any such power of said city shall be exercised.

**Editor's note**—The municipal court has been abolished under Article V of the state constitution.

### Sec. 22. Powers and duties of mayor-commissioner.

The mayor-commissioner shall preside at all meetings of the city commission and perform such other duties consistent with his office as may be imposed by it. The mayor-commissioner shall have a voice and a vote in the proceedings of the commission; but no veto power. He may use the title of mayor in case in which the execution of legal instruments or writings or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring upon him the administrative or judicial functions of a mayor under the general laws of the state. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes; by the government in the exercise of military law, and for all commercial purposes. He may issue proclamations during times of grave public danger or emergency.

**State law reference**—Declaration of state of emergency, F.S. § 870.042.

### Sec. 23. Mayor pro tem.

At the first regular meeting following January 1st of each year, the city commissioners shall select one (1) of their number as mayor pro tem. He shall act as mayor-commissioner and have all of the powers and duties of that office during the absence or disability of the said mayor-commissioner.

(Laws of Fla., Ch. 67-1391, § 5; Ord. No. I-45, § 2, 2-6-84)

**State law reference--**Changing terms of office by ordinance, F.S. § 166.021(4).

### Sec. 24. Meetings of commission.

(1) ~~All meetings of the city commission and of the committees thereof shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.~~ The commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

(2) At the second regular meeting following each regular municipal election, the city commissioners shall meet at the usual place of holding meetings of the city commission, at which time each newly elected commissioner

PROOFS

or mayor-commissioner, after being duly sworn in, shall assume the duties of office immediately following the meeting being called to order and approval of the minutes of the previous regular and/or special meeting, if any. ~~Thereafter the city commission shall meet at such time and place as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than twice each month.~~

(3) The mayor-commissioner, or any three (3) members of [the] commission, or the city manager and any two (2) members of the commission, may call special meetings of the city commission, upon at least six (6) hours written notice to each member, served personally, or left at his usual place of residence or business.

(Laws of Fla., Ch. 59-1290, § 1; Laws of Fla., Ch. 67-1391, § 6; Laws of Fla., Ch. 69-1065, § 3; Laws of Fla., Ch. 71-643, §§ 3, 4)

**Editor's note--**The first sentence of section 24 has been deleted as superseded by F.S. § 286.011.

### Sec. 25. Legislative procedure.

A majority of all members of the city commission shall constitute a quorum but a less number may adjourn from time to time and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance.

(Laws of Fla., Ch. 71-643, § 5)

**State law reference—**Procedure for adoption of ordinances and resolutions, F.S. § 166.041.

### Sec. 26. Commission to be judge of own election.

The city commission shall be the judge of the election and qualification of its own members subject to review by the courts. ~~Any member of the commission who shall be convicted of [a] felony while in office shall thereby forfeit his office.~~

**Editor's note--**Pursuant to F.S. § 166.021, the second sentence of section 26 was either repealed as a limitation on power or assumed ordinance status. Such sentence has been included in the Code. See the code comparative table for the 1957 Charter for its location in the Code.

### Sec. 27. Absences.

~~Absence from four (4) consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by motion setting forth the fact of such excuse duly entered upon the minutes.~~

[Text deleted.]

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 27 were either repealed as a limitation on power or assumed ordinance status. See AGO 73-475. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

### Sec. 28. Filling of vacancies.

At the time a vacancy occurs, if there is less than six (6) months before the next general election said vacancy in the commission shall be filled by vote of the remaining members of the commission within thirty (30) days after said vacancy shall occur. The person appointed shall hold office for the balance of the term and shall be a qualified commissioner meeting all qualifications under state law, the city charter, and the city Code.

At the time the vacancy occurs, if there is more than six (6) months before the next general election, a special election shall be set as early as legally possible and no temporary appointment shall take place. The winning candidate shall be sworn in at the first meeting after said election.

Vacancies resulting from a recall election shall be filled in the manner hereinafter prescribed.

(Ord. No. I-165, § 2, 6-2-86)

### Sec. 29. Qualifications of officers and employees.

Officers and employees of the city may hold more than one office in the city government of the city, but shall not be interested in the profits or emoluments of any contract, work or service for the city, and any such contract in which any member is, or may become interested, shall be declared void by the commission.

PROOFS

Any officer or employee in the classified service who shall act as city manager or department head for a period of more than ninety (90) consecutive days at any one time shall forfeit all benefits and rights under the classified service and become classified in the unclassified service.

**Sec. 30. Commission to keep out of managerial details.**

Neither the commission nor any of its members shall direct or request the appointment of any person to, or his removal from[,] the administrative service of the city by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of any officers or employees, as hereinbefore specified. Except for the purpose of inquiry or investigation, the commission shall deal with the administrative service solely through the city manager.

**Sec. 31. No commissioner shall give order to city employees.**

No commissioner or commissioners acting as individuals shall give orders to the city manager or his subordinates either publicly or privately. Any commissioner violating the provisions of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to hold office as a commissioner.

(As amended by Laws of Fla., Ch. 59-1290, § 1)

**Secs. 32—34. [Reserved.]**

**Sec. 35. Repeal shall not revive any ordinance.**

[Text deleted.]

~~The repeal of an ordinance shall not repeal the repealing clause of such ordinance, nor revive any ordinance which has been repealed thereby.~~

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 35 were either repealed as a limitation on power or assumed ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

**Sec. 36. [Reserved.]**

**Sec. 37. Improvements beyond city limits.**

The city commission is authorized to enter into contracts with any person, firm or corporation, owning property adjacent to the city, with respect to the payment by the city of all or any part of the cost of improvements which may be constructed thereon and which are wholly public in nature, provided however, that no expenditure shall be made by the city in pursuance of any such contract unless and until the property involved shall have become located within the city limits.

~~**Sec. 38. Independent annual audit.**~~

~~At the beginning of each fiscal year the commission shall designate a qualified certified public accountant or accountants who shall make a continuing and independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the commission. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government. They shall not maintain any accounts or records of city business, but, within specifications approved by the commission, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.~~

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 38 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code. The section is obsolete in light of F.S. § 218.39.

PROOFS

## ARTICLE IV. CITY MANAGER

**Sec. 39. Appointment of city manager.**

The commission shall appoint a city manager for an indefinite term and fix his compensation. He shall be chosen solely on the basis of his executive and administrative qualifications and need not be a resident of the city or state at the time of his appointment. No commissioner shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

**Sec. 40. Removal of city manager.**

The city manager may be removed by the city commission at any time with or without cause.

**Sec. 41. Absence, disability, or suspension of city manager.**

To perform his duties during his temporary absence or disability, the city manager may, with the approval of the commission, designate by letter filed with the city clerk a qualified administrative officer of the city. If the city manager fails to make such designation or if there is a vacancy in the office of city manager, the commission may designate by resolution a qualified person, or an employee of the city to perform the duties of city manager during his absence or disability or during said vacancy.

**Sec. 42. Powers and duties of city manager.**

The city manager shall be the chief executive and administrative head of the municipal government and shall be responsible to the commission for the proper administration of all affairs of the city. He shall exercise general supervision and control over all city departments, except the office of city clerk, city attorney and city auditor. His powers and duties shall be:

(a) To see that the laws and ordinances are enforced;

(b) To supervise the operation of the merit system and to uphold and enforce the principles of merit and fitness in all personal actions affecting city officials and employees coming within his jurisdiction;

(c) To appoint and, when necessary for the good of the service, to transfer, demote, remove or suspend all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department or office to appoint, or suspend subordinates in such department or office;

(d) To fix the number of employees in the city departments, determine their duties and conduct a comprehensive program of in-service training for city officials and employees to help them develop their talents and skills and increase their proficiency;

(e) To prepare the annual budget and submit it to the commission not later than August 15 of each fiscal year and to be responsible for its execution after adoption by the commission;

(f) To keep the commission fully informed of the financial condition and future needs of the city and to make such recommendations as he may find desirable;

(g) To prepare and submit to the commission as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(h) To attend all meetings of the commission with the right to take part in the discussion but without a vote;

(i) To appoint[,] with the approval of the city commission, a finance director for the city, who shall be under the supervision and direction of the city manager;

(j) To perform such other duties as may be prescribed by this charter or required of him by the commission, not inconsistent with this charter.

(Laws of Fla., Ch. 65-1552, § 6; Laws of Fla., Ch. 71-643, § 7)

## ARTICLE V. CITY DEPARTMENTS AND AGENCIES

**Sec. 43. Departmental organization.**

PROOFS

There shall be a department of finance, a police department, an office of city auditor, an office of city clerk, an office of city attorney, a city prosecuting attorney, a personnel officer, a municipal court and such other departments and offices as provided in this act or may be established by the city commission by ordinance.

Each department as herein established, except the city auditor, city clerk, the city attorney, the municipal court, and the city prosecuting attorney, shall be administered by an officer designated by, and subject under this charter to the direction and supervision of the city manager. With the consent of the city commission, the city manager may serve as the head of one or more departments; provided, however the city manager shall not serve as personnel officer or director of finance, or auditor; provided further that the director of finance shall not serve as city clerk or auditor.

(Laws of Fla., Ch. 65-1552, § 7)

**Editor's note--**This section was amended by Ord. No. G-356, § 2, adopted August 1, 1977 without referendum. As it appears that this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as amended by Laws of Fla. ch. 65-1552, § 7. References in the above section to the municipal court and city prosecuting attorney are obsolete.

### Sec. 44. City clerk.

The city commission shall appoint a city clerk for an indeterminate term and fix his compensation. [Text deleted.] ~~His powers and duties shall be:~~

~~(a) To attend all meetings of the commission, in person or by deputy clerk, and keep permanent minutes of its proceedings, which shall be approved and engrossed in a well-bound book and signed by the mayor and attested by the clerk or deputy clerk at the next regular meeting.~~

~~(b) To be the custodian of the city seal, all ordinances and resolutions and all records and papers of a general or permanent character pertaining to the affairs of the city.~~

~~(c) [Repealed by Laws of Fla., Ch. 69-1065.]~~

~~(d) [Reserved.]~~

~~(e) To preserve, file and index all contracts to which the city is a party, which file and record shall be open to the inspection of all interested persons at all reasonable times.~~

~~(f) To perform such other duties as may be prescribed by this charter or required of him by the commission.~~

~~(g) To collect all occupational and dog license fees.~~

(Laws of Fla., Ch. 65-1556, § 3; Laws of Fla., Ch. 67-1391, §§ 8, 9; Laws of Fla., Ch. 69-1065, § 5)

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 44 (first sentence excepted) were either repealed as a limitation on power or assumed ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

### Sec. 45. City attorney.

(a) The city commission shall appoint a city attorney for an indefinite term and fix his compensation. [Text deleted.] ~~He shall be a practicing attorney who is a member in good standing of the Florida Bar who shall act as the legal advisor to, and counselor for, the city and all of its officers in matters relating to their official duties, and shall attend all meetings of the city commission, unless excused by the commission. He shall prepare all contracts, bonds and other instruments in writing in which the city is concerned, and shall endorse on each his approval of the form and correctness thereof, and no contract with the city shall take effect until his approval is so endorsed thereon. The city attorney, subject to the approval of the state's [state] attorney, may be assigned the duties of a special prosecuting attorney in county court at the will of the city commission. If the city attorney shall engage in private practice with the consent of the city commission, he shall, under no circumstances, accept retainerships, temporary or permanent, from the State of Florida or any of its component agencies, the County of St. Lucie, the district school board of St. Lucie County, or any other municipality or special taxing districts situate wholly within the boundaries of St. Lucie County.~~

~~(b) The foregoing language in this section shall never be construed to require the city attorney to endorse his approval of the form and correctness on bonds and revenue certificates issued by the city.~~

PROOFS

~~(c) When required to do so by the city manager or the city commission, he shall prosecute and defend[,] for and in behalf of the city, all complaints, suits and controversies in which the city is a party. He shall furnish the city commission, the city manager, the head of any department, or an officer or board not included in any department, his opinion on any question of law relating to their respective powers and duties.~~

(Laws of Fla., Ch. 65-1552, § 8; Laws of Fla., Ch. 71-643, § 8; Ord. No. G-356, § 4, 8-1-77)

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 45 (first sentence excepted) were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code.

### Sec. 46. Claims against city.

[Text deleted.]

~~(a) *Tort actions; notice of injury limitations; information to include in notice*. No suit shall be maintained against the city for damages arising out of any tort unless it shall be made to appear that the damage alleged is attributable to the negligence of the city, and that written notice of such damage was, within thirty (30) days after the receiving of the injury alleged, presented to the city commission with such reasonable specification as to time and place and witnesses as would enable the city officers to investigate the matter.~~

~~(b) *Commission to act on notice in injury*. It shall be the duty of the city commission to inform its attorney, upon receiving notice required by the preceding [subsection], and the city attorney shall promptly investigate the matter and lay the facts, before the commission in a written report, and the commission may, by resolution, after such report, affect [effect] a reasonable settlement for the injury suffered, or deny liability and direct the city attorney to defend any suit brought for the recovery of damages.~~

~~(c) *Notice of action prerequisite to institution*. No suit shall be instituted against the city unless a written statement giving the particulars of the alleged cause of action, containing a notice of intention to sue, be filed at least thirty (30) days before such suit is instituted, with the city commission.~~

~~(d) *Limitation of actions*. Suits on all causes of actions of whatever kind or nature, accruing against the city shall be instituted within twelve (12) months after the cause of action accrues.~~

**Editor's note--**The provisions of section 46 have been deleted as superseded by F.S. § 768.28.

### Sec. 47. [Repealed.]

(Laws of Fla. ch. 61-3177, § 1; Ch. 65-1557, § 1; Ch. 67-1391, §§ 10, 11; Ch. 71-643, § 9; Ord. No. Ord. No. G-334, § 1, 3-28-77)

**Editor's note—**Former § 47, pertaining to the municipal court, was repealed by Ord. No. G-334

### Sec. 48. Police department.

(a) There is hereby created in the city a police department for the preservation and enforcement of law and order within the city. Such police department shall be composed of a chief of police and as many subordinate officers and employees as the city manager may direct.

(b) The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, subject to the approval of the city manager or under such rules and regulations as may be prescribed by ordinances of the city.

(c) The chief of police shall be appointed by the city manager with the approval of the city commission and may be discharged by the city commission or by the city manager with the consent of the city commission with or without cause.

(d) ~~The chief of police and his deputies shall have the power and authority immediately to arrest, with or without warrant, and also to take into custody any person who shall commit or threaten to commit in his presence or within his view any offense prohibited by the ordinances and laws of the city and shall without unnecessary delay bring the offenders before the municipal court* to be dealt with according to law.~~ [Text deleted.]

(e) [Text deleted.] ~~When a prisoner, who is under arrest and confined to the city jail and is poor, indigent~~

PROOFS

~~and poverty stricken, requires medical, hospital or surgical treatment for an injury or disease not caused by the prisoner's own negligence or neglect, said services or treatment or both, when furnished to him, shall be paid by the city; provided however, the liability or responsibility of the city in such case shall cease and terminate when the sentence of the prisoner has expired, been reduced or suspended. In case of arrest and incarceration only, the responsibility of the city shall terminate when the arrest has been nolle prossed or otherwise disposed of. The city shall not be liable or responsible for any ambulance service rendered to or for the benefit of any person or prisoner; or medical services of any nature whatsoever rendered to any person prior to both arrest and incarceration; or medical services of any nature whatsoever rendered to any prisoner who is financially able to pay for the same; or medical services of any nature whatsoever rendered to any person or prisoner whose condition arose or resulted from the negligence, contributory negligence or neglect of said person or prisoners [sic] or arose otherwise from or through conditions not within the control of the city. In no event shall the liability or responsibility of the city exceed the sum of seven hundred fifty dollars ($750.00) unless the medical services of whatsoever nature are performed under written contract between the city and the person or firm rendering the same. In any event, the city shall have a claim for all sums paid for or on behalf of any prisoner under this provision, and the city shall become subrogated to all rights of any person or firm to whom the city makes any payment under this provision, and in the event the claim by the city for reimbursement of any payment hereunder results in litigation, then the prisoner on whose behalf said payments have been made shall be responsible for all court costs and a reasonable attorney's fee for representation of the city in said litigation.~~

(Laws of Fla., Ch. 59-1286, § 1; Laws of Fla., Ch. 59-1288, § 1; Laws of Fla., Ch. 67-1391, § 12)

**Editor's note**--Pursuant to F.S. § 166.021, the provisions of section 4, subsections (d) and (e) of this section were either repealed as a limitation on power or assumed ordinance status. The provisions of subsection (d) of this section have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code. The provisions of subsection (e) of this section have not been included in the Code and are, therefore, repealed by the adoption of the Code.

### Sec. 49. City planning board.

The city commission may provide by ordinance for the establishment of a city planning board, the members of which shall serve without compensation, and it shall be the duty of such board to procure and suggest plans for the arrangement of the city with a view to its general improvement and probable growth and demands, these plans to take into consideration the extension on the city works into adjacent territory, improvement and changes in public utilities and lines of transportation, by surface and water, and the location, widths and grades of highways necessary for the best development of the city and improvement of the waterfronts, with the seawalls and wharves; the location and design of public buildings and municipal decoration and ornamentation and such further extension of and additions to the park and boulevard system as may be deemed advisable. All expenditures of funds for permanent improvements shall be restricted to such purposes as are contemplated under the plans of the city planning board which may have been approved and adopted as provided for by state statute. The members of the city commission and the city manager shall be ex officio members of the city planning board.

(Laws of Fla., Ch. 61-2174, § 1)

**Editor's note**--Section 49 was amended by Ord. No. I-11, § 1, adopted June 6, 1983, without referendum. As it appears that this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as amended by Laws of Fla. ch. 61-2174, § 1.

### Sec. 50. City plan fund.

~~Authority is hereby given for the creation of a fund to be known as the "city plan fund", which shall be raised by tax levy as other taxes are levied, of not exceeding one-half mill on the dollar in one year. The fund so created shall be held by the city as are all other public funds, but may be disbursed at the order of the city planning board and shall remain available until expended.~~

[Text deleted.]

**Editor's note**--Pursuant to F.S. § 166.021, the provisions of section 50 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code.

### Sec. 51. Advisory boards.

The city commission may at any time appoint other advisory boards composed of men or women who are

PROOFS

residents of the city, qualified to act in an advisory capacity to the city commission, the city manager or to any department of government, with respect to the conduct and management of any property or institutions or the exercise of any public functions of the city. The members of any such boards shall serve without compensation for the time fixed in their appointment or at the pleasure of the commission, and their duties shall be to consult and advise with such municipal officers and make written recommendations which shall become part of the records of the city.

(Laws of Fla., Ch. 59-1288, § 1)

PROOFS

## ARTICLE VI. ELECTIONS*

***Editor's note—**Ord. No. L-152, § 2, adopted Jan. 18, 2011, amended Art. VI in its entirety and enacted similar provisions as set out herein. The former Art. VI derived from Laws of Fla., Ch. 59-1290, § 1; Laws of Fla., Ch. 65-1553, § 2; Laws of Fla., Ch. 65-1557, § 2; Laws of Fla., Ch. 67-1391, §§ 13, 14; Laws of Fla., Ch. 71-643, § 10; Ord. No. H-131, §§ 2, 4, adopted May 19, 1980, passed at referendum Sept. 9, 1980; Ord. No. I-174, § 2, adopted July 21, 1986; Ord. No. J-59, §§ 2—4, adopted Oct. 4, 1993; Ord. No. J-119, § 2, adopted Sept. 19, 1994; Ord. No. I-198, adopted Dec. 15, 1986; and Ord. No. L-07, §§ 1—3, adopted March 17, 2008.

**State law reference—**Qualification and registration of electors, F.S. § 97.011 et seq.; use of county registration system, F.S. § 98.901; absentee voting, F.S. § 101.62 et seq.; polling places, F.S. § 101.71 et seq.; form of general election ballot, F.S. § 101.191; offenses relating to elections, F.S. Ch. 104; charter amendments by referendum, F.S. §§ 166.021, 166.031.

### Sec. 52. Regular municipal elections; term of office of commissioners; multiple candidates; tie-vote; write-in candidates; special elections.

(a) Regular municipal elections shall be held on the first Tuesday after the first Monday in November of each even-numbered year and shall be a part of the general election ballot conducted by the county supervisor of elections. All elections shall be conducted in accordance with applicable state law pertaining to elections insofar as there is no conflict with the terms of this act.

(b) The commission seat occupied by the mayor-commissioner shall be designated as seat 1. The remaining four (4) city commission seats shall be designated as seats 2, 3, 4 and 5 respectively.

The mayor-commissioner shall be elected in an at-large citywide election. Candidates for the office of mayor-commissioner may reside anywhere in the City of Fort Pierce without regard to election district.

The city commissioners who occupy seat 3 and seat 5 shall be elected solely by the voters within election District 1. Candidates for city commission seats 3 and 5 shall be residents of District 1. (See Code Section 6-6)

The city commissioners who occupy seat 2 and seat 4 shall be elected solely by the voters within election District 2. Candidates for city commission seats 2 and 4 shall be residents of District 2. (See Code Section 6-6)

In accordance with a Referendum held on November 2, 2010, approved by a majority of the voters in order to change the election date from an odd-numbered year to an even-numbered year, the following adjustment will be in effect: (a) the mayor and city commissioners who currently occupy seats 1, 2, and 3 shall continue to hold office and their term extended to the second regular meeting following the general election (December 3, 2012); and (b) the city commissioners who currently occupy seats 4 and 5 shall continue to hold office and their term extended to the second regular meeting following the general election (December 1, 2014); and thereafter:

Elections for city commission seats 1, 2 and 3 shall be held every other even year commencing in 2012. Elections for city commission seats 4 and 5 shall be held every other even year commencing in 2014.

The term of each commissioner and the mayor shall be for four (4) years or until their successors are elected and seated as provided in Section 18(1).

(c) When there are only two (2) candidates for any one office in a regular municipal election, the names of both candidates shall be placed on the general election ballot; and the candidate receiving a majority of the total votes cast for such office shall be declared elected to such office.

(d) When three (3) or more persons qualify as candidates for any of the designated seats of the city commission or mayor to be filled, the persons' names who so qualified shall appear on the ballot and be voted upon at a primary election to be held on the day established by F.S. § 100.061 prior to the general election. Each candidate receiving a majority of the votes cast at the primary election for a designated seat shall be declared elected without the necessity of being voted upon in the regular city election. In the event no single candidate receives a majority of the votes cast in the primary election for a designated seat, the two (2) persons receiving the highest number of votes cast for that designated seat on the city commission or mayor shall be voted upon at the regular city election conducted on the date of the general election held on the first Tuesday after the first Monday in November of even-numbered years.

PROOFS

(e) In event that at any election the two (2) candidates for the same office should receive the same number of votes, the question shall be decided by lot, conducted by the city commission at the first regular meeting of the city commission following certification of the results of the election submitted by the supervisor of elections, and the results thereof shall be certified in the minutes of such meeting by the city clerk. The person duly chosen shall be seated at the next regular meeting of the city commission following their selection by lot.

(f) In the event there is only one candidate qualified for any one seat, the name of the candidate shall not be printed on the primary election ballot or general election ballot, and shall be declared elected to the office; and shall be seated as provided in Section 18(1).

(g) Write-in candidates shall be permitted at only regular city elections. Each person seeking to qualify for election to office as a write-in candidate shall file his or her qualification papers with the city clerk at any time after noon of the first day for qualifying, but not later than noon of the last day of the qualifying period for the office sought. A write-in candidate shall not be required to pay a filing fee and election assessment. A write-in candidate shall not be entitled to have his or her name printed on any ballot; however, space for the write-in candidate's name to be written in shall be provided on the general election ballot.

(h) Special municipal elections for any purpose shall be held in the same manner as a regular election except the city commission, by resolution or by ordinance, shall fix the date of holding such special election, the office to be balloted upon and a qualifying period for candidates, or the question to be balloted upon.

(Ord. No. L-152, § 2, 1-18-11; Ord. No. L-261, § 1, 6-18-12)

**Sec. 53. Election procedure.**

All elections shall be held in accordance with the provisions of the state election code, except as otherwise provided by this Charter.

(Ord. No. L-152, § 2, 1-18-11)

**State law reference—**Florida Election Code, F.S. Ch. 97 et seq.

**Sec. 54. Ballots.**

All ballots used in any special or regular biennial election held under authority of this Charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon, and shall be substantially in the same form as the election ballots used in state and county elections.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 55. Voting precincts.**

In city elections, the city shall use the same voting precincts, or parts thereof, lying within the city limits as are now or may hereafter be designated for use in county and state elections.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 56. Polling places for special or referendum elections.**

The city commission shall not be required to adopt the polling places of St. Lucie County, but shall have the authority to establish polling places and designate the location thereof for holding special or referendum city elections not held during the general or primary biennial elections.

(Ord. No. L-152, § 2, 1-18-11)

**State law reference—**Polling places, F.S. § 101.71 et seq.

**Sec. 57. Absentee voting.**

Absentee voting shall be allowed as provided by Florida Statutes under the direction of the County Supervisor of Elections.

(Ord. No. L-152, § 2, 1-18-11)

**State law reference—**Qualifications to vote, F.S. § 97.041; municipal electors, F.S. § 166.032; absentee registration, F.S. § 97.063; absentee voting, F.S. § 101.62, et seq.

PROOFS

**Sec. 58. Election districts.**

The City of Fort Pierce shall have two (2) election districts to be known as District 1 and District 2. The boundary between said districts shall be determined by ordinance of the city commission on a periodic basis. The district boundaries shall be adjusted in accordance with population changes as reported by the official U.S. census, so that the population of the two (2) districts remains approximately equal.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 59. Adoption of county registration books.**

In all municipal elections, including special and regular biennial elections, the registration books and records authorized by law to be used in general elections of the County of St. Lucie and the State of Florida, shall be the official registration and election books and records of the city.

(Ord. No. L-152, § 2, 1-18-11)

**State law reference—**Registration of electors, F.S. § 98.041; use of county registration system by city, F.S. § 98.091.

**Sec. 60. Registration.**

To entitle an elector to vote in the city elections he shall register in the registration books and records of St. Lucie County, Florida, at such times and places as provided by law for registering of electors to vote in the State of Florida and County of St. Lucie elections.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 61. Reserved.**

**Sec. 62. Clerk to represent city in dealing with elections officer.**

The city clerk shall be the official representative of the city and the city commission in all transactions with the county supervisor of elections, in relation to matters pertaining to municipal elections.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 63. Qualifications of candidates for mayor-commissioner and city commissioner.**

(a) Any qualified elector of the city who has resided or will have continuously resided therein for a period of two (2) years prior to the date of the election for which the elector becomes a candidate, may become a candidate for mayor-commissioner (seat 1) by filing with the city clerk as provided below. Any qualified elector of District 1 who has resided or will have continuously resided therein for a period of two (2) years prior to the date of the election for which the elector becomes a candidate, may become a candidate for city commissioner seats 3 or 5 by filing with the city clerk as provided below. Any qualified elector of District 2 who has resided or will have continuously resided therein for a period of two (2) years prior to the date of the election for which the elector becomes a candidate, may become a candidate for city commissioner seats 2 or 4 by filing with the city clerk as provided below.

(b) Any elector who is qualified as provided above and who desires to become a candidate for mayor-commissioner or city commissioner shall file with the city clerk, at any time after noon of the first day for qualifying, which shall be the seventy-first (71st) day prior to the first primary election, but not later than noon of the sixty-seventh (67th) day prior to the date of the first primary election, a written request that his or her name be placed upon the ballot for election, a written request that his name be placed upon the ballot for election and declare himself as a bona fide candidate for election and declare himself as a bona fide candidate for such office; and shall at the same time pay to the city clerk a registration or filing fee of twenty-five dollars ($25.00) and any election assessment fee as established by state law. Any candidate may withdraw his name at any time before the forms for the election ballots are delivered to the printer for printing, but in no event shall the registration or filing fee be returned or refunded.

(Ord. No. L-152, § 2, 1-18-11)

**State law reference—**Candidate's statement of financial interest F.S. § 99.012(6).

**Sec. 64. Disqualification.**

PROOFS

No candidate for office in a city election shall promise any money, office, employment or other thing of value to induce or secure votes. A violation of this provision, shall disqualify him from holding the office if elected, and the person receiving the next highest number of votes, who has observed the foregoing condition, shall be entitled to the office and declared elected.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 65. Form of oath.**

Every candidate for nomination to office shall take, sign, and subscribe to an oath or affirmation in writing in substantially the following form:

"State of Florida

City of Fort Pierce, St. Lucie County, Florida.

Before me, an officer authorized to administer oaths, personally appeared _____ to me well known who being sworn says that he is a candidate for the office of _____; that he is a qualified elector of the City of Fort Pierce, Florida; that he has resided in the City of Fort Pierce for the last past [sic] two (2) years immediately preceding the date of the election; and that he is qualified under the constitution and laws of Florida and the charter of the City of Fort Pierce to hold the office for which he desires to be nominated.

_____

(Signature of candidate)

Sworn to and subscribed before me this _____ day of _____, 20___, at St. Lucie County, Florida."

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 66. Candidates['] names on ballots.**

A candidate who has filed the required oath and has paid the qualifying fee shall be entitled to have his name printed on the official election ballot.

(Ord. No. L-152, § 2, 1-18-11)

**Sec. 67. Acceptance of returns; canvass of returns.**

(1) At the first regular meeting of the city commission after the primary election and the general election, the city commission shall adopt a resolution accepting the returns as provided by the county supervisor of elections to the city clerk, such returns having been canvassed by the county canvassing board, and declaring the outcome of the election.

(2) At the first regular meeting of the city commission after any special or referendum election, the city commission together with the supervisor of elections and the city clerk shall canvass the returns; and the city commission shall adopt a resolution accepting the returns as provided by the county supervisor of elections to the city clerk, declaring the outcome of the election.

(3) The city clerk shall, not later than noon of the second day after the results of the election have been declared, by mail or in person, furnish a certificate of election to each candidate shown to have been elected.

(Ord. No. L-152, § 2, 1-18-11)

**Secs. 68—77. [Reserved.]**

PROOFS

## ARTICLE VII. CIVIL SERVICE AND MERIT SYSTEM*

***State law reference**—Civil service laws authorized, Fla. Const. Art. III, § 14; assistance by state department of administration, F.S. § 110.129.

### Sec. 78. Establishment of merit system; repeal of previous act.

All appointments and promotions in the administrative service of the city shall be made according to merit and fitness to be ascertained, so far as practicable, by competitive tests. In order to permit the adoption and use of a modern merit system which is efficient and fair to officials, employees and the public, Chapter 23296, Acts of 1945, and all acts amendatory thereto are hereby repealed and a merit system is hereby created which shall conform to the provisions hereinafter set forth.

### Sec. 79. Classified and unclassified service.

The following shall constitute the unclassified service of the city and shall be exempt from the provisions of this chapter [article]:

(a) Members of the city commission and all elected officials.

(b) The city manager, city clerk, city auditor, city attorney, personnel officer, city prosecuting attorney, director of finance, chief of police, department heads, and all members of any board or commission or any individual in a specialized field appointed by the city commission. Department heads other than those named by this subsection shall be designated by the city manager and approved by the city commission.

(c) Part-time or temporary employee[s].

The classified service shall include all other positions now existing or hereafter created, and the provisions of this act shall apply thereto except as hereinabove set out.

(Laws of Fla., Ch. 65-1556, § 4; Laws of Fla., Ch. 65-1557, § 2)

**Editor's note--**Section 79 was amended by Ord. No. G-356, § 2, adopted August 1, 1977 without referendum. As it appears that this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as it read prior to amendment by Ord. No. G-356. The reference in the above section to the city prosecuting attorney is obsolete.

### Sec. 80. Status of present employees.

Any person holding a position in the classified service when this act takes effect, who shall have served in such position for a period of at least six (6) months, shall be retained without preliminary or performance tests and shall thereafter be subject in all other respects to the provisions of this act. Any other persons in the classified service at the time this act takes effect shall be considered as having been given probationary appointments at the time this act takes effect.

### Sec. 81. Personnel officer.

There shall be a personnel officer, who shall be appointed or removed by the city manager with the approval of the commission. The personnel officer shall administer the merit system of the city in accordance with this charter and the personnel rules adopted thereunder. To this end, his powers and duties shall be:

(a) To prepare competitive examinations and tests of various types for all appointments in the classified service, restricted to persons reasonably qualified to perform duties of the position;

(b) To give wide publicity through appropriate channels in each case to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;

(c) To prepare and recommend to the city manager such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this chapter [article] except rules, regulations and procedure pertaining to suspension, removal or demotion of any person in [the] classified service;

(d) To prepare, install, and maintain a classification plan based on the duties, authority and responsibility of positions in the city service;

(e) To prepare and submit to the city manager and the city commission for its consideration a pay plan for

PROOFS

the city service;

(f) To establish and maintain a roster of all persons in the municipal service in which there shall be set forth, as to each officer and employee, (1) the class title of the position held, (2) salary or pay, (3) any changes in class title, pay or status, and (4) such other data as may be deemed desirable or useful to produce significant facts pertaining to personnel administration;

(g) To certify all payrolls for persons in the classified service. No payment for personal service to any person in the classified service of the city shall be made unless the payroll vouchers bear the certification of the personnel officer or his authorized agent that the persons mentioned therein have been appointed and employed in accordance with the provisions of this act;

(h) To assist the city manager in developing and establishing training and educational programs for persons in the municipal service, so that wherever possible vacancies may be filled within the service;

(i) To perform such acts, consistent with this charter and the personnel rules adopted thereunder, as he may deem desirable to administer the provisions of this chapter [article].

**Sec. 82. Civil service appeals board created.**

(a) Upon the taking effect of this act, the board of civil service created by Chapter 23296, Acts of 1945, shall be abolished and shall be superseded by a civil service appeals board consisting of five (5) members. Two (2) members shall be appointed by the city commission of said city, and two (2) members shall be elected by the members of the civil service of said city. The fifth member shall be named by the other four (4) members. In the event said four (4) members shall not agree upon the fifth member within fifteen (15) days after said four (4) members take office, the county judge of St. Lucie County, Florida, shall designate such fifth member. The said board shall elect one of their members to be chairman. The two (2) members named by the city commission and the two (2) members of the board named by the employees shall serve for a term or a period of two (2) years except the first member appointed by the city and the first member appointed by the employees shall serve for a term of only one year, but thereafter all terms of members of the board shall be for two (2) years. The fifth member of the board named by the other members of the civil service [sic] shall hold office for a period of one year. All members of the appeals board shall hold office until their successors are duly elected or named and qualified.

(b) The city commission of said city shall elect two (2) alternate members of the civil service appeals board and the members of civil service of said city shall elect two (2) alternate members of the civil service appeals board. The five (5) members of the said board shall elect two (2) alternate members of the civil service appeals board to serve in the event of disqualification or absence of the five (5) members of the said board.

(c) If there exists any ground which under the laws of the State of Florida would disqualify the judge of any court, or which is a ground of challenge for cause to disqualify any juror then such procedure shall apply to members of the civil service appeals board and any member who shall be disqualified shall not be permitted to hear and determine any cause wherein he is disqualified.

(d) Whenever a person [sic] to any charge or proceeding, shall make and file an affidavit that he fears a fair trial cannot be had before said board, where charges are pending, on account of the prejudice of any member or members of said board against the applicant or in favor of the adverse, and thereupon, such member or members shall proceed no further therein, but an alternate or alternates for such member or members shall be designated in the manner prescribed for the substitution of members for the trial of any case when any member is disqualified.

The member or members may, however, examine the affidavit supporting the motion to disqualify any of them for prejudice, to determine its legal sufficiency but shall not pass on the truth of the facts alleged nor [ad]judicate the question of disqualification.

Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists, and such affidavit shall be filed not less than forty-eight (48) hours before the time the case is called for hearing or good cause shown for the failure to so file the same within such time.

Any such affidavit so filed, shall be accompanied by a certificate of counsel representing the applicant stating that such affidavit and application are made in good faith and the facts stated as a basis for making the said affidavit shall be supported in substance by affidavits of at least two (2) reputable citizens of St. Lucie

PROOFS

County, not kin to the applicant or of the counsel for the applicant. Provided, however, that when a suggestion of disqualification of any member or members has been made and the disqualification of such member or members shall have been admitted and an alternate member acting in lieu of the member so held to be disqualified [is designated], the said alternate member shall not be disqualified on account of alleged prejudice against the party making the suggestion in the first instance, or in favor of the adverse party unless such alternate member shall admit that it is then a fact that he, the said alternate member does not stand fair and impartial between the parties and if the alternate member shall state and hold that he does stand fair and impartial between the parties and their respective interests, he shall cause such statement or holding to be entered on the minutes of the said board and shall proceed to serve as member of said board in the pending case. The foregoing holding or ruling may be reviewed by the appellate court, as are other rulings of the said board.

(e) In event a member of the civil service appeals board shall refuse to qualify as such member, or if said office shall become vacant by reason of death, resignation or otherwise, the proper alternate shall become a member of the civil service appeals board for the unexpired term of the member vacating said office, and a first alternate shall be elected as herein provided for the election of a second alternate.

(Laws of Fla., Ch. 59-1290, § 1)

**Sec. 83. Qualifications of board members.**

Each member of the civil service appeals board shall be a qualified elector of the city, shall be known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any other public office or position, and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization. No person who has been convicted of a crime involving moral turpitude, or who is an officer or employee of said city shall be eligible to hold said office.

**Editor's note--**Section 83 was amended by Ord. No. J-17, § 1, 2, adopted May 4, 1992, without referendum. As it appears that this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as it read prior to such amendment.

**Sec. 84. Term of office; employees; meetings and compensation.**

Members of the civil service appeals board elected as herein provided shall take office within ten (10) days after their election or appointment. The oath of office shall be administered to each member of the civil service appeals board by the city clerk.

The personnel officer shall act as secretary to the appeals board of civil service. The city commission may employ such additional personnel for said board as said city commission shall deem necessary.

The civil service appeals board shall hold not less than one regular meeting each month and may hold special meetings when required for the transaction of business by said board. Such members may be called by the chairman or any three (3) members of the board, upon giving each member written notice thereof served personally, or left at the members usual place of residence. A majority of the board shall constitute a quorum for all meetings; except, however, for all hearings there shall be a full board.

(Ord. No. I-12, § 1, 6-6-83; Ord. No. K-288, § 1, 10-4-04)

**Editor's note--**Section 84 was amended by Ord. No 1-12, § 1, adopted June 6, 1983, without referendum, and by Ord. No. K-288, § 1, adopted on 10-4-2004, without referendum. As it appears that this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as it read prior to ordinance amendment.

**Sec. 85. Duties of board.**

It shall be the duty of the civil service appeals board:

(a) To make any investigation which it may deem desirable concerning personnel administration in the classified service and to that end, any member of the board shall have the power to administer oaths.

(b) To report to the city commission and expose publicly any abuses or improper practices which it may find in the classified service of the city.

(c) To provide rules for the procedures and grounds for suspension, demotion and dismissal of employees,

PROOFS

said rules being subject to the approval of the city commission, and for the filing of appeals with the civil service appeals board herein created.

(d) To sit as a body to hear appeals of any person in the classified service who is dismissed, demoted, suspended or transferred.

(e) To supervise the holding and grading of all competitive examinations held under the merit system.

(Laws of Fla., Ch. 65-1557, § 2)

**Sec. 86. Existing rules and regulations stand until superseded.**

The rules and regulations of the board of civil service which are in effect upon the taking effect of this chapter [article] shall remain in full force and effect until superseded by the rules adopted under this chapter [article].

**Sec. 87. Personnel rules.**

Immediately after the taking effect of this act, the personnel officer shall prepare personnel rules to govern the merit system and carry out the provisions of this chapter [article]. The city manager shall approve them with or without modification. When approved by him they shall be submitted to the city commission and shall become effective thirty (30) days after the commission by resolution adopts them, with or without amendment. Thereupon, the rules and regulations of the board of civil service passed on June 19, 1944, and amended as of July 15, 1954, shall be automatically repealed and superseded by the rules herein provided, except rules promulgated by the civil service appeals board under subsection (c) of section 85 of this act.

The personnel rules shall provide for:

(1) The classification of city positions which classification shall be based on the duties, authority and responsibility of each position;

(2) A pay plan for all city positions embodying the principle [of] equal pay for equal work which plan shall become effective when the commission by resolution adopts it with or without amendment;

(3) The method of holding competitive tests for fairly determining the merit and fitness of candidates for appointment and promotion;

(4) The establishment, maintenance and certification of eligible lists for filling vacancies;

(5) The order and manner in which layoffs may be ~~effected~~ [affected];

(6) Hours of work, attendance, regulations and provisions for sick and vacation leave;

(7) The procedure governing provisional or probationary appointments;

(8) Other practices and procedures necessary for effective administration of the merit system under the provisions of this charter;

(9) To make rules and regulations for the selection of a grievance committee by members in the classified service.

**Sec. 88. Rules to incorporate principle of merit and fitness.**

The rules required by section 87 shall be so prepared that all decisions on personnel matters shall be made solely on the basis of merit and fitness of the individual, and the various practices and procedures established thereunder which are to govern these decisions shall incorporate established professional standards and techniques which will serve to further that end.

**Sec. 89. Causes for suspension and dismissal.**

Any member of the civil service under this act who shall be incompetent, neglect his duty, be guilty of insubordination, immorality, drunkenness, any felony or crime involving moral turpitude or for the violation of any rules and regulations adopted by the civil service appeals board pursuant to subsection (c) of section 85 of this act shall be subject to reduction, suspension, fine or dismissal; provided, however, that no officer or employee shall be fined a sum in excess of one month's compensation.

**Sec. 90. Removals, fine and appeals.**

PROOFS

(a) The city manager may at any time fine or suspend or dismiss or demote or transfer any employee of the classified service for any cause which will promote the efficiency of the service but only in accordance with the rules and regulations of the merit system and the civil service appeals board.

(b) The members of the civil service appeals board shall not discuss the facts or merits of any case which may be tried before them with any person or persons whomsoever, except to receive the list of witnesses by any person or which the said city desires to subpoena before the board.

(c) Violations of the foregoing provisions of this section by any member of the board shall be grounds for disqualifications.

(d) In investigation of charges each member of the civil service appeals board shall have the power to administer oaths, and said board is hereby authorized to compel by subpoena the attendance of witnesses, [and] the production of books and papers relevant to such investigation, said subpoena to be served by a member of the police department.

(e) It shall be unlawful for any person to fail or refuse to respond to any subpoena duly issued by the civil service appeals board, without a legitimate excuse therefor, and such failure or refusal to respond is hereby declared to be a misdemeanor and shall be punishable as is now provided by [the] criminal code of the city for violation of misdemeanors.

(f) All witnesses demanding witness fees for attendance shall be entitled to a per diem of one dollar ($1.00) to be paid by the city, but no employee of the city summoned before said civil service appeals board to testify shall be entitled to any compensation.

(g) Upon dismissal, suspension or demotion, the city manager shall within twenty-four (24) hours give the employee a written statement of the reasons for his dismissal, suspension or demotion and shall immediately file a copy thereof with the civil service appeals board. If the employee desires, he may within seven (7) days file with the board a request for a hearing upon the dismissal or suspension or demotion. Any employee under the classified service of the city transferred within the classified service shall also have the right of appeal to the civil service appeals board within seven (7) days after such transfer upon written request to the board. The board upon receiving such notice of appeal, shall within five (5) days set a date for a hearing. Notice of the time and place of such hearing shall be served upon the city manager and the employee either personally or by registered mail at least five (5) days before the date of hearing.

(h) The board shall conduct the hearing at the time set, which hearing shall be public and may adjourn the hearing from time to time upon cause shown, or upon its own motion, provided that such adjournment in all shall not extend beyond thirty (30) days from the date of dismissal or fine or demotion or transfer, except for good cause shown. Both the affected employees and the city manager shall be given full opportunity to be heard in person or with counsel. The personnel officer shall spread on the official minutes of the board the facts contained in the appeal, the board's findings and its decision which shall be final. Such decisions shall be transmitted to the city manager and executed by him.

(Laws of Fla., Ch. 65-1557, § 2)

PROOFS

## ARTICLE VIII. FINANCES*

***State law reference**—Municipal finance and taxation, F.S. § 166.201 et seq.

### Sec. 91. Department of finance.

There shall be a department of finance headed by a director of finance to be appointed by the city manager with the approval of the city commission who shall administer the financial affairs of the city under the general direction of the city manager.

[Text deleted.]

~~The director of finance shall:~~

~~(a) Furnish financial information as required by the city manager and assist him in the preparation and execution of the city budget.~~

~~(b) Assess property for taxation at actual cash value and make all special assessments levied by the commission.~~

~~(c) Maintain a plan and complete accounting system for the city government and all of its departments, offices and agencies, which system shall show all financial transactions of the city in detail and disclose the true financial condition of the city at all times.~~

~~(d) Prescribe and enforce the procedure for handling financial transactions of every character.~~

~~(e) Exercise budgetary control over each department, office or agency, in order to prevent the overdrawing of any fund or the overexpenditure of any appropriation.~~

~~(f) Keep a separate account for each item of appropriation made by the commission showing the amount appropriated, and any allotments thereof, the amounts paid therefrom, the unpaid obligations against it, and the unencumbered balance.~~

~~(g) Require all city departments, offices and agencies to report and remit all receipts to him daily.~~

~~(h) Collect all taxes, special assessments and other revenues of the city and receive all money receivable by the city from any department, office or agency of the city or from any other government.~~

~~(i) Have custody of all public funds belonging to or under the control of the city or any of its departments, offices, or agencies, and deposit all funds coming into his hands in such depositories as may be designated by the commission, subject [to] the requirements of law or ordinances as to surety and the payment of interest which interest shall accrue to the city and be accounted for and credited to the proper fund and account.~~

~~(j) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration, and exchange, provided that no one person shall have access to the city's safe deposit box except as provided in section 97 of this article.~~

~~(k) Supervise and be responsible for the disbursement of all moneys in the city treasury; and no money shall be paid out of the treasury unless he first (1) verifies the appropriation, allotment and availability of funds to cover the claim concerned and certifies thereto, except for purchases of less than five hundred dollars ($500.00), and (2) determines that such claim is regular in form, correctly computed, and constitutes a valid obligation.~~

~~(l) Examine all contracts, orders and other documents, except for purchases of less than five hundred dollars ($500.00), by which the city government incurs financial obligations to ascertain that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable.~~

~~(m) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and determine the regularity, validity and correctness thereof.~~

~~(n) Inquire into and inform himself or the validity of all claims against the city, and for this purpose he shall have power to require evidence that the amount of any claim is justly due and in conformity with the law and the ordinances of the city.~~

PROOFS

~~(o) Each month submit to the commission through the city manager a statement of revenues and expenditures for each fund for the preceding month and the fiscal year to date. Each month submit a balance sheet for each fund showing the financial condition of the fund at the end of the preceding month.~~

~~(p) Submit to the commission through the city manager at the end of each fiscal year a report of the financial transactions of that year.~~

~~(q) Issue vouchers, directly or by designee approved by the city commission through resolution duly enacted, for the payment of moneys, which vouchers must be countersigned by the city manager or any designee of the city manager as may be approved by the city commission through resolution duly enacted.~~

~~(r) Establish general ledger accounting control over physical properties and stores. Establish systems of internal control over physical properties and stores.~~

(Laws of Fla., Ch. 65-1556, § 5; Laws of Fla., Ch. 65-1557, § 2; Laws of Fla., Ch. 67-1391, § 15; Ord. No. G-341, §§ 2, 4, 5-16-77)

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of the second sentence of section 91 were either repealed as a limitation on power or assumed ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

### Secs. 92—96. [Repealed by Ord. No. 6-342, §§ 2, 4, 6, 8, 10, 5-16-77.]

**Editor's note**—The above sections, pertaining to the purchasing agent, competitive bidding, finances, accounting control and prohibited contracts and expenditures, were derived from Ch. 57-1331, §§ 92—96; Ch. 65-1556, § 6; Ch. 67-1391, §§ 16—18; and Ord. No. G-211, §§ 1—3, 5-5-75.

### Sec. 97. Access to safe-deposit box.

[Text deleted.]

~~No safe-deposit box for safekeeping of securities and other papers held by the city shall be entered except by two (2) of the following officials, in the presence of each other; (a) the finance director, (b) the city manager or (c) the independent auditor employed by the city commission.~~

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 97 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code.

### Sec. 98. Fiscal year.

~~The fiscal year of the city shall begin on the first day of October and end on the thirtieth day of September of each year.~~

[Text deleted.]

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 98 were either repealed as a limitation on power or assumed ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

### Sec. 99. Annual budget.

(1) The city manager shall prepare and submit to the city commission not later than August 15, a budget for the operation of the city government during the next fiscal year, including an estimate of the revenues and expenditures. This estimate shall be compiled from detailed data and information to be furnished by the director of finance, and any other officers or department heads of the city and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional divisions and departments of the city, and shall give in parallel columns the following information:

(a) Detailed estimate of the expense of conducting each department and division of the city government, including all public utilities and enterprises conducted by the city;

(b) Expenditures of corresponding items during the two (2) fiscal years last past;

(c) Amount of supplies and material on hand;

(d) Increase of demands compared with the corresponding appropriation for the last fiscal year;

PROOFS

(e) Such other information as is required by the city commission or as the city manager may deem advisable to submit. The estimates so given and constituting the recommendations of the city manager as to the amounts necessary to be appropriated for the ensuing fiscal year shall be supported with information, giving the reasons therefor in such detail as may be necessary to afford the city commission a comprehensive understanding of the needs and requirements of the various divisions of the city government for the ensuing period. Sufficient copies of the annual report and estimate of the city manager shall be prepared that there may be copies on file in the office of the city clerk or finance director for inspection by the public.

(2) (a) The city commission of the city is hereby authorized and empowered to prepare and adopt a budget for each fiscal year, making separate and several appropriations therein for the payment of its necessary operating expenses in the performance of the functions of municipal government, and with the power to separately classify and fix the priorities in the payment of said appropriations for expenses, and to set aside a specific income of the city whether for taxes or licenses to the payment of any specific expenses and for the payment of the interest and principal of any indebtedness of the city. Prior to the adoption of any budget aforesaid, the city commission shall cause to be published in a newspaper in the City of Fort Pierce a notice of a time and place, not less than seven (7) days after date of publication, at which the commission will hold a public hearing on said proposed budget. At the time and place so advertised or at any time and place to which the public hearing shall from time to time be adjourned, the commission shall give any and all interested persons an opportunity to be heard, for or against the items of said budget. Following said public hearing, the commission may adopt said budget or may insert new items or may increase or decrease or delete any of the items of the proposed budget, without further hearing.

(b) In the event the city commission of the city, instead of following the plan outlined in subsection (a) immediately preceding, shall in any year make separate levies and assessments of taxes upon real and personal property within the city for the payment of the necessary operating expenses of the city in the performance of the functions of municipal government, and for the payment of the interest and principal of the debts of the city, or shall in the levy of taxes fix separate rates of taxation for the said purposes; and said levies for necessary operating expenses and for the payment of debts, or the said separate rates of taxation for said purposes, shall be separate, distinct and independent levies, neither one depending upon the other, and shall when levied, constitute separate, distinct and independent liens. If in such event a taxpayer shall tender to the finance director sufficient money to pay either of said levies against his land or personal property, without tendering sufficient ~~moneys~~ to pay both levies, or shall tender sufficient money to pay the rate of taxation for one purpose included in said levy without tendering sufficient money to pay all purposes included in said levy, it shall be the duty of the finance director to accept such tender and issue to the taxpayer a receipt showing said payment and for which the levy or portion of said levy the said payment was made. Thereupon, the finance director shall pay into the city treasury the money so paid, which shall be placed to the credit of the fund provided in said tax levy for which said payment was made. Such payment shall discharge the lien of the levy for which said payment was made, or in the event of a levy including several purposes said payment shall discharge that portion of the levy for which such payment is made; but such tender or payment shall not discharge the lien of the said tax levy or portion of said tax levy for which payment has not been made.

(Laws of Fla., Ch. 67-1391, § 19)

**Sec. 100. Appropriation ordinance.**

The city commission shall carefully consider such estimates before introducing any appropriation ordinance for the ensuing year, and before passage the city commission shall cause same as introduced to be published one time in a local newspaper of general circulation in the city, and shall state in said publication the time and place same will be acted on finally and shall also state in such notice that the estimate of the city manager upon which same is based is on file for inspection of the public at the office of the city clerk, and such ordinance shall not be passed by said city commission until after five (5) days after such publication.

**Sec. 101. Revision of appropriations.**

If the appropriations for expenditures of the city government for the current fiscal year have been made, then

PROOFS

the city commission shall have power by ordinance to revise, to repeal or change said appropriation and make additional appropriations for that year.

**Sec. 102. Transfer of funds.**

Upon request of the city manager, the city commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation of the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department.

**Sec. 103. Limitation on appropriations.**

At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. Any accruing revenue of the city not appropriated as hereinafter provided, and any balance at any time remaining after the purpose of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the city commission to such use as will not conflict with any uses for which specifically such revenues accrued. No money shall be drawn from the treasury of the city, nor shall any obligations for the expenditure of money be incurred, except pursuant to the appropriation made by the city commission.

PROOFS

## ARTICLE IX. ASSESSMENT AND TAXATION*

***State law reference**—Municipal finance and taxation, F.S. § 166.201 et seq.

### Sec. 104. Tax rates and levies.

[Text deleted.]

**Editor's note--**Section 104 is deleted as superseded by F.S. § 166.211.

### Sec. 105. Rate of assessment.

[Text deleted.]

**Editor's note--**Section 105 has been deleted as superseded by F.S. § 166.211.

### Secs. 106—138. [Repealed by Laws of Fla., Ch. 65-1556, § 9.]

### Sec. 139. Licenses.

~~The city commission is authorized to levy and impose license taxes, by ordinance, for the purpose of regulation and revenue, upon all occupations and upon all privileges, and to create and fix the amounts to be paid; to provide for the collection of the same, and to provide penalties for failure or refusal to pay such license taxes.~~

~~(a) All such license taxes, so imposed, shall constitute a legal indebtedness to the city which may be recovered in any court of competent jurisdiction, and no property of such debtor shall be exempt from forced sale, after due process of the law, for such indebtedness.~~

~~(b) The agent or agents of nonresident proprietors shall be severally responsible for carrying on business in like manner as if they were proprietors.~~

~~(c) The fact that any firm, person or corporation reports himself or itself as engaged in any business, calling, profession or occupation for the transaction of which a license is required or that said person exhibits a sign or advertisement indicating engagement in such business, calling, profession, or occupation, shall be conclusive evidence of the liability of such person, firm, or corporation to pay license.~~

~~(d) License shall be issued for the periods and be transferable as provided by ordinances.~~

~~(e) The amount of such license and the amount of such license taxes imposed as herein provided, shall not be dependent upon a general state law of the State of Florida relating to license taxes, nor shall the provisions of this section be repealed by implication or by any law of the State of Florida unless specifically referred to by chapter number.~~

**Editor's note--**Pursuant to F.S. § 166.021, the provisions of section 139 were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed. Insofar as the section relates to license taxes, it is superseded by Fla. Const. Art. VII, § 9(a), which section provides that non-ad valorem taxes must be authorized by general law. Authority for business taxes in provided for in F.S. ch. 205.

### Sec. 139.1. Cancellation of certain county taxes.

~~(1) All taxes heretofore levied or assessed for county purposes against all lands situated within the boundaries of the City of Fort Pierce, Florida, and owned by the City of Fort Pierce on the date this act becomes effective, remaining unpaid, heretofore levied or assessed under and by virtue of the laws of Florida are hereby cancelled and declared null and void and of no force and effect.~~

~~(2) The clerk of the circuit court of Saint Lucie County, Florida, is hereby directed to make notation thereof, upon the tax certificates, if any there be and tax records, and to certify to the comptroller of the State of Florida his action, in so doing, for proper entry upon the records in the comptroller's office.~~

~~(3) In the event of a sale of any of said lands, title to which was acquired by the City of Fort Pierce through foreclosure of municipal taxes and/or special assessments, and upon which taxes are hereby cancelled, as herein provided, the officials of the City of Fort Pierce shall pay to the proper officials of Saint Lucie County, Florida, that pro rata share of the sale price which the unpaid county taxes, with penalties and interest, which are cancelled by this act, bears to the amount of such cancelled county taxes, with penalties and interest thereon, plus all unpaid municipal taxes which have been levied or would have been levied annually by the City of Fort Pierce, with penalties~~

PROOFS

~~and interest thereon, had it not owned such lands, up to the date of such sale.~~

(Laws of Fla., Ch. 59-1289, §§ 1--3)

**Editor's note--**The above act (Laws of Fla., ch. 59-1289) did not amend the charter. It is deleted as obsolete.

PROOFS

## ARTICLE X. UTILITIES*

***State law reference—**Municipal public works, F.S. Ch. 180; construction of utilities, F.S. § 180.04; kinds of activities authorized, F.S. § 180.06; franchises, F.S. § 180.14 et seq.; rates charged outside city, F.S. § 180.191.

### Sec. 140. [Repealed by Ord. No. J-117, § 5, 8-15-94, approved by referendum on 10-4-94.]

**Editor's note—**The above section, pertaining to disposition of net revenues of utilities, was derived from Laws of Fla., § 1 of Ch. 59-1290; § 2 of Ch. 65-1557; and § 20 of Ch. 67-1391.

### Sec. 141. Light, heat and power.

The city commission shall have power to provide for lighting the streets, parks and public buildings of the city; and to establish, maintain and operate plants either within or without the corporate limits of the city for lighting and heating by electricity, gas, or any other method; and to supply the inhabitants of said city with artificial light, heat and power for domestic, business and other purposes, and to charge and collect reasonable rates, prices and compensation for furnishing and supplying the same.

### Sec. 142. Waterworks.

The city commission shall have power to construct, establish and maintain waterworks and to bore and dig wells, construct reservoirs, lay pipes and do such other things as may be necessary, essential, or convenient, either within or without the corporate limits of said city, for procuring and distributing an abundant supply of good wholesome water to the inhabitants of said city for domestic, commercial, industrial, and fire protective purposes; and to make reasonable rates, prices and compensations for furnishing and supplying the same, including charges for private fire hydrants, standpipes and sprinkler systems rentals, and charges against the operation of the city for public fire hydrant rental and service, payment for which shall be provided in the annual budget.

### Sec. 143. Service of utilities to consumers outside of city.

The city commission shall have power to supply water, electricity, gas and sewer service for domestic and other purposes to individuals or corporations outside of the city and to charge and collect reasonable rates, prices and compensation therefor, including the costs or any part thereof for extension of said services, as determined by the city and upon such terms as may be imposed by the city, and the city commission may charge a different rate but not a lesser rate for such consumers than is charged for a like class of customers within the corporate limits of the city.

(Laws of Fla., Ch. 65-1557, § 2; Laws of Fla., Ch. 67-1391, § 21)

**Amendment note—**Ch. 65-1557, § 2, amended § 143 by permitting a different rate for consumers outside the city. Previously, said section required that a higher rate be charged. Ch. 67-1391, § 21, amended § 143 by adding sewer service, and by inserting the phrase "including the costs or any part thereof for extension of said services, as determined by the city and upon such terms as may be imposed by the city."

**State law reference—**Rates charged consumers outside city limits, F.S. § 180.191.

### Sec. 144. Other utilities.

The city commission shall have the power to provide for such other public utilities as they may see fit including municipal ice plant, gas plant, slaughterhouses, cold storage plants, public markets, telephone and transportation systems, sewage collection systems and sewage disposal plants. They may construct, maintain, and operate any of such public utilities, provided, however, that in the event that there is at the time of the establishment such a utility in private hands operating in the city which would be in competition thereof, the city commission before establishing such a public utility shall submit the question of such establishment by the city to the qualified electors of the city at a general election of the city or special election called by the said city commission.

**State law reference—**Construction or extension of utility, F.S. § 180.04; activities authorized under public works law, F.S. § 180.06.

### Sec. 145. Power to sell public utility plants.

The city commission may sell any public utility plant owned by the city and enter into contracts with the purchasers or owners of such plants for continued service to the city and its inhabitants, after the city commission has passed an ordinance in which is stated the terms of sale and purchase and the proposed contract for service, and

PROOFS

after such ordinance has been submitted to the voters of the city and said ordinance has been ratified and approved by sixty (60) percent of the votes cast in such election.

The city commission shall guarantee any obligation secured by the revenues collected from the utility which is sold, and shall make any necessary arrangements for the payment and redemption of said obligation.

Any proceeds remaining after said obligations are met shall be deposited in an irrevocable trust account under the control of the city commission of the City of Fort Pierce. Said funds shall be invested at the highest rate of interest available in investments not prohibited by the Florida constitution or the laws of the State of Florida, and in accordance with the guidelines for fiduciary investments as set out in Chapter 518, Florida Statutes, 1975, entitled "Investment of Fiduciary Funds," and the income from said investments shall be distributed as follows: On an annual basis, eighty-five (85) percent of the income shall be distributed to the general government. Also on an annual basis, fifteen (15) percent shall be reinvested with the principal sum. Said principal sum cannot be spent or pledged or in any way diminished unless any proposed expenditure is submitted to a vote of the qualified voters of the City of Fort Pierce and approval of sixty (60) percent of the votes cast in such election is secured.

(Laws of Fla., Ch. 59-1290, § 1; Ord. No. G-295, § 2, 9-20-76)

**Sec. 146. [Repealed by Ord. No. G-296, § 2, 9-20-76, approved by referendum on 11-2-76.]**

**Sec. 147. Public franchises.**

The city commission shall have power to grant to persons or corporations the franchise for construction and operating any and all public utilities provided for by this charter or by the general laws of the State of Florida, but no franchise shall be granted for a longer period than thirty (30) years, and in granting such franchise the city commission shall reserve the right to prescribe reasonable charges for such service and to make reasonable regulations for the control and management of such utilities. Provided, however, that nothing in this section contained, with reference to the regulation or [of] rates or service, shall apply to any public utility, the rates or services of which are by law placed under the jurisdiction of the Florida Public Service Commission.

**State law reference—**Franchises, F.S. § 180.14.

**Sec. 148. Forfeitures.**

If any action shall be instituted or prosecuted directly or indirectly by the grantee of any such grant, or by its stockholders or creditors, to set aside or have declared void any of the terms of any such grant, the whole of such grant may thereupon be forfeited and annulled at the option of the city commission, to be expressed by resolution. All such grants shall make provision for the declaration of a forfeiture by the city commission for the violation by the grantee of any of the terms thereof.

**Sec. 149. General provisions.**

Nothing in this charter contained shall operate in any way, except as herein specifically stated[,] to limit the city commission in the exercise of any of its lawful powers, respecting public utilities, or to prohibit the city commission from imposing in any such grant such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of this charter or the constitution of the state.

PROOFS

## ARTICLE XI. IMPROVEMENTS*

***Editor's note--**The provisions of article XI, as amended by Laws of Fla. ch. 67-1390) and consisting of §§ 150--168 have been deleted. (Section 162 was been amended by Ord. No. I-445, § 2, adopted December 17, 1990.) Pursuant to F.S. § 166.021, the provisions of article XI were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been placed in the Code and are, therefore, repealed by the adoption of the Code. The city would make local improvements pursuant to F.S. ch. 170.

**State Law reference**—Alternative method of making local improvements, F.S. § 170.01 et seq.; municipal borrowing, F.S. § 166.101 et seq.

### Sec. 150. Authority of city; issuance of bonds; limitation on amount or aggregate issues.

The city commission shall have power to cause the local improvements hereinafter designated to be made wholly or in part at the cost of the property owners benefited thereby, levying and collecting special assessments hereunder, and may finance such local improvements, in the manner herein provided. Provided, however, that local improvement bonds shall not be issued in any case where the aggregate amount to be assessed shall exceed sixty (60) percent of the total assessed value of all properties benefited on the current tax roll of the city. Nothing herein contained, as to limitations shall in any wise affect, alter or impair, the authority of the city commission to issue local improvement bonds for the completion of those certain local improvement projects under actual construction prior to this act becoming a law.

(Laws of Fla., Ch. 67-1390, § 1)

### Sec. 151. List of improvements allowed.

(a) Streets, highways, boulevards, avenues, squares, lanes, alleys and parks, or any part thereof, may be opened, reopened, widened, graded, regarded, paved, repaved, surfaced, or resurfaced, and curbs and gutters may be constructed or reconstructed therein.

(b) Sidewalks may be graded, regraded, and leveled, laid, relaid, paved, repaved, surfaced or resurfaced.

(c) Sewage disposal plants, sanitary sewers, storm sewers, and other drains or sewers may be laid or relaid, and constructed or reconstructed in any street, highway, boulevard, avenue, square, lane, alley or park.

(d) Indian River fill. When the owners of eighty (80) percent of the front footage of any city block bounded by the Indian River shall petition the city commission, the city commission may fill in the river frontage, erect bulkheads, promenades, and boulevards thereupon and assess the whole or any part of the cost thereof against the property benefited thereby.

(e) The city may provide for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous or other specially benefited property.

(f) The city commission shall have power to pay out of its general fund or out of any special fund that may be provided for that purpose, such portion of the cost of the proposed improvement as it may deem proper. Interest accrued while an improvement is under construction and for six (6) months thereafter shall be deemed part of the cost of the improvement. All engineering and inspection costs, all overhead costs including a proper proportion of the compensation, salaries and expenses of the engineering staff of the city properly chargeable to any improvement, shall be deemed a part of the cost of the improvement. All costs and estimated costs of the issuance of the bonds hereafter provided for shall be deemed part of the cost of the improvement. When the improvement has been completed the city commission shall ascertain and determine the cost of the improvement and shall declare the same by resolution.

(g) Method of prorating special assessments. Special assessments against property deemed to be benefited by local improvements, as provided for herein, shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, said special benefits to be determined and prorated according to the foot frontage of the respective properties specially benefited by said improvements, or by such other method as the governing body of the municipality may prescribe.

(h) The city commission in investigating whether to make such local improvement hereunder, the costs of which or any part thereof is to be assessed against property benefited, may adopt an initiating resolution directing the city engineer to proceed with tentative plans, specifications and cost estimates, assessment plat, tentative

PROOFS

apportionment of estimated costs, with a short and convenient designation of the proposed improvement district by number. The foregoing shall be filled [filed] with the city clerk when complete, whereupon the city commission may proceed to consider it and either reject it entirely or add to or otherwise alter it, and then if acceptable, the city may proceed with said improvements as hereinafter set forth.

(Laws of Fla., Ch. 67-1390, § 1)

**Annotations** — Proof of benefits required, see *Fisher v. Board of County Commissioners of Dade County*, 84 So.2d 572(1956). Special assessments must be supported by commensurate benefits, *Rafkin v. City of Miami Beach*, 38 So.2d 836(1949). Local improvements defined, *Walters v. Tampa*, 88 Fla. 177, 101 So. 227(1924).

**Sec. 152. Resolution; notice; hearing.**

Whenever the city commission shall determine to make any local improvement hereunder, the cost of which or any part thereof, is to be assessed against property benefited, it shall adopt a resolution declaring the necessity and determination to install the proposed improvement, describing the nature and extent of the work, the general charter of the materials to be used and the location and terminal points of the streets, highways, boulevards, avenues, squares, alleys or parks or parts thereof in which said improvements are to be made, and the part or portion of the expense thereof to be paid by special assessments, the manner in which said assessments shall be made[,] when said assessments are to be paid, [and] what part, if any, shall be apportioned to be paid from the general improvement fund of the municipality, and said resolution shall also designate the lands upon which the special assessments shall be levied, and in describing said lands it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for." Such resolution shall also state the total estimated cost of the improvement. At the time of the adoption of the resolution provided for herein, there shall be on file with the town or city clerk, or like officer, of the municipality adopting said resolution, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans and specifications and estimate shall be open to the inspection of the public. Said resolution shall fix a time and place at which the owners of the property to be assessed, or any other persons interested therein may appear before said governing authority and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor and as to the amount thereof to be assessed against each property so improved. Ten (10) days notice in writing of such time and place shall be given to such property owners which shall be served by mailing a copy of such notice to each of such property owners at his last known address, the names and addresses of such property owners to be obtained from the records of the tax assessor or from such other sources as the city or town clerk or engineer deems reliable, proof of such mailing to be made by the affidavit of the clerk or deputy clerk of said municipality, or by the engineer, said proof to be filed with the clerk, provided, that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing by the city clerk shall also be given by two (2) publications a week apart in a newspaper of general circulation in said municipality, and if there be no newspaper published in said municipality the governing authority of said municipality shall cause said notice to be published in like manner in a newspaper of general circulation published in the county in which said municipality is located; provided that the last publication shall be at least one (1) week prior to the date of the hearing. Said notice shall describe the streets or other areas to be improved and advise all persons that the description of and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the clerk of the municipality. Such service by publication shall be verified by the affidavit of the publisher and filed with the clerk of said municipality.

(Laws of Fla., Ch. 67-1390, § 1)

**State Law reference** — Resolution required, F.S. § 170.03; plans and specifications with estimated cost, F.S. § 170.04.

**Sec. 153. Hearing objections.**

(1) At the time named in such notice, or to which an adjournment may be taken by the council, the commission shall receive any objections of interested persons and may then or thereafter repeal or confirm such resolution with such amendments, if any, as may be desired by the commission.

(2) All objections to any such resolution on the ground that it contains items which cannot be properly assessed against property, or that it is, for any default or detect [defect] in the passage or character of the resolution or the plans or specifications or estimate, void or voidable in whole or in part, or that it exceeds the power of the

PROOFS

commission, shall be made in writing, in person or by attorney, and filed with the clerk at or before the time or adjourned time of such hearing. Any objections against the making of the improvement not so made shall be considered as waived, and if any objection shall be made and overruled or shall not be sustained, the conformation of the resolution shall be the final adjudication of the issues presented unless proper steps shall be taken in a court of competent jurisdiction to secure relief within ten (10) days.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 154. Call for bids for construction.**

As soon as practicable after the authorization of bonds under the provisions of this chapter [article] or the appropriation of moneys for such purposes, the clerk shall publish once, in a newspaper published in the municipality, a notice calling for sealed bids to be received by the commission on a date not earlier than fifteen (15) days from the first publication for the construction of the work, unless in the resolution the council shall have declared its intention to have the work done by municipal forces without contract. The notice shall refer in general terms to the extent and nature of the improvement or improvements and may identify the same by the short designation indicated in the resolution and by reference to the plans and specifications on file. If the resolution shall have given two (2) or more alternative descriptions of the improvement as to its material, nature, character and size, and if the commission shall not have theretofore determined upon a definite description, the notice shall call for bids upon each of such descriptions. Bids may be requested for the work as a whole or for any part thereof separately and bids may be asked for any one (1) or more improvements authorized by the same or different resolutions, but any bid covering work upon more than one (1) improvement shall be in such form as to permit a separation of cost as to each improvement. The notice shall require bidders to file with their bids either a certified check upon an incorporated bank or trust company for two and one-half (2½) percent of the amount of their respective bids or a bid bond in like amount with corporate surety satisfactory to the attorney for the municipality to insure the execution of a contract to carry out the work in accordance with such plans and specifications and to insure the filing, at the making of such contract, of a bond in the amount of the contract price with corporate sureties satisfactory to such attorney conditioned for the performance of the work in accordance with such contract. The commission shall have the right to reject any or all bids, and if all bids are rejected the council may readvertise or may determine to do the work by municipal forces without contract.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 155. Preparation and notice of assessment list.**

Upon the completion of any improvement hereunder, the city commission shall cause to be prepared a roll or list, to be called the preliminary assessment roll, showing the names of the property owners, and opposite each name a description of each lot or parcel of land proposed to be assessed for such improvement, and the amount proposed to be assessed against each lot or parcel of land. It shall be a public record, and the entry therein of any assessment shall be and constitute notice to the public of the lien against the land so assessed, and no other record or notice thereof shall be necessary to any person or corporation for that purpose. No error, omission or mistake in regard to the name of the owner shall be held to invalidate any assessment. After the completion of the said preliminary assessment roll said roll shall be delivered to the finance director of the city, who shall thereupon give notice by publication once a week for two (2) weeks in some newspaper published in said municipality that the preliminary assessment roll (describing the same), has been delivered to him, and is open for inspection at his office, and that at a time and place therein mentioned, not less than fifteen (15) days from the date of the first publication, the governing authority of said municipality will meet to hear and determine any objections or defenses, that may be filed to such assessments, or the amounts thereof. Said notice shall also state the general character of the improvements, the terminal points thereof, the streets, highways, boulevards, avenues, squares, lanes, alleys, and parks or portions thereof, on which the improvement has been constructed.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 156. Determining assessment; railroads' responsibility on street pavings, or sewer installations.**

Such assessment shall be made and apportioned in the manner fixed by the resolution of the city commission determining to proceed with the improvement. No assessment shall exceed the special benefits derived from the improvement. If there be a steam, electric or other railroad track or tracks on any street, highway, or other

PROOFS

thoroughfare, improved, paved, or repaved, under the provisions of this act, the cost of such improvement between the tracks and the rails of the tracks and in case there be two (2) or more tracks, the space between such tracks and eighteen (18) inches on each side thereof, including switches, and turnouts, shall be paid by the owner of the railroad and shall be assessed to and become a lien on said railroad and the property connected therewith. In the event storm or other sewers are constructed under the provisions of this act, which drain the streets or other public thoroughfares and rights-of-way in which a steam, electric or other railroad has been constructed there shall be assessed against such railroad, a fair and just proportion of the cost of construction of such sewer to be determined by the city commission and such assessment shall be a lien upon the said railroad like other improvements under this act; provided, however, that nothing herein contained shall affect the right or power of the city commission to require the owner of such railroad to repave or reconstruct its tracks or the pavement between the same and on either side thereof under any franchise granted to such owner or its predecessors in title or under any contract made with such owner or its predecessors in title.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 157. Payment of assessments.**

All liens for special assessments due to the city shall be payable in cash; except as hereinbefore provided the city commission shall have the power, in its discretion, but shall not be compelled to authorize the payment of any special assessments, or any part of the same, or any interest due thereon, with bonds, interest coupons or other valid written evidences of debt of the city. All payments of special assessments or interest thereon heretofore made and accepted by the city with bonds, interest coupons, or other evidences of indebtedness of the City of Fort Pierce, are hereby validated and confirmed, and declared to be legal payments of the same.

(Laws of Fla., Ch. 67-1390, § 1)

**Annotation** — Owners of improvement bonds entitled to temporary injunction against city's accepting city bonds in payment of delinquent taxes, since bond owners were entitled to have special assessment fund preserved as resource pledged to payment of their bonds. *Harris v. City of Miami* 6 Fed. Supp. 305(1932).

**Sec. 158. Division of assessments between separate tracts of land.**

Where the city has heretofore or shall hereafter make assessments for public improvements against a tract or parcel of land and thereafter the owner of such tract or parcel of land shall desire the said special assessments divided and apportioned as between two (2) separate parts of such tract of land, the city commission shall be, and is hereby empowered to make a division of the said special assessments and to apportion the same to the portions of said tract into which the same shall be divided, upon the same basis as that on which the original assessment was made; and upon such division the said parcels into which the same shall be divided, with the assessment against each parcel, shall be entered on the assessment roll in lieu of the original assessment, and such divided assessments shall be valid and binding liens on the separate parcels so assessed to the same extent as if the same were originally assessed on said assessment roll against such divided parcels. All divisions of the assessments heretofore made by the city commission are hereby validated and confirmed and declared to be legal divisions of such assessments.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 159. Objections to assessments.**

At the time and place stated in such notice the commission shall meet and receive the objections in writing of all interested persons as stated in such notice. The commission may adjourn the hearing from time to time. The commission shall either annul or sustain or modify in whole or in part the prima facie assessment as indicated on such roll, either by confirming the prima facie assessment against any or all lots or parcels describing therein, or by cancelling, increasing or reducing the same, according to the special benefits which the commission decides each such lot or parcel has received or will receive on account of such improvement. If any property which may be chargeable under this section shall have been omitted from the preliminary roll or if the prima facie assessment shall not have been made against it, the commission may place on such roll an apportionment to such property. The commission shall not confirm any assessment in excess of the special benefits to the property assessed, and the assessments so confirmed shall be in proportion to the special benefits. Forthwith after such confirmation such assessment roll shall be delivered to the director of finance of the municipality. The assessments so made shall be final and conclusive as to each lot or parcel assessed unless proper steps be taken within ten (10) days in a court of

PROOFS

competent jurisdiction to secure relief. If the assessment against any property shall be sustained or reduced or abated by the court, the director of finance of the municipality shall note that fact on the assessment roll opposite the description of the property affected thereby. The amount of the special assessment against any lot or parcel which may be abated by the court, unless the assessment upon the entire district is abated, or the amount by which such assessment is so reduced, may by resolution of the commission be made chargeable against the municipality at large; or, in the discretion of the council, a new assessment roll may be prepared and confirmed in the manner hereinabove provided for the preparation and conformation of the original assessment roll.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 160. Recording assessment roll.**

A certified copy of the assessment roll finally as confirmed shall be recorded in the office of the clerk of the circuit court for St. Lucie County, Florida, and the liens evidenced thereby shall be indexed by the said clerk in the same manner as other liens are indexed by him.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 161. Installment payment of assessments.**

Any assessment may be paid at the office of the director of finance of the municipality within thirty (30) days after the confirmation thereof, without interest. Thereafter all assessments shall be payable in equal annual installments, with interest at not to exceed eight (8) percent per annum from the expiration of said thirty (30) days in each of the succeeding twenty (20) calendar years or over the years estimated to be the life of the project and at the time or times in each year at which general municipal taxes are payable; provided, however, that the council may by resolution fix a shorter period of payment for any assessment; and provided further, that any assessment may be paid at any time before due, together with interest accrued thereon to the date of payment.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 162. Keeping assessment book; information in; priority of liens.**

The finance director shall enter in the "assessment book for local improvement" under separate heads, the dates of filing of each lien, the name of the person being assessed, the amount of the assessment, and the number of installments in which the same shall be payable. Such "assessment book for local improvement" shall constitute a docket and shall stand as lien docket for the assessments in favor of the city against such lot or parcel of land or other property until such assessments and interest and penalties are paid in the manner hereinafter provided. All unpaid assessments, unpaid penalties and unpaid interest shall be and remain a lien on each lot or parcel of land or other property respectively in favor of the city, superior in rank and dignity and shall take priority over all other liens, encumbrances, titles and claims in, to or against the real property involved, whether recorded prior to the lien, penalty or assessment, except the liens for state and county taxes.

(Laws of Fla., Ch. 67-1390, § 1; Ord. No. I-445, § 2, 12-17-90)

**State Law reference** – Priority of lien, F.S. § 170.09

**Annotations** – *Miami Shores Village v. Gibraltar Savings & Loan Assoc.*, 561 So. 2d 27 (Fla. 3d DCA 1990); *Gleason v. Dade County*, 174 So. 2d 466 (Fla. 3d DCA 1965);

*Stien v. City of Miami Beach*, 250 So. 2d 289 (Fla. 3d DCA 1971).

**Sec. 163. Interest rate on assessments.**

All assessments and installments of assessments shall bear interest at the rate of one (1) percent per month after the date when the same respectively become due and payable, and in the event of default in the payment of any installments, together with the interest thereon, shall immediately become due and payable without further notice.

(Laws of Fla., Ch. 67-1390, § 1)

**State Law reference** – Interest rate, F.S. § 170.09.

**Sec. 164. Enforcement of delinquent assessments.**

All assessments shall constitute a lien upon the property so assessed from the date of confirmation of the

PROOF

resolution ordering the improvement, of the same nature and to the same extent as the lien for general municipal taxes falling due in the same year or years in which assessment or installments thereof fall due, and any assessment or installment not paid when due shall be collectible in the same manner and at the same time as such general taxes are or may be collectible, with the same attorney's fee, interest and penalties and under the same provisions as to forfeiture and the right of the municipality to purchase the property assessed as are or may be provided by law in the case of municipal taxes; provided, however, that no such sale of any property for general municipal taxes or for an installment or installments of any such assessment and no perfecting of title under any such sale shall divest the lien of any installment of such assessment not due at the time of the sale. Collection of such assessments, with such interest and with a reasonable attorney's fee and costs, but without penalties, may also be made by the municipality by proceedings in a court of equity to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the state; or by an action in rem in the manner provided by law for the foreclosure and collection of ad valorem taxes; provided that any such proceedings to foreclose shall embrace all installments of principal remaining unpaid with accrued interest thereon, which installments shall by virtue of the institution of such proceedings, immediately become and be due and payable. Nevertheless, if, prior to any sale of the property under decree of foreclosure in such proceedings, payments be made of the installment or installments which are shown to be due with interest as required and all costs including attorney's fee, such payment shall have the effect of restoring the remaining installments to their original maturities, and the proceedings shall be dismissed. It shall be the duty of the municipality to enforce the prompt collection of assessment by one (1) or the other of the means herein provided, and such duty may be enforced at the suit of any holder of bonds issued under this chapter in a court of competent jurisdiction by mandamus or other appropriate proceedings or action. Not later than thirty (30) days after the annual sale of property for delinquent taxes of the municipality, or if such property or taxes are not sold by the municipality, then within sixty (60) days after such taxes become delinquent, it shall be the duty of the council to direct the attorney or attorneys whom the council shall then designate, to institute actions within three (3) months after such direction to enforce the collection of all special assessments for local improvements made under this section and remaining due and unpaid at the time of such direction (unless theretofore sold at tax sale). Such action shall be prosecuted in the manner and under the conditions in and under which mortgages are foreclosed under the laws of the state. It shall be lawful to join in one (1) action the collection of assessments against any or all property assessed by virtue of the same assessment roll unless the court shall deem such joinder prejudicial to the interests of any defendant. The court shall allow a reasonable attorney's fee for the attorney or attorneys of the municipality, and the same shall be collectible as a part of or in addition to the costs of the action. At any sale pursuant to decree in any such action, the municipality may be a purchaser to the same extent as an individual person or corporation, except that the part of the purchase price represented by the assessments sued upon and the interest thereon need not be paid in cash. Property so acquired by a municipality, including the certificate of sale thereof, may be sold or otherwise disposed of, for cash or upon terms, the proceeds of such disposition to be placed in a fund to be applied on principal and interest on bonds; provided, however, that no sale or other disposition thereof shall be made unless notice calling for bids therefor to be received at a stated time and place shall have been published in a newspaper published in the municipality one (1) time at least one (1) week prior to such disposition.

(Laws of Fla., Ch. 67-1390, § 1)

**State Law reference** – Failure to pay assessments, F.S. § 170.10.

**Sec. 165. State and federal lands exempt.**

No special assessments, shall be made under this act against the property of the United States, nor against the State of Florida, in respect of any lands or real property held by it for public purposes.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 166. Assessing political subdivisions in city.**

The county in which the municipality is located and each school district and other political subdivision wholly or partly within the municipality and each public agency or instrumentality owning property within the municipality shall possess the same power and be subject to the same duties and liabilities in respect of assessment under this section affecting the real estate of such county, district, political subdivision, or public agency or instrumentality which private owners of real estate possess or are subject to hereunder, and such real estate shall be subject to liens for said assessments in all cases where the same property would be subject had it at the time the lien attached been

PROOFS

~~owned by a private owner.~~

~~(Laws of Fla., Ch. 67-1390, § 1)~~

**~~Sec. 167. Issuance of bonds.~~**

~~(1) The commission is hereby authorized to provide by ordinance or resolution, at one (1) time or from time to time, for the issuance of revenue bonds of the municipality for the purpose of paying all or a part of the cost of the improvements made hereunder. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding eight (8) percent per annum, shall mature at such time or times, not exceeding forty (40) years from their date or dates, as may be determined by the commission and may be made redeemable before maturity, at the option of the municipality, at such price or prices and under such terms, and conditions as may be fixed by the commission prior to the issuance of the bonds. The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds and coupons and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this charter shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the negotiable instruments laws of the state. The bonds may be issued in coupon, or in registered form, or both, as the commission may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of and [any] bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the commission may sell such bonds in such manner and for such price, as it may determine to be for the best interest of the municipality, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than eight (8) percent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations, the amount of any premium to be paid on redemption of any bonds prior to maturity. Prior to the preparation of definitive bonds, the municipality may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The commission may also provide for the replacement of any bonds which shall be mutilated or be destroyed or lost.~~

~~(2) Bonds may be issued under the provisions of this chapter [article], either funding or refunding bonds, without obtaining the consent of any commission, board, bureau or agency of the state, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this chapter [article]. Bonds may be issued under the provisions of this chapter [article] beyond the general limits of indebtedness prescribed by law and shall not be included in the amount of bonds which the municipality may be authorized to issue under any other law.~~

~~(3) The proceeds of such bonds shall be used solely for the payment of the cost of the improvements for the construction or reconstruction of which such bonds shall have been authorized, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the authorizing ordinance or resolution. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing ordinance or resolution, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds shall have been issued, the surplus shall be paid into the fund provided under the provisions of this chapter [article] for the payment of the principal of and the interest on such bonds.~~

~~(4) The city is authorized to issue bond anticipation notes[,] the proceeds of which shall be used as interim financing for the payment of all or part of the costs of said improvements, until such time as the aforesaid bonds are sold and delivered. Said notes shall be singular or multiple and in such amounts and denominations as the city deems appropriate. They may be authorized by resolution or ordinance, which shall set and establish the interest rate, denomination and maturity date, and they may be issued and sold at public or private sale, at the option of the~~

PROOFS

city, and under such further and other terms and conditions as may be fixed by the city.

(5) Revenue bonds issued under the provisions of this chapter [article] shall not be deemed to constitute a pledge of the faith and credit of the municipality, but such bonds shall be payable solely from the funds provided therefor under the provisions of this chapter [article]. All such bonds shall contain a statement on their face substantially to the effect that the municipality is not obligated to pay such bonds or the interest thereon except from such funds and that the faith and credit of the municipality are not pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this chapter [article] shall not directly or indirectly or contingently obligate the municipality to levy any ad valorem taxes whatever therefor or to make any appropriations for their payment except from the funds pledged under the provisions of this chapter [article].

(6) The ordinance or resolution authorizing the issuance of revenue bonds under the provisions of this chapter [article] shall pledge the revenues to be received, which includes the special assessments levied hereunder, but shall not convey or mortgage any improvements or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the municipality in relation to the construction, reconstruction, improvement, maintenance, operation, repair and insurance of the improvements, if any, and provisions for the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction or operation. Such ordinance or resolution may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition to the foregoing, such ordinance or resolution may contain such other provisions as the council may deem reasonable and proper for the security of bondholders. Except as in this chapter [article] otherwise provided, the commission may provide for the payment of the proceeds of the sale of the bonds and the revenues of the improvements to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such ordinance or resolution may be treated as a part of the cost of operation.

(7) The ordinance or resolution providing for the issuance of revenue bonds may also contain such limitations upon the issuance of additional revenue bonds as the commission may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such ordinance or resolution.

(8) In lieu [of] or in addition to levying special assessments upon benefited property on account of the construction or reconstruction of improvements, the municipality may charge and collect such rates, fees and charges for the services and facilities furnished or to be furnished by such improvements to premises connected therewith as may be just and equitable, taking into account the total amount of bonds authorized for such improvements and the amount of such special assessments, if any. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times, (a) to pay the cost of maintaining, repairing and operating the improvements, including reserves for such purpose and for replacements and depreciation and necessary extensions, (b) to pay the principal of and the interest on the revenue bonds as the same shall become due and reserves therefor, and [(c) to] provide a margin of safety for making such payments. The municipality shall charge and collect the rates, fees, and charges which shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the municipality or of the state or of any sanitary district or other political subdivision of the state.

(9) All revenue bonds heretofore issued and sold by the city and all special assessments heretofore made, imposed and levied, which are pledged to secure the payment of said bonds, for improvements of the same type as herein defined, be and the same are hereby validated, ratified and confirmed.

(Laws of Fla., Ch. 67-1390, § 1)

**Sec. 168. Additional pledge of excise taxes.**

The municipality may pledge the proceeds of utilities services taxes, cigarette taxes, or franchise taxes, as defined, herein, or any other excise taxes or other funds which such municipality is authorized to levy and collect or will have available, as additional security for the payment of the principal of and interest on any revenue bonds issued hereunder, or for reserves for such debt service. In the event of the pledge of such utilities services taxes, cigarette taxes, franchise taxes, or other excise taxes as provided herein, such pledge shall be and constitute a valid

PROOFS

~~and legally binding contract between the municipality and the holders of such revenue bonds, as the case may be, and the municipality shall be obligated to continue the levy and collection of such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes in accordance with the proceedings which authorize the issuance of the revenue bonds for which such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes are so pledged as additional security as long as any of said revenue bonds or general obligation bonds are outstanding and unpaid. It shall be the mandatory duty of the municipality, when it has so pledged any utilities services taxes, cigarette taxes, franchise taxes or other excise taxes as additional security for such revenue bonds to continue the levy and collection of such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes in the manner provided in the proceedings authorizing the issuance of the bonds for which the same are pledged, and to raise the rates of such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes to the maximum rates permitted by the statutes or franchises in effect at the time of the authorization of such bonds to the full extent necessary to comply with such proceedings authorizing the issuance of such bonds. The state does hereby covenant with the holders of such bonds that it will not repeal or impair, or amend in any manner which will materially and adversely affect the rights of such holders, the duty and obligation and power of the municipality to levy and collect such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes in accordance with the proceedings authorizing the issuance of such bonds.~~

~~(Laws of Fla., Ch. 67-1390, § 1)~~

~~**State Law reference** — Cigarette taxes, F.S. Ch. 210.~~

## ARTICLE XII. FORT PIERCE UTILITIES AUTHORITY*

***Editor's note**—Ord. No. F-399, §§ 1—14, passed April 24, 1972, has been included herein as enacted. The editors deleted §§ 15, 16, severability and repealer provisions, § 18, calling for a referendum election, and § 19, effective date provisions, added catchlines in order to facilitate indexing, reference and use, and changed the words "act", "ordinance" and "chapter" to "article" where appropriate.

### Sec. 169. Created; powers, duties, responsibilities generally; definitions.

(a) There is hereby created and made a part of the government of the City of Fort Pierce a utilities authority to be known and designated as Fort Pierce Utilities Authority, City of Fort Pierce, Florida, which shall be responsible for the development, production, purchase and distribution of all electricity, gas, water, sanitary sewer collection and disposal, and such other utility services as may be designated by resolution by the city commission. The authority shall have exclusive jurisdiction, control and management of the utilities of the city and all of its operations and facilities. The authority shall have all the powers and duties possessed by the city to construct, acquire, expand and operate utility systems, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility systems. The authority shall operate as a separate unit of the city government; and except as otherwise provided in this article, the authority shall be free from the jurisdiction, direction, and control of other city officers and of the city commission. The authority may sue or be sued in its own name. All damage claims arising from the operations of the authority and the utilities shall be the responsibility of and be liquidated by the authority from the appropriate funds of the utility systems.

(b) For the purposes of this article, unless otherwise designated or the context requires, the word "authority" shall mean the Fort Pierce Utilities Authority, the word "member" shall mean a member of the Fort Pierce Utilities Authority, and the word "city" shall mean the City of Fort Pierce.

(Ord. No. F-399, § 1, 4-24-72)

### Sec. 170. Composition; qualifications, selection, terms of office, removal and compensation of members; vacancies; election and duties of officers; authority to adopt rules; required vote to act; quorum; meetings; execution of contracts, written instruments.

(a) The authority shall consist of five (5) members, one (1) of whom shall be the mayor. In the discretion of the city commission, the city manager may serve as an ex officio member without vote, and whose term shall be set by the city commission.

(b) The city commission shall, within fifteen (15) days upon this article becoming law, elect by a majority vote, four (4) citizens with such qualifications as are provided for herein, one of whom shall serve for one year, one

PROOFS

of whom shall serve for two (2) years, one of whom shall serve for three (3) years, and one of whom shall serve for four (4) years, each of such terms to commence the first day of each new fiscal year. Thereafter, the term of office of each member shall be for four (4) years, but each elected member shall hold such office until his successor has qualified and been elected and furthermore, the city commission shall by a majority vote nominate and elect any successor to the present membership of the utilities authority and shall by a majority vote elect all new members of the authority. No member of the utilities authority shall serve more than two (2) consecutive terms.

(c) Any vacancy in the authority shall be filled for the unexpired term in the same manner as provided for appointment after the initial appointments. No vacancy in the authority shall impair the right of the remaining members to exercise all the powers of the authority.

(d) Any member may be removed from office by the city commission for malfeasance, misfeasance or nonfeasance in office, or upon conviction of a felony.

(e) No person shall be a member unless he shall be a qualified elector of the city. No person who holds any other public office or who is an employee of the city government or who has any business relationship with the authority other than as a consumer shall be a member, except the mayor and the ex officio member. A member ceasing to possess any of these qualifications shall be removed from his office forthwith by the city commission.

**State law reference—**Code of ethics for public officers and employees, F.S. § 112.311 et seq.

(f) Each member shall be paid as set out in the budget and approved by the city commission in accordance with section 176, subsection (12).

(g) The authority by majority vote shall elect from among its members a chairman, who shall preside over the meetings of the authority, a vice-chairman who shall act for the chairman during his absence, and a secretary. An election of officers of the authority shall be held at the first regular meeting at which all members are present following the appointment of a new member for a full term, but not later than the fourth meeting following the appointment.

(h) The authority shall adopt rules for the conduct of its meetings.

(i) No action shall be taken by the authority except by the affirmative vote of at least three (3) members.

(j) Three (3) members shall constitute a quorum.

(k) The authority shall meet at least once each month. All meetings shall be open to the public and minutes shall be kept of all meetings; copies of such minutes shall be furnished members of the city commission within seven (7) days of such meeting. Special meetings may be called upon six (6) hours['] written notice thereof by the chairman or any three (3) members.

(l) All contracts shall be executed by the chairman or vice-chairman and secretary. All other instruments in writing necessary to be signed by the authority shall be executed by the chairman or vice-chairman and secretary, or by such officer, agent or employee of the authority as it may designate.

(Ord. No. F-399, § 2, 4-24-72; Ord. No. G-297, §§ 2, 4, 9-20-76)

**Sec. 171. Separate divisions for electric, water and other utility operations.**

(a) The authority may establish separate divisions for the electric, water, and other utility operations, respectively.

(b) Separate accounts shall be kept for each division and as may be found practical by the authority in accordance with the uniform systems of accounts for sanitary sewer, gas, electricity, water and other utilities, as promulgated by the Public Utilities Commission of the State of Florida or the Federal Power Commission and according to generally accepted public utility accounting principles.

(c) Each division may be operated independently of the others, except insofar as the authority determines joint operations to be advisable and economical.

(d) Expenses incurred in joint operations shall be equitably prorated among the divisions by the authority.

(Ord. No. F-399, § 3, 4-24-72)

**Sec. 172. Utilities director; officers, employees, department heads.**

PROOFS

The authority shall have the power to appoint a utilities director to be responsible to the authority and who shall serve at its pleasure. There shall be such other officers and employees as may be provided by the authority. The officers shall be appointed or removed by the utilities director subject to confirmation by the authority. The employees shall be appointed and removed by the utilities director. The authority shall fix the salary of the utilities director and shall have, but may delegate to the utilities director, the power to fix the salaries of all other officers and employees of the authority. The authority shall also have the power to employ or appoint engineers, accountants, lawyers, and such other personnel as may be required for the operation and management of the utilities and to fix their compensation. Department heads shall be appointed by the director subject to the approval of the authority.

(Ord. No. F-399, § 4, 4-24-72)

**Sec. 173. Surety bonds for officers, employees.**

The authority may require surety bonds for any of the officers and employees in such amounts as the authority deems necessary. The premiums for the bonds shall be paid in the same manner as any other operating expense.

(Ord. No. F-399, § 5, 4-24-72)

**Sec. 174. Pension and retirement system.**

The authority shall not have power to create or regulate a pension or retirement system, but shall utilize the existing city pension and retirement plans for its employees and shall make contributions to the cost of pension and retirement plans as may be, from time to time, required which cost shall be paid in the same manner as any other operating expense.

(Ord. No. F-399, § 6, 4-24-72)

**Sec. 175. Authorization to combine operations of utilities with other city operations.**

The authority may, in order to promote the efficient and economical operation of the utilities, with the approval of the city commission, combine the operations of the utilities with other city operations, including, but not limited to, the following:

(1) Any officer or employee of the city at the time this [article] becomes effective, or who is appointed or employed thereafter, may serve as an officer or employee of the authority, or in a dual or joint capacity, but in no event shall [he] receive more than one (1) salary as may be fixed by the authority or by the city commission, except the mayor-commissioner.

(2) Life, accident and health insurance plans for city employees may be utilized by the authority for its officers and employees.

(3) Accounting, billing or any other operations or functions may be combined or operated jointly.

(Ord. No. F-399, § 7, 4-24-72)

**Sec. 176. Enumeration of specific powers and duties.**

The authority in the efficient and economical operation of the city utilities, both inside and outside the city limits, shall have the following powers and duties.

(1) To sell its products and services to public and private corporations and to other consumers; construct plants, transmission lines and other facilities and purchase real estate in the name of the city and to enter into all contracts, leases, and agreements in furtherance hereof. Franchises may be purchased with the approval of the city commission.

(2) The utilities authority shall have power to supply water, electricity, gas, and sewer service for domestic and other purposes to individuals or corporations outside of the city, and to charge and collect reasonable rates, prices and compensation therefor, including the costs or any part thereof for extension of said services as determined by the utilities authority, and upon such terms as may be imposed by the utilities authority, and the utilities authority may charge a different rate but not a lesser rate for such consumers than is charged for a like class of customers within the corporate limits of the city. No extension of facilities or services outside the city limits for any of the utilities, including those utilities now under the contract of the utilities authority, shall be valid unless approved by the city commission. Any extension

PROOFS

of facilities or services shall be based on a finding of the city commission that the extension of the facilities or services is in the best interests of the city, and a surplus of the capacity of the facilities or system to be extended exists and present facilities and services and future expansions within the city limits of the City of Fort Pierce will not be impaired.

(3) The authority may contract with any public or private corporation or any individual, both inside and outside the city limits, for the joint use of poles and other property belonging either to the city or to the other contracting party or jointly to both parties; and with the approval of the city commission for the joint acquisition of real property and franchises and the joint financing, construction, and operation of plants, transmission lines, and other facilities, whereby any property acquired may become the property of either or both the city and the other contracting party.

(4) The authority may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the city whenever public necessity or convenience requires inside and outside the city limits in the manner provided by law.

(5) The authority may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley, waterway, or other public way, in the operations of the utilities but shall, in all cases and subject to the applicable general regulations of the city, cause the surface of the public way to be restored to its usual condition.

(6) The authority shall fix rates to be charged for gas, electricity, water, sanitary sewer, and other utilities services sold and services rendered. Provided, however, said utilities authority shall submit any rate changes or any changes in the formula by which rates are determined to the city commission. If a four-fifths (4/5) majority vote of the city commission does not disapprove of the proposed rate changes within thirty (30) days of the date of submission of said change or changes in the formula to the city commission, the rates or the formulas by which the rates are determined shall be deemed approved and shall become effective.

If a four-fifths (4/5) majority vote of the city commission disapproves any rate change or any change in the formulas by which the rates are determined within thirty (30) days, said rates shall not become effective and the previous rates or the formulas by which the rates were determined which were previously established shall remain in effect. If any rate changes or any changes in the formulas by which the rates are determined are not approved by the city commission, the city commission shall state the reasons for said disapproval. The city commission may by majority vote waive the thirty-day period for disapproval and approve same by a majority vote. Any rate adjustment resulting from fuel adjustment changes made in accordance with a previously approved formula will not have to be submitted to the city commission.

Rates shall be uniform for all consumers within the same class, but different rate schedules may be applied to different classes of consumers as determined by the authority. Rates shall be sufficient to pay all operating and maintenance expenses of each respective utility operation, capital outlay, all bond interest and redemption costs, and payments authorized by this article. The authority may require deposits as security for the payment of charges for utility services and may provide for the return of deposits when satisfactory consumer credit has been established.

(7) No money shall be drawn from the funds of the utilities nor shall any obligation for the expenditure of money be incurred except as authorized by the authority. No claim against the authority shall be paid unless evidenced by a voucher approved by the utilities director or by some other employee to be designated by him.

(8) The authority shall have the right, power and authority by resolution to issue and sell revenue bonds or certificates in such amounts as shall be deemed necessary to finance all or part of the costs of acquisition, construction, repairs, replacements, improvements, additions and extensions of the city's utilities and equipment required therefor. All of such revenue bonds or certificates issued by the authority shall be obligations of the City of Fort Pierce; provided, however, the authority shall have no power to pledge the full faith and credit of the city and nothing set forth herein shall be so construed. No referendum or freeholders' election shall be required as a condition precedent to the issuance of such revenue bonds or

PROOFS

certificates. The bonds, or revenue certificates, shall be dated, shall bear interest, at such rate or rates not exceeding that established by state law, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the authority, and may be redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds or certificates. The authority shall determine the form of bonds, or certificates, including any interest coupons to be attached thereto, and the manner of execution, and shall fix the denomination or denominations, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The resolution authorizing the issuance of the bond, or certificates, shall contain such provisions relating to the use of the proceeds from their sale and for the protection and security of holders thereof, including their rights and remedies, and the rights, powers, privileges, duties and obligations of the authority with respect to the same, as shall be determined by the authority. In case any officer whose signature or facsimile of whose signature shall appear on any bonds, certificates or coupons shall cease to be such officer before the delivery of such bonds, or certificates, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds, or certificates, issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code-Investment Securities Law of the State of Florida. The bonds, or certificates, may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law. All revenue bonds, or certificates, issued hereunder shall be advertised for sale on sealed bids, which advertisement shall be published once a week for two (2) weeks, the first publication to be made at least fifteen (15) days preceding the date advertised for the reception of bids, in a newspaper published in the City of Fort Pierce and also in a financial paper designated by resolution. The authority may reject any and all bids. If the revenue bonds, or certificates, are not sold pursuant to such advertisement and public bidding, they may be sold by the authority at a private sale by negotiation or may be readvertised in the same manner for public sale. In the event of a private sale by negotiation, the authority may sell said certificates or notes upon the best terms offered therefor. Revenue bonds, or certificates, issued under the provisions of this act shall be payable from the revenues derived from the operation of the city's utilities or services under the supervision, operation and control of the authority and from any other funds legally available therefor. The authority is authorized to provide by resolution for the issuance of refunding revenue bonds, or certificates for the purpose of refunding any revenue bonds, or certificates heretofore issued by the City of Fort Pierce then outstanding or issued under the provisions of this article; providing, however, that any such refunding obligation shall only refund outstanding bonds and interest and redemption premiums therein at a lower net average interest cost rate; and to issue notes in the anticipation of the receipt of the proceeds of the sale of any such bonds, or certificates. The authority, with the consent of the city commission, may pledge the proceeds of utilities service[s] taxes, cigarette taxes, or franchise taxes (as defined in Chapter [section] 159.02, Florida Statutes 1969) or any other excise taxes or other funds which such authority is authorized to levy and collect or will have available, as additional security for the payment of the principal and interest on any revenue bonds or certificates issued hereunder, or for services for such debt services.

**State law reference—**Neither credit nor taxing power pledged under Revenue Bond Act, F.S. § 159.04.

(9) The authority may borrow money for periods not to exceed two (2) years and may issue negotiable notes, payable from the revenues of the utilities or a division thereof, as evidence of the loans, with the approval of the city commission. The action of the authority may be by resolutions which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption and public sale shall not be required.

(10) The authority may authorize reasonable expenditures to advertise and otherwise promote the use of the utility services and to acquaint the public with the operations, programs, and planned expansion of the utilities.

PROOFS

(11) The authority may invest idle funds in banks or savings institutions when qualified as city depositories, provided such investments are secured by direct obligations of the United States Treasury, or may invest idle funds in direct obligations of United States Treasury. The authority may also invest such idle funds in investments secured by indirect obligations of the United States of America.

(12) The authority [shall], in addition to the reports and accounting it may otherwise be required by law to make, promptly after the close of the fiscal year, furnish the city commission its annual report which shall include the following statements as of the end of the preceding fiscal year: A balance sheet showing the financial condition of the utilities and each separate division, prepared as nearly as practical according to generally accepted public utility accounting principles; a statement of operations for each division of the utilities; and any additional supporting statements or schedules deemed necessary and desirable by the city commission to make a clear and informative presentation of the financial position of the utilities. The reports shall be kept on file in the city clerk's office and shall be open to public inspection. The funds and accounts of the utilities shall be audited annually by a certified public accountant appointed by the city commission. The authority shall also annually prepare and adopt a budget for the ensuing year and furnish a copy to the city commission at least forty-five (45) days prior to the beginning of the next fiscal year.

If a four-fifths (4/5) vote of the city commission does not disapprove of any line item expenditures in said budget, or any amendments thereto within thirty (30) days of the date of submission to said city commission, said budget or any amendments thereto shall be deemed approved as submitted. The city commission may not increase any amounts in the proposed budget or amendments thereto, but may reduce by a four-fifths (4/5) vote of the city commission any line item in said budget or amendments thereto. The city commission may by majority vote waive the thirty-day period for disapproval and approve said budget, or any amendment thereto, by majority vote. Any expenditures disapproved shall not be authorized. No amendments to the utilities authority budget shall be authorized unless submitted to the city commission as set out herein.

Nothing contained herein shall be construed to prevent adoption of necessary and reasonable procedures for providing for emergency repairs and/or restoration or maintenance of services.

The fiscal year of the authority shall be the same as the City of Fort Pierce. The annual budget shall contain an amount anticipated to be transferred to the general fund of the city.

(Ord. No. F-399, § 8, 4-24-72; Ord. No. G-297, §§ 6, 8, 10, 9-20-76)

**State law reference—**Powers of city as to public works, F.S. § 180.02.

**Sec. 177. Pre-existing obligations deemed binding.**

Contracts and obligations relating to the utility systems of the city incurred prior to the taking effect of this article shall be binding upon the authority insofar as they apply to the authority.

(Ord. No. F-399, § 9, 4-24-72)

**Sec. 178. Authorization to manage and operate financial affairs.**

(a) The utilities authority shall, except as specifically provided in Section 176 of this Chapter [Charter], have the exclusive power and authority to manage and conduct its financial affairs in accordance with generally accepted accounting principles applied to municipal utilities systems and the provisions of resolutions authorizing its revenue bonds and other obligations outstanding as of the effective date of the ordinance.

(b) All revenues derived from the utilities after paying the necessary costs and expenses shall be applied to the payment of interest on and principal of bonds, revenue certificates, loans, and other obligations from monies borrowed, both senior and subordinate lien and to the sinking fund for the redemption thereof as required by law and ordinances under which said bonds were issued. The utilities authority shall set up reserve accounts and comply with all other provisions required by any revenue bonds and other obligations issued prior to [October 4, 1994,] the effective date of this ordinance [section].

(c) The utilities authority shall pay to the City of Fort Pierce each year a sum equal to six (6) percent of the gross revenues as hereinafter defined, derived from the operation of the utilities for the preceding fiscal year, unless

PROOFS

the city commission, by majority vote, agrees to accept a lesser percentage. This sum shall be paid on or before sixty (60) days after approval and acceptance of the audit for such fiscal year by the city commission.

(d) (i) *Gross revenue* means all the income derived from retail sales of electricity, gas, and wastewater disposal; wholesale and retail sales of water; gains on sales of assets, interest, rents, royalties, dividends, and management fees.

(ii) Where a power cost adjustment or purchase gas adjustment is utilized, "gross income" shall mean the amount billed based upon the applicable rate without a debit or credit for the cost adjustment.

(e) All revenue bonds and other obligations or, other evidences of debt issued by the utilities authority subsequent to [October 4, 1994,] the effective date of this ordinance [section] shall comply with the provisions of Article XII. The utilities authority may issue revenue bonds, or other obligations or evidence of debt, varying from the requirements of this article, if said issue and terms are approved by majority vote of the city commission.

(f) All other provisions not in conflict herewith of Article XII remain in full force and effect.

(Ord. No. F-399, § 10, 4-24-72; Ord. No. J-117, § 3, 8-15-94)

**Sec. 179. Competitive bidding.**

Contracts for services, construction, materials, supplies, equipment, or machinery where the cost, value or amount exceeds five thousand dollars ($5,000.00), shall not be entered into or purchases made without competitive bidding and advertisement by a notice published at least once a week for two (2) consecutive weeks before the award of any contract in a newspaper having a general circulation in the city. Bids shall not be required to purchase patented and manufactured products offered for sale in a noncompetitive market or when the product can be obtained only from a sole source of supply, or where services cannot be contracted for upon the basis of competitive bidding. The provisions of this section shall not apply to any contract or agreement between the authority and any engineers, architects, accountants, attorneys, or for other professional services; or to agents, or investment bankers, relating to financing herein authorized; or to contracts of a continuing nature where an extension thereof without bids shall be in the best interest of the authority.

(Ord. No. F-399, § 11, 4-24-72)

**Editor's note--**Section 179 was amended by Ord. No J-153, §§ 1, 2, adopted July 17, 1995, without referendum. As this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as it read prior to ordinance amendment.

**Sec. 180. City employees to continue under city's pension plans, civil service merit system.**

All employees of the City of Fort Pierce on the effective date of this article who shall be under the supervision of the authority shall continue without any loss of right or benefits as employees under the pension plans and civil service merit system of the city existing on the effective date of this article or hereafter.

(Ord. No. F-399, § 12, 4-24-72)

**Sec. 181. Powers, authority granted not deemed exclusive.**

The powers and authority granted in this article to issue and sell revenue bonds or certificates shall not be deemed exclusive, and the authority may issue revenue bonds and certificates and may exercise any of the powers granted to the city under general laws of the State of Florida for the development, production, purchase and distribution of electricity, gas, water, sanitary sewer [sic] collection and disposal, and other utility services with the approval of the city commission, when the same is not inconsistent with the provisions of this article.

(Ord. No. F-399, § 13, 4-24-72)

**Sec. 182. Issuance of bonds, certificates and other obligations to constitute legal investments for bonds, etc., and securities eligible for deposit as security for public funds.**

Any revenue bonds, certificates or other obligations issued pursuant to this article shall be and constitute legal investments for bonds, savings banks, trustees, executors, administrators and all other fiduciaries for all state, municipal and public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal or other public funds notwithstanding the provisions of any other law or laws to the contrary.

PROOFS

(Ord. No. F-399, § 14, 4-24-72)

PROOFS

# PART II
# CODE OF ORDINANCES

Subpart A

# GENERAL ORDINANCES

Chapter 1

# GENERAL PROVISIONS

## ARTICLE I. IN GENERAL

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

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances of the City of Fort Pierce, Florida," and may be so cited. Such Code may also be cited as the "Fort Pierce Code."

(Code 1960, § 1-1; Code 1983, § 1-1)

### Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances, unless the context requires otherwise:

*Generally.*

(1) When provisions conflict, the specific shall prevail over the general and the more stringent provision shall always prevail.

(2) All provisions shall be liberally construed so that the intent of the city commission can be effectuated.

(3) Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

(4) Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

~~Building official. The word "building official" shall mean the director of development or his designee.~~

*Charter.* The term "Charter" means the Charter of the City of Fort Pierce, Florida, as amended.

*City.* The term "city" means the City of Fort Pierce, Florida.

*City commission* and *commission.* The terms "city commission" and "commission" mean the city commission of Fort Pierce, Florida.

*Code.* The term "Code" means the Code of Ordinances of the City of Fort Pierce, Florida, as designated in section 1-1.

*Computation of time.* In computing any period of time prescribed or allowed by this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

PROOFS

*Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows, except that the term "or" may be read "and," and the term "and" may be read "or," if the sense requires it:

(1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) The term "either … or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

*County.* The term "county" means St. Lucie County, Florida.

~~Department of building and code enforcement. The words "department of building and code enforcement" shall mean the department of development.~~

~~Department of planning and development. The words "department of planning and development" shall mean the department of development.~~

~~Director of building and code enforcement. References to the "director of building and code enforcement" shall mean director of development or his designee.~~

~~Director of planning and development. References to the director of planning and development shall mean director of development or his designee.~~

*F.A.C.* The abbreviation "F.A.C." refers to the Florida Administrative Code, as amended.

*F.S.* or *state acts*. The abbreviation "F.S." refers to the latest edition of the Florida Statutes, as amended. Reference to a state act by title is a reference to such act as amended.

*Gender.* ~~A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.~~ Words of one gender include words of all other genders.

*Joint authority.* All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

*Keeper* and *proprietor.* The terms "keeper" and "proprietor" mean and include persons, acting by themselves or through a servant, agent or employee.

*May.* The term "may" is to be construed as being permissive.

*May not.* The term "may not" has a prohibitory effect and states a prohibition.

*Month.* The term "month" means a calendar month.

*Must.* The term "must" is to be construed as being mandatory.

*Number*. ~~A word importing the singular number only may extend to and be applied to several persons and things as well as to one person or thing, and a word importing the plural number may be applied to the singular.~~ The singular includes the plural and the plural includes the singular.

*Oath.* The term "oath" means and includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath. In such cases, the terms "swear" and "sworn" are equivalent to the terms "affirm" and "affirmed."

*Officer, employee, department or agency.* References officers, employees, departments or agencies, are to city officers, city employees, city departments, or city agencies.

*Owner.* The term "owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

*Person*. The term "person" means ~~individual natural persons, partnerships, joint adventurers, societies, associations, clubs, trustees, trusts or corporations and any officers, agents, employees, factors or any kind of~~

PROOFS

~~personal representatives of any thereof, in any capacity, acting either for themselves or for any other person, under either personal appointment or pursuant to law.~~ any human being, any governmental or political subdivision or public agency, any public or private corporation, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.

*Personal property.* The term "personal property" means and includes every species of property except real property, as herein defined.

*Property.* The term "property" means and includes real and personal property.

*Public place.* The term "public place" means any street, park, cemetery, schoolyard or open space adjacent thereto, beach or canal or other waterway.

*Real property*. The term "real property" means and includes lands, tenements and hereditaments.

*Shall*. The term "shall" is to be construed as being mandatory and not permissive.

*Should.* The term "should" is to be construed as being permissive and not mandatory.

*Sidewalk.* The term "sidewalk" means any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

*Signature* or *subscription.* The term "signature" or "subscription" means and includes a mark when the signer or subscriber cannot write.

*State.* The term "state" means the State of Florida.

*Street.* The term "street" means and includes any street, avenue, boulevard, road, alley, lane, viaduct and any other public highway in the city.

~~Subordinates shall include deputies, superintendents, inspectors and other subordinate officers and employees under the supervision and control of the city manager or head of a department.~~

~~Tax assessor. When the "tax assessor" or "city tax assessor" is referred to, it shall mean the city finance director as city tax assessor. *~~

*Tenant* or *occupant.* The term "tenant" or "occupant," applied to a building or land, means and includes any person holding a written or oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

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

*Week.* The term "week" means seven days.

*Will.* The term "will" is to be construed as being mandatory and not permissive.

*Written* or *in writing.* The term "written" or "in writing" means and includes any representation of words, letters or figures, whether by printing or otherwise.

*Year*. The term "year" means a calendar year.

(Code 1960, § 1-2; Code 1983, § 1-2; Ord. No. I-194, § 1, 12-1-1986; Ord. No. I-262, § 1, 2-16-1988)

**State law reference—**Definitions used in construction of statutes, F.S. § 1.01.

**Sec. 1-3. Catchlines of sections; history notes; references.**

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

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

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

PROOFS

(Code 1960, § 1-3; Code 1983, § 1-3)

**Sec. 1-4. Effect of repeal of ordinances.**

(a) The repeal of an ordinance shall not revive any repealed ordinance.

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

(1957 Charter, § 35; Code 1960, § 1-5; Code 1983; § 1-10)

**Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect the same may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are re-adopted as a new code of ordinances by the city commission.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section ____ of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows: . . .." The new provisions should then be set out in full as desired.

(c) In the event a new section not heretofore existing in the Code is to be added, the following language is suggested: "That the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended by adding a section, to be numbered ____, which said section reads as follows: . . .." The new section should then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed should be specifically repealed by section, article or chapter number, as the case may be.

(Code 1960, § 1-4; Code 1983, § 1-8)

**Sec. 1-6. Supplementation of Code.**

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the commission. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the commission during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or the words of the same meaning to "this chapter," "this article,"

PROOFS

"this division," etc., as the case may be or to "sections ____ to ____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

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

(Code 1983, § 1-9)

~~**Sec. 1-6. Altering code.**~~

~~It shall be an offense against the city for any person to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented.~~

~~(Code 1960, § 1-7; Code 1983, § 1-6)~~

**Sec. 1-7. General penalty; continuing violations.**

(a) In this section, the term "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation, or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation, or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, any person convicted of a violation of this Code shall be punished by a fine not exceeding $500.00, or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment.

(d) Except as otherwise provided by law or ordinance:

(1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) With respect to other violations, each act constitutes a separate offense.

(e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise, or other administrative sanctions.

(f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(Code 1960, § 1-8; Code 1983, § 1-5)

**State law reference—**Penalty for ordinance violations, F.S. § 162.22.

**Sec. 1-8. Severability of parts of Code.**

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

(Code 1960, § 1-6; Code 1983, § 1-4)

PROOFS

**Sec. 1-9. Prior offenses, penalties, contracts or rights not affected by adoption of Code.**

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

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

**Sec. 1-10. Provisions considered as continuation of existing ordinances.**

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

**Sec. 1-11. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following and all such provisions are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein:

(1) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;

(2) Any appropriation ordinance or ordinance providing for the levy of taxes or adopting or amending an annual budget;

(3) Any ordinance annexing territory to the city or excluding territory as a part of the city, or otherwise affecting the corporate limits;

(4) Any ordinance granting any franchise, permit or other right;

(5) Any ordinance approving, authorizing or otherwise relating to any contract, agreement, lease, deed or other instrument;

(6) Any ordinance creating or organizing departments;

(7) Any ordinance accepting, dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating or repairing any specific street or public way;

(8) Any ordinance consistent with this Code prescribing traffic or parking regulations for specific locations, or on specific streets or parts of streets;

(9) Any ordinance prescribing the street grades of any street in the city;

(10) Any ordinance providing for local improvements or relating to special assessments therefor or assessing taxes therefor;

(11) Any ordinance ~~regulating the subdividing of land or~~ accepting or approving any plat or subdivision in the city;

(12) ~~The zoning ordinance of the city or~~ ordinance zoning or rezoning specific property;

(13) Any ordinance providing for the compensation of officers and employees not codified in this Code;

(14) Any ~~charter provision, not amended or repealed by the city, that~~ ordinance published in the Charter that became an ordinance under F.S. § 166.021;

(15) Any temporary or special ordinance;

(16) Any ordinance adopted for purposes that have been consummated.

(Code 1983, § 1-7)

PROOFS

**Secs. 1-12--1-40. Reserved.**

## ARTICLE II. CODE ENFORCEMENT*

***State law reference**—Code enforcement, F.S. ch. 162.

### DIVISION 1. GENERALLY

**Secs. 1-41--1-68. Reserved.**

### DIVISION 2. SPECIAL MAGISTRATE*

***State law reference**—Special magistrates, F.S. § 162.03.

**Sec. 1-69. Short title.**

This article shall be known as the "City of Fort Pierce Municipal Code Enforcement Ordinance."

(Code 1960, § 2-21; Code 1983, § 2-240; Ord. No. H-241, 12-6-1982; Ord. No. 17-017, § 1, 6-5-2017)

**Sec. 1-70. Intent.**

~~(a)~~The position of the city code enforcement special magistrate exists to promote, protect and improve the health, safety and welfare of the citizens of the city by providing an equitable, expeditious, effective and inexpensive method of enforcing the technical codes in force in the city, including, but not limited to, occupational license, fire, building, zoning, and sign codes.

~~The city code enforcement board is abolished. However, all prior actions, orders and liens imposed by the code enforcement board shall remain in full force and effect.~~

(Code 1960, § 2-22; Code 1983, § 2-241; Ord. No. H-241, 12-6-1982; Ord. No. 17-017, § 1, 6-5-2017)

**State law reference**—Similar provisions, F.S. § 162.02.

**Sec. 1-71. Definitions.**

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

*Code inspector* means any authorized agent or employee of the ~~municipality~~ city whose duty it is to ensure code compliance.

*Local governing body* means the legislative body of the ~~municipality~~ city.

*Local governing body attorney* means the legal counselor for the ~~municipality~~ city.

*Special magistrate* means an attorney and member of the state bar who shall be appointed by the city commission for a term of two years to preside over code enforcement matters and who may be discharged by the city commission at its discretion, with or without cause.

(Code 1960, § 2-23; Code 1983, § 2-242; Ord. No. H-241, 12-6-1982; Ord. No. 17-017, § 1, 6-5-2017)

**State law reference**—Similar provisions, F.S. 162.04.

**Sec. 1-72. Special magistrate.**

Pursuant to F.S. § 162.03, the local governing body adopts a code enforcement system that gives the office of the special magistrate the authority to hold hearings and assess fines against violators of the codes and ordinances of the city. The special magistrate shall have the jurisdiction and authority to hear and to decide alleged violations of the codes and ordinances of the city, and exercise the powers of a code enforcement board, as provided in F.S. ch. 162, and this Code.

(Code 1983, § 2-243; Ord. No. 17-017, § 1, 6-5-2017)

**State law reference**—Similar provisions, F.S. § 162.05.

**Sec. 1-73. Enforcement procedure.**

(a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes;

PROOFS

provided, however, no special magistrate shall have the power to initiate such enforcement proceedings.

(b) All enforcement procedures and proceedings shall comply with F.S. ch. 162~~ Except as provided in subsection (c), if a violation of the codes is found, the code inspector shall notify the violator and give such violator a reasonable time to correct the violation. The notice shall be in writing, delivered either through regular mail or by hand delivery of the code inspector. Should the violation continue beyond the time specified for correction, the code inspector shall notify the special magistrate and request a hearing pursuant to the procedure in section 2-245. Written notice shall be mailed to said violator as provided in this article.~~

~~(c) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, the code inspector may proceed directly to the procedure in section 2-245 without notifying the violator.~~

(Code 1960, § 2-25; Code 1983, § 2-244; Ord. No. H-241, 12-6-1982; Ord. No. K-13, § 1, 6-19-2000; Ord. No. 17-017, § 1, 6-5-2017; Ord. No. 20-001, § 1(2-244), 2-3-2020)

**State law reference—**Similar provisions, F.S. § 162.06.

**Sec. 1-74. Conduct of hearing.**

(a) The special magistrate may call code enforcement hearings. The special magistrate at any hearing may set a future hearing date. The special magistrate shall attempt to hold a hearing no less frequently than once every two months, but the special magistrate may hold a hearing more or less often as the demand necessitates. Minutes shall be kept of all hearings by the special magistrate, and all hearings and proceedings shall be open to the public. The local governing body shall provide clerical and administrative personnel as may be reasonably required by the special magistrate for the proper performance of the special magistrate's duties.

(b) Each case before the special magistrate shall be presented by either the local governing body attorney or by a member of the administrative staff of the local governing body.

(c) The special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the code inspector and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings.

(d) At the conclusion of the hearing, the special magistrate shall issue findings of fact, based on evidence of record, and conclusions of law and shall issue an order affording the proper relief consistent with powers granted in this division.

(Code 1960, § 2-26; Code 1983, § 2-245; Ord. No. H-241, 12-6-1982; Ord. No. 17-017, § 1, 6-5-2017)

**State law reference—**Similar provisions, F.S. § 162.07.

**Sec. 1-75. Powers.**

The special magistrate shall have the power to:

(1) Adopt rules for the conduct of special magistrate hearings;

(2) Subpoena alleged violators and witnesses to special magistrate hearings. Subpoenas may be served by the sheriff of the county, code inspector, or by any other person designated by the city commission;

(3) Subpoena evidence;

(4) Take testimony under oath;

(5) Issue orders having the force of law, commanding whatever steps are necessary to bring a violation into compliance.

(Code 1960 § 2-27; Code 1983, § 2-246; Ord. No. H-241, 12-6-1982; Ord. No. J-03, § 2, 2-18-1992; Ord. No. 17-017, § 1, 6-5-2017; Ord. No. 20-001, § 1(2-246), 2-3-2020)

**State law reference—**Similar provisions, F.S. § 162.08.

~~**Sec. 2-247. Administrative fines; liens.**~~

~~The special magistrate, upon notification by the code inspector that a previous order of the special magistrate~~

PROOFS

has not been complied with by the set time, may order the violator to pay a fine not to exceed two hundred fifty dollars ($250.00) for each day the violation continues past the date set for compliance in the case of a first violation and an amount not to exceed $500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to F.S. § 162.09(1). However, if the special magistrate finds the violation to be irreparable or irreversible in nature, the magistrate may impose a fine not to exceed $5,000 per violation. A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator and may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. After one year from the filing of any such lien which remains unpaid, the special magistrate may authorize the city attorney to foreclose on the lien.

(Code 1960, § 2-28; Code 1983, § 2-247; Ord. No. H-241, 12-6-1982; Ord. No. 17-017 , § 1, 6-5-2017)

**State law reference**—Similar provisions, F.S. § 162.09.

### Sec. 1-76. Provisions of article supplemental.

Nothing contained in this division shall prohibit the city commission from enforcing its codes by any other means. It is the legislative intent of this division to provide an additional or supplemental means of obtaining compliance with local codes.

(Code 1983, § 2-251; Ord. No. 20-001, § 1, 2-3-2020)

### Sec. 1-77. Duration of lien.

No lien provided by this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Code 1983, § 2-248; Ord. No. K-73, § 1, 4-16-2001)

**State law reference**—Similar provisions, F.S. § 162.10.

### Sec. 1-78. Appeals.

An aggrieved party, including the local governing body, may appeal a final administrative order of the special magistrate to the circuit court. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(Code 1960, § 2-29; Code 1983, § 2-249; Ord. No. H-241, 12-6-1982; Ord. No. 17-017 , § 1, 6-5-2017)

**State law reference**—Similar provisions, F.S. § 162.11.

### Sec. 1-79. Notices.

All notices required by this article except as otherwise provided, shall be by certified mail, return receipt requested, or where mail would not be effective, by hand delivery by the code inspector.

(a) All notices required by this division must be provided to the alleged violator by:

(1) Certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subsection (b)(2) of this section;

(2) Hand delivery by the code inspector;

(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

(4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

PROOFS

(b) In addition to providing notice as set forth in subsection (a) of this section, at the option of the city, notice may be served by publication or posting, as follows:

(1) a. Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.

b. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

(2) a. In lieu of publication as described in subsection (b)(1) of this section, such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be the city hall.

b. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt to provide notice by hand delivery or by mail as required under subsection (a) of this section.

(c) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

(Code 1960, § 2-30; Code 1983, § 2-250; Ord. No. H-241, 12-6-1982; Ord. No. K-13, § 2, 6-19-2000; Ord. No. 20-001, § 1, 2-3-2020)

**State law reference**—Similar provisions, F.S. § 162.12.

**Secs. 1-80--1-97. Reserved.**

## DIVISION 3. SUPPLEMENTAL PROCEDURES*

***State law reference**—Supplemental ordinance enforcement procedures, F.S. § 162.21 et seq.

### Sec. 1-98. Authority; intent; applicability.

This division is adopted pursuant to the authority granted by F.S. §§ 162.21—162.23. The procedures contained herein are declared to be an additional and supplemental means of enforcing the codes and ordinances. Nothing contained herein shall be construed as limiting any other means of enforcement consistent with general or special law, or this Code. The provisions of this division shall apply to all violations of city codes or ordinances which are expressly declared by the city commission to be governed by the provisions of this division. This division shall not apply to building codes, adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the city.

(Code 1983, § 2-252; Ord. No. K-27, § 1, 10-2-2000)

### Sec. 1-99. Definitions.

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

*Citation* means the notice issued by a code enforcement officer in a form prescribed by the city and shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

(4) The facts constituting reasonable cause.

(5) The number or section of the code or ordinance violated.

(6) The name and authority of the code enforcement officer.

PROOFS

(7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(8) The applicable civil penalty, if the person elects to contest the citation.

(9) The applicable civil penalty, if the person elects not to contest the citation.

(10) A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against that person for an amount up to the maximum civil penalty.

*Code enforcement officer* means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city, and may include code inspectors, building inspectors, law enforcement officers and animal control officers. The training and qualifications of the employees or agent shall be determined by the city.

*Person* means any natural person, firm, co-partnership, association, or corporations, or individual acting on behalf of or employed by a business. If other than a natural person, the citation shall be issued in the name of an individual who is an officer, director, or partner of the firm, co-partnership, association, or corporation.

*Special magistrate* shall have the meaning set forth in section 1-71.

(Code 1983, § 2-253; Ord. No. K-27, § 1, 10-2-2000; Ord. No. K-91, § 1, 7-16-2001; Ord. No. K-427, § 1, 7-3-2006; Ord. No. 17-017, § 2, 6-5-2017)

**Sec. 1-100. Citation authorization; violation as civil infraction; maximum civil penalty.**

(a) Any code enforcement officer is hereby authorized to issue a citation to a person when, based upon personal investigation, the code enforcement officer has reasonable cause to believe that the person has committed a violation of any kind of ~~the~~ an ordinance as set forth in section 1-106. Pursuant to F.S. § 403.413(7), or as the same may hereafter be renumbered, code enforcement officers are designated to enforce the Florida Litter Law (presently codified as F.S. § 403.413).

(b) A code or ordinance violation for which a citation may be issued pursuant to this division, shall be deemed to be a civil infraction.

(c) The maximum civil penalty for such civil infraction shall not exceed $500.00 per violation. In addition to the civil penalty, the code enforcement officer may request that the special magistrate or court issue an order to include all applicable costs of prosecution and legislative assessments, plus court costs.

(d) A civil penalty of less than the maximum civil penalty shall be assessed if the violator does not contest the violation. The amount of the penalty for an uncontested citation shall be determined by the class of the violation as set out in section 1-106.

(Code 1983, § 2-254; Ord. No. K-27, § 1, 10-2-2000; Ord. No. K-143, § 2, 3-18-2002; Ord. No. 16-017, § 1, 9-19-2016)

**Sec. 1-101. Notice prior to citation issuance; exception.**

(a) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, the code enforcement officer may issue a citation to the person who has committed the violation.

(b) A code enforcement officer shall not be required to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation, provided that a repeat violation is found or that the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(Code 1983, § 2-255; Ord. No. K-27, § 1, 10-2-2000)

**Sec. 1-102. Service of warning notice or citation.**

(a) Written warning notices and/or citations shall be provided to the alleged violator by hand delivery by the code enforcement officer. In the absence of the alleged violator, issuance of a written warning notice or citation

PROOFS

may be accomplished by leaving a copy at the alleged violator's residence with any person residing therein who is 15 years of age or older, and informing the person of the contents; or by leaving a copy at the alleged violator's place of business with any employee or agent acting on his behalf, and informing the person of the contents; or by certified mail, return receipt requested.

(b) Issuance of a written warning notice or citation to a business may be accomplished by leaving a copy at the business, during regular business hours, with any employee and informing the employee of the contents or by registered or certified mail, return receipt requested. Each employee of the business shall be deemed an agent of the business for service of warning notices and citations.

(Code 1983, § 2-256; Ord. No. K-27, § 1, 10-2-2000)

**Sec. 1-103. Form of contents of citation; filing with court.**

(a) A citation issued by a code enforcement officer shall be in a form prescribed by the city commission or by administrative order of the chief judge of the nineteenth judicial circuit and shall contain the information as set out under the definition of the term "citation" in section 1-99.

(b) After issuing a citation to an alleged violator that does not require a mandatory court appearance, a code enforcement officer shall deposit the original citation with the code enforcement clerk within two working days. The code enforcement officer shall retain one copy for his records.

(c) After issuing a citation to an alleged violator that requires a mandatory court appearance, a code enforcement officer shall deposit the original citation with the county court by filing same with the clerk of court within two working days. The code enforcement officer shall retain one copy for his records.

(Code 1983, § 2-257; Ord. No. K-27, § 1, 10-2-2000; Ord. No. 16-017, § 1, 9-19-2016)

**Sec. 1-104. Refusal to sign citation.**

~~Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree punishable as provided by F.S. §§ 775.082 or 775.083.~~

(a) If the person cited ~~so~~ refuses to sign the citation, the code enforcement officer shall write the words "refused" or "refused to sign" in the space provided for the person's signature and shall then leave a copy of the citation with the person cited, if possible.

(b) Following such refusal to sign, the code enforcement officer shall contact the city police department to report such refusal as a violation of F.S. § 162.21(6).

(Code 1983, § 2-258; Ord. No. K-27, § 1, 10-2-2000)

**Sec. 1-105. Processing citations; payment of fines; court hearings.**

(a) If the person elects not to contest the citation, such person shall pay in full the applicable reduced civil penalty, as set forth in this division, to the city within 30 calendar days of the issuance of the citation.

(b) If the person cited elects to pay the applicable reduced civil penalty set forth herein, the person shall be deemed to have admitted the infraction and waived the right to a hearing. If the person cited fails to pay the civil penalty by the 30th calendar day after issuance of the citation or fails to request a hearing within the time prescribed, the code enforcement officer shall request a hearing be scheduled before the special magistrate and may request a fine be assessed up to the maximum civil penalty, plus court costs, ~~of ten dollars ($10.00)~~ in the amount established by resolution.

(c) If the person elects to contest the citation, the person shall request a hearing before the special magistrate within 14 calendar days of the date of citation. The code enforcement clerk shall notify the code enforcement officer of any contested citations and of the date when such contested citation may be scheduled to be heard by the special magistrate. The case shall be presented by the code enforcement officer who issued the citation and the standard of proof shall be a preponderance of the evidence. A contest of the citation shall be deemed a waiver by the person of any right to pay the reduced civil penalty and, upon a finding by the special magistrate that the person cited committed the civil infraction charged, the special magistrate may order the violator to correct the violation and may impose a civil penalty up to the maximum civil penalty, plus all applicable costs of prosecution, plus court costs ~~of ten dollars ($10.00)~~ in the amount established by resolution. ~~in no event, however, shall any such civil~~

PROOFS

~~penalty imposed by the special magistrate be less than the reduced civil penalty as provided in this division.~~ The special magistrate may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the special magistrate determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or to correct the violation within the time provided, the citation shall be referred to the clerk of courts for enforcement as provided by F.S. § 318.325, and may be punishable as provided in F.S. § 316.1967.

(d) Should the person cited schedule a hearing as provided for herein, and thereafter fail to appear at such hearing, the person shall be deemed to have waived the right to contest the citation and order determining violation shall be entered against the person in an amount not to exceed the maximum civil penalty; provided, however, that the special magistrate shall have the discretion to continue or reschedule any hearing when it determines that doing so will further the interest of justice. In such event, the code enforcement clerk shall notify the code enforcement officer and the person cited of the date and time of the hearing as rescheduled.

(e) In the event an order is entered finding that a violation of ~~the~~ an ordinance cited has been committed, the city may record said order in the official records of the county and the same shall thereinafter constitute notice to and be binding upon the violator and any subsequent purchasers, successors in interest, or assigns, if the violation concerns real property, and the findings therein shall be binding upon the violator and any subsequent purchasers, successors in interest, or assigns, if the violation concerns real property.

(f) If the person cited has been previously cited for the same violation at least two times within a 12-month period or commits a violation that requires a mandatory court appearance, upon issuance of the citation, the person shall not have the option of paying a reduced civil penalty but instead shall appear before a county court judge to answer the charge.

(g) Payment of any civil penalty imposed by this division shall be made to the city, if a judgment has been entered for the civil penalty and satisfied, the code enforcement officer shall be notified that the judgment is satisfied and a satisfaction of judgment shall then be prepared and recorded in the official records of the county.

(h) The Florida Rules of Civil Procedure and the Florida Evidence Code shall apply.

(Code 1983, § 2-259; Ord. No. K-27, § 1, 10-2-2000; Ord. No. 16-017, § 1, 9-19-2016; Ord. No. 17-027, § 1, 9-18-2017)

**Sec. 1-106. Classes of violations.**

(a) Penalty (reduced civil penalty).

| *Reduced Civil Penalty for Violations* | | | |
|---|---|---|---|
| *Violation Classification* | *First Offense* | *Second Offense* | *Third and Subsequent* |
| Class I | $50.00 | $100.00 | Court hearing mandatory |
| Class II | $100.00 | $200.00 | Court hearing mandatory |
| Class III | $250.00 | Court hearing mandatory | Court hearing mandatory |

(b) Violations of the city codes and ordinances which constitute civil infractions for which citations may be issued are ~~as follows:~~ considered a Class I violation except where specifically provided herein:

| *Code and Ordinance Violation Classes* | | |
|---|---|---|
| *Chapter or Section* | *Description* | *Class* |
| Section ~~4-61 5-375~~ 16-82 | Sea turtle lighting | II |
| ~~Sec. 5-73~~ | ~~House numbers required~~ | ~~I~~ |
| ~~Sec. 5-370~~ | ~~Exterior property and landscaping~~ | ~~I~~ |
| ~~Sec. 5-371~~ | ~~Exterior areas~~ | ~~I~~ |
| ~~Sec. 8.5~~ | ~~Minimum occupancy standards for residential dwellings~~ | ~~III~~ |
| Chapter ~~9~~ 22 | Occupational license, not otherwise specified | II |

PROOFS

| | | |
|---|---|---|
| ~~Sec. 9-80~~ | ~~Street vendors; permit required~~ | ~~I~~ |
| ~~Sec. 9-82~~ | ~~Seasonal vendors; permit required~~ | ~~I~~ |
| ~~Sec. 9-335~~ | ~~Garage sales regulations~~ | ~~I~~ |
| ~~Sec. 10-23~~ | ~~Parking regulations~~ | ~~I~~ |
| Chapter ~~11.5~~ 22, article III | Adult entertainment | III |
| Section ~~11-10~~ 26-2 | Storage of scraps and waste | II |
| Section ~~11-11~~ 26-3 | Storage of commodity in vehicle | II |
| ~~Sec. 11-24~~ | ~~Destruction of public property~~ | ~~I~~ |
| ~~Sec. 11-26~~ | ~~Distribution of handbills~~ | ~~I~~ |
| ~~Sec. 11-30~~ | ~~Refrigerators and iceboxes; safety regulations~~ | ~~III~~ |
| ~~Sec. 11-39~~ | ~~Exhibiting obscene pictures or papers~~ | ~~II~~ |
| Chapter ~~15~~ 117 | Signs | II |
| Section ~~16-22~~ 30-25 | Littering/dumping prohibited | II |
| Section ~~16-27~~ 30-30 | Bulk trash removal; residential | II |
| Section ~~16-46~~ 24-19 | Nuisances on property, not otherwise specified | III |
| ~~Sec. 16-46 / 48(1)(5)~~ | ~~Nuisance as an Object – outside storage~~ | ~~I~~ |
| ~~Sec. 16-46 / 48(10)(d)~~ | ~~Nuisance as an Object – disabled vehicles~~ | ~~I~~ |
| ~~Sec. 16-46 / 48(11)~~ | ~~Nuisance as an Object – outside storage of indoor furniture~~ | ~~I~~ |
| Section ~~17-33~~ 120-8 | Maintenance of stormwater facilities | III |
| Section ~~17-96~~ 36-411 | Stormwater discharges prohibited | III |
| ~~Sec. 20-5~~ | ~~Use of water during drought~~ | ~~I~~ |
| Section ~~21-54~~ 38-76 | Using vessel as place of business | II |
| Chapter ~~22~~ 125 | Zoning violations – not otherwise specified | II |
| Section ~~22-60~~ 125-315 | Parking commercial vehicles in residential areas | III |
| ~~Sec. 22-71(b)~~ | ~~Arcade / Amusement Centers – design standards~~ | ~~I~~ |
| Section ~~22-79~~ 125-240 | Compliance with conditions of approval | III |
| ~~Sec. 22-187(11)~~ | ~~Screening of refuse collection areas~~ | ~~I~~ |

(Code 1983, § 2-260; Ord. No. K-27, § 1, 10-2-2000; Ord. No. K-124, § 4, 12-17-2001; Ord. No. K-215, § 3, 4-21-2003; Ord. No. L-81, § 1, 4-29-2009; Ord. No. L-254, § 1, 4-16-2012; Ord. No. 16-017, § 1, 9-19-2016; Ord. No. 20-001, § 2, 2-3-2020)

PROOFS

Chapter 2

# ADMINISTRATION*

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

## ARTICLE I. IN GENERAL

**Secs. 2-1--2-18. Reserved.**

## ARTICLE II. CITY COMMISSION*

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

### DIVISION 1. GENERALLY

**Sec. 2-19. Compensation.**

(a) Effective October 1, ~~2017~~ 2019, the annual compensation of the mayor-commissioner of the city shall be ~~thirty-two thousand, six hundred eighteen dollars ($32,618.00)~~ $33,598.19.

(b) Effective October 1, ~~2017~~ 2019, the annual compensation of each city commissioner of the city shall be ~~twenty-five thousand, one dollar and seventy-five cents ($25,001.75)~~ $25,757.00.

(c) In no event shall the mayor-commissioner or city commissioners be compensated in excess of the salaries, provided in subsections (a) and (b) of this section, for attending any regular, postponed or special meeting.

(d) The compensation for the mayor-commissioner and city commissioners shall be payable at the same time that other city employees are paid.

(Code 1983, § 2-16; Ord. No. H-171, § I, 5-28-1981; Ord. No. J-458, § 1, 10-5-1998; Ord. No. K-291, § 1, 9-27-2004; Ord. No. 16-020, § 1, 9-19-2016; Ord. No. 17-031, § 1, 9-25-2017; Ord. No. 18-032, § 1, 9-4-2018)

**Sec. 2-20. Forfeiture of office for conviction of felony.**

Any member of the city commission who shall be convicted of a felony while in office shall thereby forfeit his office.

(1957 Charter § 26)

**Sec. 2-21. Auto expense.**

(a) The mayor-commissioner and the city commissioners shall receive each month, as automobile expenses for the use of their personal automobiles in connection with their duties performed within the county, an amount to be set out by the mayor-commissioner and the city commissioners in the annual budget prior to the beginning of each fiscal year.

(b) Said automobile expense money shall be paid to said mayor-commissioner and city commissioners on the first day of each month.

(Code 1960, § 2-9.2; Code 1983, § 2-17)

**Sec. 2-22. Disclosure of ex-parte communications.**

(a) Any person not otherwise prohibited by statute, Charter provision or ordinance may discuss with any city commissioner the merits of any matter on which action may be taken by the city commission.

(b) The adoption of the procedure set out in this section shall remove the presumption of prejudice arising from ex-parte communications with city commissioners.

(c) The substance of any ex-parte communication with a city commissioner which relates to a quasijudicial

PROOFS

action pending before the city commission is not presumed prejudicial to the action if the subject matter of the communication and the identity of the person, group or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

(d) A city commissioner may read a written communication from any person. However, the written communication that relates to quasijudicial action pending before the city commission shall not be presumed prejudicial to the action and such written communication shall be made a part of the record before final action on the matter.

(e) City commissioners may conduct investigations and site visits and may receive expert opinions regarding quasijudicial actions pending before the city commission. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit or expert opinion is made a part of the record before final action on the matter.

(f) Disclosure made pursuant to subsections (a) through (e) of this section must be made before or during the public meeting at which a vote is taken on such matters so that persons who have opinions contrary to those expressed in the ex-parte communication are given a reasonable opportunity to refute or respond to the communication. This section does not subject the city commissioners to F.S. ch. 112, pt. III (F.S. § 112.311 et seq.) for not complying with this subsection.

(Code 1983, § 2-18; Ord. No. J-163, §§ 1—6, 9-18-1995)

**State law reference—**Authority to allow ex-parte communications, F.S. § 286.0115.

**Secs. 2-23--2-45. Reserved.**

DIVISION 2. MEETINGS*

***State law reference—**Public meeting required, F.S. § 286.011.

**Sec. 2-46. Generally.**

The city commission shall meet at such time and place as may be prescribed by ordinance or resolution~~, except that it shall meet regularly not less than twice each month~~.

(1957 Charter § 24(2))

~~**Sec. 2-26. Public meetings.**~~

~~All meetings of the city commission or of the committee or the whole thereof shall be public and shall comply with Florida Statutes Section 286.011, commonly referred to as the "government in the sunshine" law.~~

~~All discussions between the chief executive officer of the public employer or his representative and the legislative body of the public employer relative to collective bargaining shall be exempt from the provisions of Florida Statutes section 286.011 in accordance with Florida Statutes section 447.605.~~

~~(Code 1960, §§ 2-4, 2-5; Code 1983, § 2-26))~~

**Sec. 2-47. Regular meetings; date and place.**

The city commission shall meet regularly not less than twice each month. All meetings of the commission, whether regular or special, shall be held in the city hall commission chambers, located at 100 North U.S. 1, unless a majority of the commission directs that a meeting be held at some other specified date, place, and time.

(Code 1920, §§ 2-1, 2-3; Code 1983, § 2-27; Ord. No. I-175, § 2, 8-18-1986; Ord. No. J-15, § 1, 2-18-1992; Ord. No. K-443, § 1, 9-18-2006; Ord. No. 18-001, § 1, 2-5-2018)

**Sec. 2-48. Absences.**

Absence from four consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by motion setting forth the fact of such excuse duly entered upon the minutes.

(1957 Charter § 27)

~~**Sec. 2-28. Special meetings.**~~

PROOFS

~~The mayor-commissioner, or any three members of the commission, or the city manager and any two members of the commission, may call special meetings of the city commission, upon at least six hours' written notice to each member, served personally, or left at his usual place of residence or business.~~

~~(Code 1960, § 2-2; Code 1983, § 2-28)~~

**Sec. 2-49. Procedure—Generally.**

(a) *Order of business.* Promptly at the hour set on the day of each meeting, the members of the commission, city manager, city clerk and city attorney shall take their regular stations in the commission chambers, and the business of the commission shall be taken up for consideration and disposition in substantially the following order:

(1) Meeting called to order.

(2) Roll call.

(3) Approval of minutes.

(4) Comments from the public, relating to agenda items which do not require public hearings.

(5) Additions or deletions to agenda and approval of agenda.

(6) Miscellaneous reports.

(7) Consent agenda.

(8) Items requiring public hearings.

(9) New business, matters of public interest.

(10) Comments from the public.

(11) Comments of city manager and city attorney.

(12) Comments of commissioners.

(13) Adjourn.

(b) *Robert's Rules.* In all matters coming before the commission, the parliamentary conduct thereof shall be governed by ~~Robert's Rules of Order, as revised,~~ Robert's Rules of Order, Newly Revised, 11th edition, except as otherwise provided by state law, the charter or ordinances of the city.

(c) *Request for placement on agenda.* Any person desiring to appear before the city commission on a matter set for public hearing may appear and speak for a reasonable length of time as determined by the commission. As to any subject which is either not set for public hearing or does not otherwise appear on the agenda, persons desiring to place an item on the agenda may make written request to the city manager no later than 5:00 p.m. 15 days preceding the regular city commission meeting. Such request must state the subject matter of the individual's appearance and should include any background materials pertinent to the issue. The city manager shall review the request to determine if the item might be handled administratively; or determine whether the subject matter is an item of city business. If so, the city manager shall submit the item for placement on the agenda to the city clerk no later than 5:00 p.m. ten days preceding the regular city commission meeting and shall direct appropriate staff to be prepared to answer any questions the commission may have. The mayor may impose a time limitation of five minutes, or allow such additional time he determines necessary and appropriate for such person to make a presentation. Such person shall state his name, his address, and the subject on which he wishes to speak.

(d) *Agenda.* All reports, communications, ordinances, resolutions, contracts, documents or other materials to be submitted to the commission shall, no later than 12:00 noon on Wednesday prior to each meeting, be delivered to the city clerk, who shall arrange a list of such matters and furnish each member thereof with a copy of the same prior to the regular meeting, and as far in advance of the meeting as time for preparation will permit.

(e) *Writing; debate.* Ordinances and resolutions shall be reduced to writing before the same are read by the city clerk; however, amendments thereto may be made orally. The presiding officer shall require a motion and a second before allowing general debate thereon.

PROOFS

(Code 1960, § 2-5; Code 1983, § 2-29; Ord. No. K-443, §§ 2—4, 9-18-2006; Ord. No. L-05, § 1, 3-3-2008; Ord. No. L-283, §§ 1, 2, 11-5-2012; Ord. No. L-292, § 1, 7-15-2013; Ord. No. 14-006, § 1, 3-3-2014; Ord. No. 15-005, § 1, 3-2-2015; Ord. No. 16-001, § 1, 2-16-2016; Ord. No. 17-025, § 1, 9-18-2017)

**State law reference—**Procedure for adoption of ordinances and resolutions, F.S. § 166.041.

**Sec. 2-50. Procedure—Special meetings.**

Rules at special meetings of the commission shall be the same as for regular meetings, except that no minutes of any meeting shall be finally approved except at a regular meeting.

(Code 1960, § 2-9.1; Code 1983, § 2-30)

**Sec. 2-51. Withdrawal of resolutions and motions.**

Withdrawal of any resolution, motion or amendment by the member offering it shall be permitted at any time.

(Code 1960, § 2-6; Code 1983, § 2-31)

**Sec. 2-52. Voting.**

(a) Voting on all motions, resolutions and amendments, except adjournment, shall be by "yeas" and "nays" upon call of the roll of members in alphabetical order of surnames, except that the name of the mayor-commissioner may be called last. The record of the vote shall be recorded.

(b) Any member may orally state the reason for his vote and may insert in the record his reason in writing in not to exceed 25 words.

(Code 1960, § 2-7; Code 1983, § 2-32)

**Sec. 2-53. Minutes—Contents.**

The city clerk shall keep and enter on the minutes of the meeting a record of all resolutions, motions and amendments passed, together with the vote of each member thereon. A brief statement of the substance or character of those not passed with the vote thereon will suffice.

(Code 1960, § 2-8; Code 1983, § 2-33)

**Sec. 2-54. Minutes—Attestation.**

All minutes after approval and recording shall be attested by the signatures of the mayor-commissioner, or of the mayor pro tem who presided at the meeting, and the city clerk.

(Code 1960, § 2-9; Code 1983, § 2-34)

**Sec. 2-55. Addressing the commission, generally.**

(a) *Limited participation.* The city manager, city clerk, and city attorney shall have the right to take part in discussion but may not vote.

(b) *Written communications by others.* Any person may address the commission concerning items on the agenda by submitting written communications. Such communications shall be received by the presiding officer and entered into the record of the meeting by the city clerk.

(c) *Oral communication by others.* After first securing permission from the presiding officer, any person may address the commission orally on specific matters, at the appropriate times as designated by the order of business provided in section 2-49(a).

(1) *Manner of addressing the commission; time limit.* Each person recognized by the presiding officer and granted leave to address the commission shall step up to the microphone; shall provide the city clerk with his name and address for the record; and unless further time is granted by majority vote of the commission, shall limit his address to three minutes. All remarks shall be addressed to the commission as a body and not to any individual member thereof. No person, other than the commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the commission, without the permission of the presiding officer. No question shall be asked by a commission member. No person from the audience shall address the commission.

PROOFS

(2) *Decorum, generally.*

a. *By commission members.* While the commission is in session, the members must preserve order and decorum, and a member shall not, by conversation or otherwise, delay or interrupt the proceedings or the peace of the commission, or disturb any member while speaking or refuse to obey the orders of the commission or its presiding officer, except as otherwise provided in this article.

b. *By all persons.* Any person making personal, impertinent, slanderous, obscene, profane, inflammatory, irrelevant or immaterial remarks, or who shall become boisterous while in the commission chambers, or shall incite violence or fighting, whether or not addressing the commission, shall be declared by the presiding officer to be out of order. Any person who refuses to obey an order of the presiding officer in relation to preserving order and decorum shall be banned from further attendance at the meeting in question, unless permission to remain is granted by a majority vote of the commission. No heckling or verbal outbursts in support or opposition to a speaker or his remarks shall be permitted.

(3) *Enforcement of decorum.* The chief of police, or such member of the police department as he may designate, shall be sergeant-at-arms of the commission meetings. The sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the commission meeting.

(Code 1983, § 2-35; Ord. No. 14-006, § 2, 3-3-2014; Ord. No. 15-005, § 2, 3-2-2015)

**Secs. 2-56--2-83. Reserved.**

## ARTICLE III. CITY MANAGER

### Sec. 2-84. Powers and duties generally.

The city manager, as the administrative head of the municipal government, shall exercise general supervision and control over all city departments, and in such capacity, may establish and enforce reasonable rules and regulations for the administrative functioning of the city, including various departments, which administrative affairs and functions shall include all matters not expressly reserved exclusively for action by the city commission, either by law, the Charter or any ordinance.

(Code 1960, § 2-48; Code 1983, § 2-46)

### Sec. 2-85. Procedure for establishment of rules.

In the establishment of rules and regulations or amendments thereto under this article, the city manager shall furnish the original and seven copies in writing to the city clerk, who shall furnish a copy to the mayor-commissioner, city commissioners and city attorney, and shall post a copy in the city hall for a period of 30 days. If, after expiration of said 30-day period, no action has been taken to the contrary by the city commission, said rules and regulations shall be deemed ratified and adopted by the city commission, and the original thereof shall be retained by the city clerk and certified as to passage in accordance with these provisions.

(Code 1960, § 2-49; Code 1983, § 2-47)

**Secs. 2-86--2-113. Reserved.**

## ARTICLE IV. OFFICERS AND EMPLOYEES*

***State law reference—**Public officers and employees, generally, F.S. ch. 212.

### DIVISION 1. GENERALLY

**Sec. 2-114. Functions of city clerk.**

The powers and duties of the city clerk shall be:

(1) To attend all meetings of the commission, in person or by deputy clerk, and keep permanent minutes of its proceedings, which shall be approved and engrossed in a well-bound book and signed by the mayor

PROOFS

and attested by the clerk or deputy clerk at the next regular meeting.

(2) To be the custodian of the city seal, all ordinances and resolutions and all records and papers of a general or permanent character pertaining to the affairs of the city.

(3) To preserve, file and index all contracts to which the city is a party, which file and record shall be open to the inspection of all interested persons at all reasonable times.

(4) To perform such other duties as may be prescribed by the Charter or required of the clerk by the commission.

(5) To collect all ~~occupational~~ business license and dog license fees.

(1957 Charter § 44)

**Sec. 2-115. Functions of finance director.**

The finance director shall:

(1) Furnish financial information as required by the city manager and assist him in the preparation and execution of the city budget.

(2) Assess property for taxation at actual cash value and make all special assessments levied by the commission.

(3) Maintain a plan and complete accounting system for the city government and all of its departments, offices and agencies, which system shall show all financial transactions of the city in detail and disclose the true financial condition of the city at all times.

(4) Prescribe and enforce the procedure for handling financial transactions of every character.

(5) Exercise budgetary control over each department, office or agency, in order to prevent the overdrawing of any fund or the overexpenditure of any appropriation.

(6) Keep a separate account for each item of appropriation made by the commission showing the amount appropriated, and any allotments thereof, the amounts paid therefrom, the unpaid obligations against it, and the unencumbered balance.

(7) Require all city departments, offices and agencies to report and remit all receipts to him daily.

(8) Collect all taxes, special assessments and other revenues of the city and receive all money receivable by the city from any department, office or agency of the city or from any other government.

(9) Have custody of all public funds belonging to or under the control of the city or any of its departments, offices, or agencies, and deposit all funds coming into his hands in such depositories as may be designated by the commission, subject to the requirements of law or ordinances as to surety and the payment of interest which interest shall accrue to the city and be accounted for and credited to the proper fund and account.

(10) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration, and exchange. ~~provided that no one person shall have access to the city's safe-deposit box except as provided in section 97 of this article.~~

(11) Supervise and be responsible for the disbursement of all ~~moneys~~ in the city treasury; and no money shall be paid out of the treasury unless he first verifies the appropriation, allotment and availability of funds to cover the claim concerned and certifies thereto, except for purchases of less than $500.00, and determines that such claim is regular in form, correctly computed, and constitutes a valid obligation.

(12) Examine all contracts, orders and other documents, except for purchases of less than $500.00, by which the city government incurs financial obligations to ascertain that ~~moneys~~ have been appropriated and allotted and will be available when the obligations shall become due and payable.

(13) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and determine the regularity, validity and correctness thereof.

PROOFS

(14) Inquire into and inform himself of the validity of all claims against the city, and for this purpose, he shall have power to require evidence that the amount of any claim is justly due and in conformity with the law and the ordinances of the city.

(15) Each month submit to the commission through the city manager a statement of revenues and expenditures for each fund for the preceding month and the fiscal year-to-date. Each month submit a balance sheet for each fund showing the financial condition of the fund at the end of the preceding month.

(16) Submit to the commission through the city manager at the end of each fiscal year a report of the financial transactions of that year.

(17) Issue vouchers, directly or by designee, approved by the city commission through resolution duly enacted, for the payment of ~~moneys,~~ which vouchers must be countersigned by the city manager or any designee of the city manager, as may be approved by the city commission through resolution duly enacted.

(18) Establish general ledger accounting control over physical properties and stores. Establish systems of internal control over physical properties and stores.

(1957 Charter § 91)

**Sec. 2-116. Police.**

The chief of police and his ~~deputies~~ shall have the power and authority immediately to arrest, with or without warrant, and also to take into custody any person who shall commit or threaten to commit in his presence or within his view any offense prohibited by the ordinances and laws of the city ~~and shall without unnecessary delay bring the offenders before the municipal court* to be dealt with according to law~~.

(1957 Charter § 48(d))

**Secs. 2-117--2-145. Reserved.**

DIVISION 2. TRAVEL EXPENSES*

***State law reference**—Per diem and travel expenses, F.S. § 112.061.

**Sec. 2-146. Definitions.**

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

*Authorized person* means a person, whether elected or appointed, who is authorized by the city manager or city commission to incur travel expenses in the performance of his official duties.

*Class A travel* means continuous travel of 24 hours or more away from official headquarters.

*Class B travel* means travel for short or day trips where the traveler is not away from his official headquarters overnight.

*Common carrier* means a train, bus, commercial airline operating scheduled flights, or rental car of an established rental car firm.

*Employee* means an individual who is filling a regular or full-time authorized position in the employ of the city other than an official or public officer.

*Official* or *public official* means an individual, whether elected or appointed, who is vested by this Code, the Charter or resolution with the duty or the power to act on behalf of the city.

*Travel day* means a period of 24 hours consisting of four quarters of six hours each.

*Travel expense, traveling expenses, necessary expenses while traveling, actual expenses while traveling,* or words of similar nature, means the usual ordinary and incidental expenditures necessarily incurred by a traveler.

*Travel period* means a period of time between the time of departure and time of return.

*Traveler* means a public officer, public employee or authorized person, when performing authorized travel.

PROOFS

(Code 1960, § 2-120(a—j); Code 1983, § 2-81)

**Sec. 2-147. Purpose.**

It is the desire of the commission to establish uniform maximum rates and limitations for travel expenses, applicable to all elected and appointed officials, employees and authorized persons whose traveling expenses are paid from public funds of the city.

(Code 1960, § 2-119; Code 1983, § 2-82)

**Sec. 2-148. Maximum rates and limitations.**

(a) *Generally.* The uniform maximum rates and limitations for travel expenses in this section are hereby established, applicable to all elected and appointed officials, employees and authorized persons whose traveling expenses are paid from public funds of the city.

(b) *Authority to incur traveling expenses.*

(1) All travel of officers and employees subject to the control of the city manager must be authorized and approved by the city manager. Authorized travel shall be within the appropriation set out in the annual budget.

(2) Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose and must be within the limitations prescribed by this section.

(3) When authorization is granted to travel by air to individuals whose travel expenses are financed through city funds for other than coach tickets, the same shall be with the approval of the city manager. Except in unusual circumstances, this will require that coach accommodations are not available and no reasonable alternative exists.

(c) *Computation of travel time for reimbursement.*

(1) *Class A travel.* The travel day for Class A travel shall be a 24-hour day commencing one minute after 12:00 midnight on the day travel commences. The day shall be divided into four six-hour quarters and per diem shall be paid for any quarter or portion thereof in which an employee travels. The first quarter shall be from 12:01 a.m. to 6:00 a.m.

Example: A traveler departs at 8:00 a.m. and returns 48 hours later at 8:00 a.m. His travel starts in the second quarter of the day (i.e., 6:00 a.m. to 12:00 noon). He would be paid for the second, third and fourth quarter for the first day, for all four quarters of the second day and for the first and second quarters of the third day.

(2) *Class B travel.* A traveler shall not be reimbursed on a per diem basis for Class B travel, but shall receive subsistence as provided in this section, which allowance for meals shall be based on the following schedule:

a. Breakfast—When travel begins before 6:00 a.m. and extends beyond 8:00 a.m.

b. Lunch—When travel begins before 12:00 noon and extends beyond 2:00 p.m.

c. Dinner—When travel begins before 6:00 p.m. and extends beyond 8:00 p.m. or when travel occurs during night-time hours due to special assignment.

No allowance shall be made for meals when travel is confined to the city or the immediate vicinity.

(d) *Rates of per diem and subsistence allowance.* For purposes of reimbursement, rates and methods of calculation, per diem and subsistence allowances shall be as established by resolution. ~~are divided into the following groups:~~

~~— All travelers may be allowed for subsistence either of the following:~~

~~— Per diem as approved in section 112.061 of the Florida Statutes, or its successor; or~~

~~— Up to the amounts permitted in paragraph (2) of this subsection for meals, plus up actual expenses for lodging at a single occupancy rate substantiated by paid bills therefor, plus up to a five-dollar allowance to cover gratuities for baggage-handling services for each trip.~~

PROOFS

~~— Meals only: All travelers may be allowed for subsistence while on Class B travel up to the following amounts.~~

~~— Breakfast ..... $ 8.00~~

~~— Lunch ..... 8.00~~

~~— Dinner ..... 20.00~~

~~Plus all amounts for gratuities not in excess of 15 percent of the cost of each meal, provided for in (f) where substantiated by paid bills. Should actual expenses exceed the above rates due to emergency conditions or unusual economic surroundings, paid receipts must be submitted.~~

(e) *Transportation.*

(1) All travel must be by a usually traveled and economical route. In case a person travels by an indirect route for his own convenience, any extra costs shall be borne by the traveler and reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled and economical route.

(2) Transportation by common carrier when traveling on official business and paid for personally by the traveler shall be substantiated by a receipt therefor.

(3) The use of privately-owned vehicles for official travel in lieu of publicly-owned vehicles or common carriers may be authorized by the city manager. Whenever travel is by privately-owned vehicle, the traveler shall be entitled to a mileage rate allowance at a fixed rate not to exceed the optional business standard mileage rate as set forth by the Internal Revenue Service. Reimbursement for other expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately-owned vehicles are used on public business and reimbursement is made pursuant to this subsection. All mileage shall be shown from point of origin to the point of destination. Vicinity mileage necessary for the conduct of business is allowable. No individual who receives a regular monthly car allowance from the city shall receive additional reimbursement for vicinity mileage within the county under this subsection; however, reimbursement may be allowed by the city manager for travel outside the county in connection with official business.

(4) Transportation by chartered vehicles when traveling on official business may be authorized by the city manager when necessary or where it is to the advantage of the city, provided the cost of such transportation does not exceed the cost of transportation by privately-owned vehicles.

(5) No traveler shall be allowed either mileage or transportation expenses when he is gratuitously transported by another person, or when he is transported by another traveler who is entitled to mileage or transportation expense.

(f) *Other expenses.* The following incidental traveling expenses of the traveler may be reimbursed:

(1) Taxi fare.

(2) Ferry fares.

(3) Bridge, road and tunnel tolls.

(4) Storage or parking fees.

(5) Communication expense includes a reasonable amount for phone calls to home and office.

(6) Convention registration fees while attending a convention or conference which will serve a direct public purpose. However, the value of any meals or lodging included in the registration fee will be deducted from any per diem reimbursement paid pursuant to subsection (d) of this section.

(7) Such other expenses are incidental and necessary to such travel.

(g) *Fraudulent claims.* Claims submitted pursuant to this division shall not be required to be sworn to before a notary public or other officer authorized to administer oaths but any claim authorized or required to be made under any provision of this division shall contain a statement that the expenses were actually incurred by the traveler as necessary traveling expenses in the performance of his official duties and shall be verified by a written declaration

PROOFS

that it is true and correct as to every material matter; and any person who willfully makes and subscribes any such claim which he does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation under the provisions of this division of a claim which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized to present such claim, is guilty of a misdemeanor and, upon conviction thereof, shall be punished accordingly. Whoever shall receive an allowance or reimbursement by means of a false claim shall be civilly liable in the amount of the overpayment for the reimbursement of the public fund from which the claim was paid.

(h) *Advancements.* Notwithstanding any of the restrictions and limitations in this division, the city manager may make, or authorize the making of, advances to cover anticipated costs of travel to travelers.

(i) *Business guests.* All expenditures of funds for business guests must be reported and justified.

(Code 1960, § 2-121; Code 1983, § 2-83; Ord. No. I-158, §§ 1—3, 4-7-1986; Ord. No. J-203, § 1, 9-4-1996; Ord. No. K-359, §§ 1, 2, 7-18-2005; Ord. No. L-32, § 1, 7-7-2008; Ord. No. L-218, § 1, 8-15-2011)

**Secs. 2-149--2-179. Reserved.**

## DIVISION 3. SOCIAL SECURITY*

***State law reference—**Social Security for public employees, F.S. ch. 650; plans for coverage of employees of political subdivisions, F.S. § 650.05.

### *Subdivision I. In General*

**Secs. 2-180--2-196. Reserved.**

### *Subdivision II. Employees Generally*

**Sec. 2-197. Policy and purpose.**

It is the policy and purpose of the city to extend, effective as of January 1, 1960, to certain employees and officials thereof, not excluded by law, nor excepted in this division, the benefits of the system of old age and survivors' insurance as authorized by the federal Social Security Act, and amendments thereto, and by F.S. ch. 650, as amended; and to cover by such plan all services which constitute employment, as defined in F.S. § 650.02, performed in the employ of said city by such employees and officials thereof, except service of an emergency nature, service in any class or classes of elective positions, service in any class of part-time positions, service in any class of positions the compensation of which is on a fee basis, employees presently employed who do not elect coverage and nonmembers of the retirement and benefit system of the city.

(Code 1983, § 13-91; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-198. Agreements to extend benefits to city officers and employees.**

The mayor-commissioner is hereby authorized and directed to execute all necessary agreements and amendments thereto with the division of retirement of the state department of administration, as state agency, and to request the governor to authorize an employee referendum, for the purpose of extending the benefits provided by the system of old age and survivors insurance to the employees and officials of the city designated in sections 2-197 and 2-200, which agreement shall provide for such methods of administration of the plan by the city as are found by the state agency to be necessary and proper and, subject to employee referendum, shall be effective with respect to services in employment covered by such agreement performed on and after October 1, ~~the first day of October, A.D.,~~ 1959.

(Code 1983, § 13-92; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-199. Terms and conditions of Social Security Act adopted.**

The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges and other conditions thereunto appertaining, of title II of the Social Security Act, as amended, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.

(Code 1983, § 13-93; Ord. No. K-469, § 1, 2-20-2007)

PROOFS

**Sec. 2-200. Scope of extension of benefits.**

There shall be included in any agreement entered into under section 2-198 only services in positions of:

(1) Officers and employees who are members of the retirement and benefit system of the city, except firefighters and police officers, who have, prior to date of federal approval of such coverage, filed written election to become covered.

(2) Officers and employees, except firefighters and police officers, who, on or after said date of federal approval, become members of the retirement and benefit system of the city.

(Code 1983, § 13-94; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-201. Salary withholdings.**

Withholdings from salaries, wages or other compensation of employees and officials for the purpose provided in section 2-197 are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by said laws or regulations to receive such amounts.

(Code 1983, § 13-95; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-202. Custodian of funds; withholding and reporting agent.**

The director of finance is hereby designated the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the city, and he is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this division.

(Code 1983, § 13-96; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-203. Appropriation of matching funds; disposition.**

There shall be appropriated from available funds, derived from the city general fund, and the city electric and water department fund, such amounts, at such times, as may be required to pay promptly the contributions, assessments and referendum costs required of the city as applicant or employer by state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.

(Code 1983, § 13-97; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-204. Records and reports.**

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency.

(Code 1983, § 13-98; Ord. No. K-469, § 1, 2-20-2007)

**Secs. 2-205--2-231. Reserved.**

*Subdivision III. Police Officers*

**Sec. 2-232. Policy and purpose.**

It is hereby declared to be the policy and purpose of the city to extend effective as of January 1, 1960, to certain employees and officials thereof in the position of police officer and not excluded by law nor excepted herein, the benefits of the system of old age and survivors' insurance as authorized by the federal Social Security Act and amendments thereto, and by F.S. ch. 650, as amended; and to cover by such plan all of their services which constitute employment, as defined in F.S. § 650.02, performed in the employ of said city, except employees presently employed who do not elect coverage, and nonmembers of the retirement and benefit system of the city.

(Code 1983, § 13-131; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-233. Authority to execute agreements to extend benefits.**

The mayor-commissioner is hereby authorized and directed to execute all necessary agreements and

PROOFS

amendments thereto with the state agency, and to request the governor to authorize an employee referendum, for the purpose of extending the benefits provided by said system of old age and survivors' insurance to the employees and officials of said city designated in sections 2-232 and 2-235, which agreement shall provide for such methods of administration of the plan by said city as are found by the state agency to be necessary and proper, and subject to employee referendum, shall be effective with respect to services in employment covered by such agreement performed on and after October 1, ~~the first day of October, A.D.,~~ 1959.

(Code 1983, § 13-132; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-234. Terms and conditions of Social Security Act adopted.**

The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges and other conditions thereunto appertaining, of title II of the Social Security Act as amended, for and on behalf of all its officers and employees to be covered under the agreement.

(Code 1983, § 13-13~~2~~3; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-235. Scope of extension of benefits.**

There shall be included in any agreement entered into under section 2-288 only services in positions of:

(1) Police officers who are members of the retirement and benefit system of the city or police officer's retirement fund who have, prior to date of federal approval of old age and survivors' insurance coverage, filed written election to become covered.

(2) Police officers who, on or after said date of federal approval, become members of police officers' retirement fund or the retirement and benefit system of the city.

(Code 1983, § 13-134; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-236. Salary withholdings.**

Withholdings from salaries, wages or other compensation of employees and officials for the purpose provided in section 2-232 are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by said laws or regulations to receive such amounts.

(Code 1983, § 13-135; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-237. Appropriation of matching funds; disposition.**

There shall be appropriated from available funds, derived from the city general fund, such amounts, at such times, as may be required to pay promptly the contributions, assessments, and referendum costs required of the city as applicant or employer by state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.

(Code 1983, § 13-136; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-238. Records and reports.**

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency.

(Code 1983, § 13-137; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-239. Custodian of funds; withholding and reporting agent.**

The director of finance is hereby designated the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the city, and he is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this division.

(Code 1983, § 13-138; Ord. No. K-469, § 1, 2-20-2007)

PROOFS

**Secs. 2-240--2-256. Reserved.**

DIVISION 4. GENERAL EMPLOYEES' RETIREMENT SYSTEM

*Subdivision I. In General*

**Sec. 2-257. Definitions.**

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

*Accumulated member contributions* means the balance in a member's individual account in the member's deposit fund.

*Annuity* means a series of monthly payments to a retired participant or annuity beneficiary from the retirement system.

*Annuity beneficiary* means an individual who is being paid an annuity or has been designated to be paid an annuity from the retirement system on account of the death of a member or retired member.

*Code* means the Internal Revenue Code of 1986, as amended from time to time.

*Compensation* means the salary or wages paid an employee for personal services rendered a participating employer. The term "compensation" includes:

(1) Base pay;

(2) Incentive pay;

(3) Longevity pay, shift premiums and police incentive pay;

(4) Overtime pay, provided that such overtime pay shall not exceed a sum equivalent to what is credited for the first 300 hours of overtime earned annually during a fiscal year.

(5) Base salary or wages while absent from work on account of vacation, holiday, illness or other authorized paid leave;

(6) Payments in consideration of unused sick and vacation time, but only as accrued through September 30, 2012, provided further, that the individual became a member of the system prior to October 1, 2012, but also provided that, in the event the member is an employee of the utility authority, such accrual shall not extend beyond July 1, 2011.

(7) City contributions on behalf of the employee to a deferred compensation program maintained pursuant to section 457 of the Internal Revenue Code.

The term "compensation" shall not include any salary, wage or other remuneration not specifically designated in this definition as included in compensation. For purposes of applying the limitations of section 415(b), the term "compensation" includes those items listed in subsections (1) through (7) of this definition.

*Credited service* means the years of service, to the nearest 1/12 year, in an individual's credited service account.

*Employee* means any person who:

(1) Is employed by a participating employer in a position normally requiring 700 or more hours of work per annum; and

(2) Is compensated on a regular participating employer payroll in a position subject to withholding of federal income and FICA taxes.

The term "employee" shall include elected officers of participating public employers who satisfy the requirements of the preceding sentence. The term "employee" shall not include any person whose service is compensated wholly on a contractual or fee basis.

*Final average salary* means one-sixtieth of the compensation paid a member during the five consecutive years of the member's credited service producing the highest total compensation paid and contained within the member's ten years of credited services immediately preceding termination of membership. If a member has less than five

PROOFS

years of credited service, the term "final average salary" means the total compensation paid the member divided by the member's credited service. For utilities authority and police officer members, the five years need not be consecutive and a year shall be 12 consecutive months or such other consecutive period of time as is used and consistently applied.

*General employee* means any employee except a utilities employee or a police officer.

*Member* means an employee who is a member of the retirement system.

*Participating employer* means the city and the city utilities authority.

*Police officer* means an employee of the city who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.14 holding the rank of patrol officer, including probationary patrol officer, or higher rank. The term "police officer" shall not include:

(1) Any person who is employed in a civilian position in the police department;

(2) Any person who is temporarily employed as a police officer for an emergency;

(3) Any person who is privately employed as a police officer.

*Refund beneficiary* means the person designated by a member or former member to receive payment of all or a portion of the member's or former member's accumulated member contributions as provided in this division.

*Retired member* means a former member who is being paid an annuity by the retirement system.

*Retirement board* means the retirement board provided for in this division.

*Retirement system* means the retirement and benefit system of the city created and established by this division.

*Utilities employee* means an employee of the city utilities authority.

*Vested former member* means an individual who at the time of termination of membership met the requirements of section 2-272 for vested former member status and who has not subsequently forfeited credited service by electing payment of accumulated member contributions.

*Vested member* means a member who meets the credited service requirement for vested termination specified in the coverage plan applicable to the member.

*Workers' compensation period* means the period a member, retired member or beneficiary is in receipt of workers' compensation on account of a member's disability or death arising out of and in the course of participating employer employment. If the member, retired member or beneficiary is paid a single sum in lieu of future weekly workers' compensation, the workers' compensation period shall be the period, if any, the member, retired member or beneficiary was in receipt of weekly workers' compensation plus the period arrived at by dividing said single sum by the member's, retired member's or beneficiary's weekly workers' compensation award.

(Code 1983, § 13-16; Ord. No. K-414, § 1, 3-20-2006; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-150, § 2, 10-18-2010; Ord. No. L-298, § 1, 9-16-2013)

**Sec. 2-258. Retirement system established.**

There is hereby established the retirement and benefit system of the city to provide for the retirement of officers and employees of the city and participating employees who become superannuated due to age or disability; to provide conditions of membership; to provide annuities and other benefits to be payable upon the retirement of members and under certain conditions to the dependents of members and retired members; to provide for the financing of the retirement system by contributions to be made by participating employers and members; to provide for the return of members' accumulated member contributions under certain conditions; to provide a retirement board to administer the retirement system; to provide for the investment of ~~moneys~~ of the retirement system and to delegate certain authority and responsibilities to the retirement board. This system is intended to be a tax-qualified plan under section 401(a) of the Internal Revenue Code and meet the requirements of a governmental plan, as defined in section 414(d) of the Internal Revenue Code.

(Code 1983, § 13-19; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-150, § 2, 10-18-2010)

PROOFS

**Sec. 2-259. Exemption of benefits from city tax.**

No annuity or other benefit under this division shall ever be subject to any city tax or process, but shall be exempt therefrom.

(Code 1983, § 13-20; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-260. Composition of fund; payment by city and utilities authority.**

The trust fund created under this division, together with the ~~moneys~~ hereby retroactively brought into the same, and the subsequent accumulations to same from participating employers shall constitute the trust hereby created. Each participating employer shall at the end of each biweekly period pay a sum of money into the trust determined in accordance with section 2-289.

(Code 1983, § 13-21; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-261. Assessments against land for city's contribution.**

No tax shall ever be assessed against any land to raise the city's contribution to the retirement fund.

(Code 1983, § 13-22; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-262. Fund held as separate trust; direction; supervision; bond.**

The trust fund provided for in this division shall be deemed to be held in separate trust from all municipal ~~moneys~~, under the direction and in the discretion of the retirement board, subject to supervision by the city commission. All payments by the retirement system shall be authorized by a specific or continuing resolution of the retirement board and shall be made by check signed by the city finance director and countersigned by the chairperson of the retirement board.

(Code 1983, § 13-23; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-263. Membership—Requirements for; exclusions from.**

(a) Each employee of a participating employer shall be a member of the retirement system, unless excluded from membership by subsections (b) or (c) of this section. Elected officials must file written application for membership with the retirement board. If any question arises about the membership status of any person, the retirement board shall resolve the question and such resolution shall be final.

(b) An employee holding an excludable position may be elected to be excluded from membership. The election shall be in writing and to be valid must be filed with the retirement board within 30 days of assuming an excludable position. Excludable positions are:

(1) The city manager;

(2) The chief of police;

(3) The director of the city utilities authority; and

(4) The city attorney.

(c) A former employee of a participating employer, who is presently receiving regular or disability retirement benefits under this article, who is subsequently reemployed by a participating employer, shall not be a member of the retirement system. For the purpose of this section, the term "employee" is given the meaning imposed by general law governing agency principals, not as such term is otherwise defined in section 2-257.

(Code 1983, § 13-24; Ord. No. K-442, § 1, 10-16-2006; Ord. No. K-469, § 1, 2-20-2007; Ord. No. K-512, § 1, 10-1-2007; Ord. No. 16-012, § 1, 6-20-2016)

**Sec. 2-264. Membership—Termination.**

The membership of an employee shall cease upon termination of employee status or upon becoming employed in a position excluded from membership as provided in section 2-263(b).

(Code 1983, § 13-25; Ord. No. K-469, § 1, 2-20-2007)

PROOFS

**Sec. 2-265. Employment after retirement.**

(a) Benefits shall not be paid, but shall be suspended, under this division for any period that membership or employment is reinstated with any member employer following termination of such membership or retirement from employment, nor shall benefits under this division be paid during any period where the former member or retiree performs services as an independent contractor, as such term is defined and construed under general state law, for the member employer unless such independent contracting services commence more than 30 days after termination of membership or retirement, provided that such independent contracting agreement is furnished to the board for prior review and approval, based upon determination that such contract is for a bona fide independent contracting relationship.

(b) Any person who is receiving regular or disability retirement benefits under this division and who becomes reemployed in any capacity with a participating employer, as the term "employment" is construed in general law according to agency principals, shall give timely notice of such reemployment in writing to the board, and such person's retirement benefits shall be suspended for the balance of the period of reemployment. Any person employed in violation of this section and any participating employer which knowingly employs or appoints such person without notifying the board to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement system of any benefits paid during the period of reemployment. To avoid liability, the participating employer shall have a written statement from the retiree, at the time the employee becomes reemployed, that notice of reemployment was given to the board in accordance with this section. Any retirement benefits received by such person while reemployed shall be repaid to the retirement system and the retirement benefits shall remain suspended until such repayment has been made. Any benefits suspended in accordance with this subsection shall apply toward the repayment of benefits received in violation hereof.

(Code 1983, § 13-25.1; Ord. No. K-442, § 2, 10-16-2006)

**Sec. 2-266. Service credit; requirements for; forfeiture of; reinstatement.**

(a) Service rendered a participating employer by a member shall be credited to the member's credited service account in accordance with retirement board rules and regulations:

(1) Service shall be credited to the nearest 1/12 year; and

(2) In no case shall less than ten months of service rendered in any calendar year be credited as a year of service; nor shall more than one year of service be credited for all service rendered in any calendar year.

(b) Credited service shall be forfeited if either:

(1) Membership terminates prior to retirement, death or satisfaction of the requirements for vested termination provided in section 2-272; or

(2) Accumulated member contributions are paid to the former member, former member's refund beneficiary or legal representative.

(c) The last forfeited credited service of a member may be reinstated, following reemployment of such member, if the following requirements are satisfied:

(1) If the member is a police officer, the member repays the retirement system, following reemployment, the accumulated member contributions previously paid by the police office member, plus interest determined by the board; or

(2) If the member is not a police officer, the member pays the full actuarial cost of such previously forfeited service credit so that no part of the cost will be paid by the employer or the retirement system. In addition, the member requesting reinstatement shall be responsible for paying the actuary's fee for providing the cost information.

Credited service shall be reinstated and become effective immediately following payment of the ~~moneys~~ provided for in this section by the police officer members or other members.

(Code 1983, § 13-26; Ord. No. K-469, § 1, 2-20-2007; Ord. No. K-471, § 1, 3-5-2007; Ord. No. K-513, § 1, 10-1-2007)

~~**Sec. 13-26.1. Service purchase options for the city manager.**~~

PROOFS

~~The person who is the city manager at the time the ordinance from which this section derives is adopted by the city commission shall be given the option to purchase any or all of the following:~~

~~(1) The period of time from the city manager's date of employment to the date he became a member of the retirement system;~~

~~(2) One year of military service in addition to the three years authorized by section 13-28.~~

~~The money required to be paid for the purchase of any or all of these periods shall be due and payable when the purchase is requested. The city manager will pay the full actuarial cost of said requested service so that no part of the cost will be paid by the city or the retirement system. The retirement system may accept a transfer of assets from a 457 plan or another 401(a) plan as part of any purchase.~~

~~(Code 1983, § 13-26.1; Ord. No. K-469, § 1, 2-20-2007)~~

**Sec. 2-267. Credit for intervening military service.**

(a) A member who left the employ of a participating employer to enter the Armed Forces of the United States during any period of compulsory military service, and who reenters the employ of a participating employer and again becomes a member, shall have such armed service, not to exceed a total of five years, credited as participating employer service, if the following conditions are satisfied:

(1) Immediately upon the member's return from active duty to city employment, the department of human resources shall make the returning member aware of entitlement to claim military service credit under this section, and shall inform the member in writing that application for such entitlement must be made to the retirement board within one year following the date such member was released from duty under honorable conditions;

(2) The member's reemployment is on the basis of the personnel rules and regulations of the member's participating employer;

(3) The member pays the retirement system the amount of accumulated member contributions the member may have withdrawn. In any case of doubt as to the period of military service to be credited a member, the retirement board shall have final power to determine the period. During the period of such armed service, contributions to the retirement system shall be suspended; and

(4) The same period of service has not been used to obtain or increase a benefit from another retirement program.

(b) In the event this section should conflict with the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), either as originally enacted or as thereafter amended, this section shall be construed, where applicable, in conformity with such Act.

(Code 1983, § 13-27; Ord. No. K-469, § 1, 2-20-2007; Ord. No. 18-038, § 1, 12-3-2018)

**Sec. 2-268. Purchase of active duty military service time.**

(a) A member with military time on active duty for the United States forces may purchase up to four years of active duty military time if the following requirements are satisfied:

(1) The member has been employed by participating employers for at least five years and is vested in the retirement system as provided in section 2-272; and

(2) The purchase is completed by the member's retirement date.

(b) The money required to be paid for the purchase of military time as provided in this section shall be due when the purchase is requested. The employee will pay the full cost of the purchase of said military credit, and no part of the cost will be paid by the employer. If an employee is already receiving retirement benefits from the military services of the United States, the employee will not be eligible to purchase military service credit under this provision. The cost of purchasing the military service credit will be determined by percentages based on current annual base salary of the employee at the time that option is exercised.

(Code 1983, § 13-28; Ord. No. K-469, § 1, 2-20-2007)

PROOFS

**Sec. 2-269. Normal retirement; conditions for.**

A member or vested former member may retire upon written application filed with the retirement board setting forth at what time, not less than 30 days, nor more than 90 days subsequent to the execution and filing thereof, the member or vested former member desires to be retired, if the following conditions are satisfied:

(1) Employment by all participating employers is terminated prior to the selected date of retirement; and

(2) The member or vested former member meets an age and/or credited service requirement specified in the coverage plan applicable to the member or vested former member.

(Code 1983, § 13-~~16~~29; Ord. No. K-469, § 1, 2-20-2007)

~~**Sec. 2-270. Reserved.**~~

**Sec. 2-270. Retirement annuity.**

(a) Except as otherwise provided by the retirement ordinance and the provisions of section 415 of the Internal Revenue Code applicable to public employee retirement plans, the amount of annuity under the standard form of payment shall be determined in accordance with the provisions of the coverage plan under which the member or vested former member has been covered. If the member has been covered under more than one coverage plan, the amount of annuity shall be determined as follows:

(1) *Step 1.* Calculate the amount of annuity for each coverage plan as if the member or vested former member had acquired all credited service under the coverage plan.

(2) *Step 2.* Multiply the amount of each annuity calculated in Step 1 by the ratio of credited service acquired while covered under the coverage plan to the member's or vested former member's total credited service.

(b) A member or vested former member may elect to be paid the annuity under a form of payment option provided in section 2-273 in lieu of the standard form of payment.

(c) If the member last became a member on or after January 1, 1980, the amount of standard form of annuity shall not exceed 100 percent of the member's average final compensation as defined in F.S. § 112.65, except that as to individuals who become members on or after October 1, 2012, the amount of the standard form of annuity shall not exceed 75 percent of the members average final compensation. In no event may the maximum pension payment to any member exceed $100,000.00 annually.

(Code 1983, § 13-31; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-298, § 2, 9-16-2013)

**Sec. 2-271. Vested termination of membership.**

(a) A member who ceases to be a member for a reason other than retirement or death shall be a vested former member, if the following requirements are satisfied:

(1) The member meets the credited service requirement for vested termination specified in the coverage plan applicable to the member; and

(2) The member's accumulated member contributions are left on deposit with the retirement system.

(b) Eligibility for normal retirement and the amount of normal retirement annuity shall be determined according to the provisions of ~~the retirement ordinance~~ this article in effect on the date of termination of membership. Determination of the amount of annuity under a form of payment option shall be made using the assumptions in effect at the time of retirement.

(c) An election by a member or vested former member to be paid accumulated member contributions shall cause forfeiture of credited service and all rights to any benefits of the retirement system other than payment of the accumulated member contributions.

(Code 1983, § 13-32; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-272. Form of payment options.**

(a) A member or vested former member may elect to have annuity payments made under one of the form of payment options provided in this section and name a survivor pension beneficiary. The election of a form of payment option and naming of survivor annuity beneficiary shall be made on a form furnished by and filed with the

PROOFS

retirement system prior to the date the first annuity check is issued. The election of form of payment option and/or survivor annuity beneficiary can be changed up to and until the issuance of the first annuity check. After the date that the first annuity check is issued, no change can be made in the election of form of payment option. If Option A, Option B, Option D, or Option E has been elected, no change can be made in the survivor annuity beneficiary, except as provided in subsection (d) of this section. If form of payment Option C has been elected, more than one survivor annuity beneficiary may be selected. Each selected survivor beneficiary shall share equally in any benefit that becomes payable to a survivor annuity beneficiary, unless the retired member has specified and filled with the retirement system, in writing, a different sharing. Payment shall be made under the standard form of payment if there is no timely election of an option form of payment. The amount of annuity under a form of payment option shall have the same actuarial present value as the amount of annuity under the standard form of payment.

(b) The form of payment options available for election are:

(1) *Option A: Lifetime payments with 100 percent lifetime continuation to survivor annuity beneficiary.* The retired member is paid a reduced annuity for life under form of payment Option A. The last payment to the retired member is the payment for the month in which the retired member dies. The named survivor annuity beneficiary, if living on the first day of the month following the death of the retired member, is then paid 100 percent of the reduced annuity for life. The first payment to the survivor annuity beneficiary is for the month following the month in which the retired participant dies. The last payment to the survivor annuity beneficiary is for the month in which the survivor annuity beneficiary dies. No payment is made to the survivor pension beneficiary if the death of the retired participant and the death of the survivor annuity beneficiary occur in the same month and year. If the named survivor annuity beneficiary dies prior to the first month in which the retired member dies, the amount of the retired member's annuity shall change to the amount that would have been payable under the standard form of payment. The change in amount shall commence with the payment for the month following the month of death of the survivor annuity beneficiary.

(2) *Option B: Lifetime payments with 50 percent lifetime continuation to survivor annuity beneficiary.* The retired member is paid a reduced annuity for life under form of payment Option B. The last payment to the retired member is the payment for the month in which the retired member dies. The named survivor annuity beneficiary, if living on the first day of the month following the death of the retired member, is then paid 50 percent of the reduced annuity for life. The first payment to the survivor is for the month following the month in which the retired participant dies. The last payment to the survivor annuity beneficiary is for the month in which the survivor annuity beneficiary dies. No payment is made to the survivor pension beneficiary if the death of the retired participant and the death of the survivor annuity beneficiary occur in the same month and year. If the named survivor annuity beneficiary dies prior to the first of the month in which the retired member dies, the amount of the retired member's annuity shall change to the amount that would have been payable under the standard form of payment. The change in amount shall commence with the payment for the month following the month of death of the survivor annuity beneficiary.

(3) *Option C: Annuity for ten years certain and life thereafter.* The retired member is paid a reduced annuity for life under form of payment Option C. If the retired member dies before being paid 120 monthly annuity payments, the monthly annuity payment shall be continued for the remainder of the period of 120 months to the retired member's survivor annuity beneficiary. If there is no surviving survivor annuity beneficiary, the actuarial present value of the remaining annuity payments in the 120-month period shall be paid to the estate of the retired member or trust.

(4) *Option D: Lifetime payments with 75 percent lifetime continuation to survivor annuity beneficiary.* The retired member is paid a reduced annuity for life under form of payment Option D. The last payment to the retired member is the payment for the month in which the retired member dies. The named survivor annuity beneficiary, if living on the first day of the month following the death of the retired member, is then paid 75 percent of the reduced annuity for life. The first payment to the survivor annuity beneficiary is for the month following the month in which the retired participant dies. The last payment to the survivor annuity beneficiary is for the month in which the survivor annuity beneficiary dies, no payment is made to the survivor pension beneficiary if the death of the retired participant and the death of the

PROOFS

survivor annuity beneficiary occur in the same month and year. If the named survivor annuity beneficiary dies prior to the first month in which the retired member dies, the amount of the retired member's annuity shall change to the amount that would have been payable under the standard form of payment. The change in amount shall commence with the payment for the month following the month of death of the survivor annuity beneficiary.

(5) *Option E: Lifetime payments with 66 2/3 percent lifetime continuation to survivor annuity beneficiary.* The retired member is paid a reduced annuity for life under form of payment Option E. The last payment to the retired member is the payment for the month in which the retired member dies. The named survivor annuity beneficiary, if living on the first day of the month following the death of the retired member, is then paid 66 2/3 percent of the reduced annuity for life. The first payment to the survivor annuity beneficiary is for the month following the month in which the retired participant dies. The last payment to the survivor annuity beneficiary is for the month in which the survivor annuity beneficiary dies. No payment is made to the survivor pension beneficiary if the death of the retired participant and the death of the survivor annuity beneficiary occur in the same month and year. If the named survivor annuity beneficiary dies prior to the first month in which the retired member dies, the amount of the retired member's annuity shall change to the amount that would have been payable under the standard form of payment. The change in amount shall commence with the payment for the month following the month of death of the survivor annuity beneficiary.

(c) If all annuity payments permanently terminate before the retirement system has paid an aggregate amount equal to the former member's accumulated member contributions, the difference between the amount of accumulated member contributions and the aggregate amount of annuity payments made shall be paid to the legal representative or administrator of the estate of the former member.

(d) If a retired member has elected Option A, Option B, Option D, or Option E, and such retired member's annuity payments have commenced, the retired member may thereafter change the designated beneficiary up to two times. Upon receipt of a completed change of joint annuity form or such other notices the board may prescribe, the member's monthly benefit shall be readjusted by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the members current benefit, taking into account the ages of the former beneficiary, the new beneficiary and the member. The member shall be responsible for payment of the cost incurred for any such actuarial calculations. The consent of the member's beneficiary to such change shall not be required

(Code 1983, § 13-33; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-110, § 1, 2-1-2010; Ord. No. L-290, § 1, 6-17-2013)

**Sec. 2-273. Death of member; survivor annuities; named beneficiary; spouse.**

(a) A vested member who either has 20 or more years of credited service, or is age 55 years or older, may elect form of payment Option A and name a survivor annuity beneficiary or may elect form of payment Option C and name a survivor annuity beneficiary or a trust. At any time prior to retirement, the member may revoke or change the election of Option A or Option C and nomination of survivor annuity beneficiary. Upon the death of a member who has a form of payment Option A or Option C election in effect the named survivor annuity beneficiary or trust shall be paid an annuity. The amount of annuity shall be computed in the same manner in all respects as if the member had retired the day preceding the date of the member's death, even though the member might not have met the applicable conditions for retirement. Payment to a survivor annuity beneficiary or trust under this section shall terminate upon the earlier of the end of the certain period and the death of the designated survivor annuity beneficiary.

(b) If a member has form of payment Option A or Option C election in effect at the time of retirement pursuant to this section, the election and naming of survivor annuity beneficiary shall continue in effect.

(c) The spouse of a vested member who does not have a form of payment Option A or Option C election in effect pursuant to section 2-276, and dies while in the employ of a participating employer, shall be paid an annuity. The amount of annuity shall be computed in the same manner as if the deceased member had retired the day preceding death, elected form of payment Option A named the spouse as beneficiary; even though the member might not have met the conditions for retirement. A spouse's annuity shall terminate upon the death of the spouse.

(Code 1983, § 13-34; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-290, § 2, 6-17-2013; Ord. No. L-298, § 3, 9-16-2013)

PROOFS

**Sec. 2-274. Death of member in line of duty; survivor annuities.**

(a) If a member dies and the retirement board finds that the member's death is the result of a personal injury or disease arising solely and exclusively out of and in the course of the member's actual performance of duty in the employ of a participating employer, and that workers' compensation is granted on account of the member's death, the applicable annuities provided in subsections (a)(1) through (3) of this section shall be paid, subject to subsection (b) of this section.

(1) The surviving spouse of the deceased member shall be paid an annuity equal to his weekly workers' compensation award converted to a monthly basis. Payment of the annuity shall begin with the month following termination of the surviving spouse's workers' compensation period and shall terminate with the payment for the month in which occurs the surviving spouse's death.

(2) The deceased member's unmarried child or children under age 18 years shall each be paid an annuity equal to the child's weekly workers' compensation award converted to a monthly basis. Payment of a child's annuity shall begin with the payment for the month following the month of termination of the child's workers' compensation period and shall terminate with the payment for the month in which occurs the child's adoption, marriage, attainment of age 18 years or death, whichever occurs first.

(3) The deceased member's financially dependent parents shall each be paid an annuity equal to the parent's weekly workers' compensation award converted to a monthly basis. Payment of a parent's annuity shall begin with the payment for the month following the month of termination of the parent's workers' compensation period and shall terminate with the payment for the month in which occurs the parent's remarriage or death.

(b) No annuities shall be paid under this section on account of the death of a member if any annuities become payable under section 2-276 on account of the member's death.

(c) If an annuity becomes payable under this section on account of the death of a member, the member's accumulated member contributions shall continue to be credited with interest until payment of an annuity begins. Accumulated member contributions shall be transferred to the annuity reserve fund when payment of an annuity starts.

(Code 1983, § 13-35; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-275. Disability retirement; conditions for.**

(a) The retirement board may retire a member on account of disability if all of the following requirements have been met:

(1) The member has five or more years of credited service;

(2) The member was a member at the time the disability was incurred;

(3) A written application for disability retirement, in the form and containing the information prescribed by the retirement board, has been filed with the retirement system by the member or the member's department head;

(4) Membership is terminated prior to the selected date of disability retirement;

(5) The participant submits to all medical examinations and tests and furnishes copies of all medical reports requested by the retirement board;

(6) The retirement board determines the member to be totally and permanently incapacitated for duty in the employ of the member's participating employer, by reason of a personal injury or disease;

(7) Two physicians, one of whom shall be selected by the retirement board and paid by the retirement system, and one of whom shall be selected by the member and paid by the member, both report to the retirement board, in writing, that the member is mentally or physically totally incapacitated for duty in the employ of the member's participating employer, the incapacity will probably be permanent, and the member should be retired.

PROOFS

(b) The five years of credited service requirement contained in this section shall be waived in the case of a member whom the retirement board finds to be in receipt of weekly workers' compensation on account of disability arising out of and in the course of his employment by a participating employer.

(Code 1983, § 13-36; Ord. No. K-414, § 2, 3-20-2006; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-298, § 4, 9-16-2013; Ord. No. 18-037, § 1, 11-5-2018, eff. 9-16-2013)

**Sec. 2-276. Disability annuity; amount of.**

(a) The amount of a disability retirement annuity under the standard form of payment shall be calculated as provided in section 2-270, subject to subsections (b) and (c) of this section.

(b) If a member is retired on account of disability as provided in section 2-275 for a disability arising out of and in the course of the member's employment by a participating employer, the following additional provisions shall apply:

(1) Subject to subsection (c) of this section, the amount of disability annuity under the standard form of payment during the member's duty disability period shall be 75 percent of the member's final average salary for all coverage plans.

(2) The member's duty disability retirement period begins on the date of the member's disability retirement.

(3) The member's duty disability retirement period ends on the first to occur of the following dates: the date the pension is terminated as provided in section 2-278; or the end of the month in which the retired member dies; or the date the annuity has been paid for the maximum duty disability retirement period.

(4) The maximum duty disability retirement period is the number of months in the period from the date of the member's duty disability retirement and the first to occur of the following dates: the date the member would have acquired 25 years of credited service had employment continued with a participating employer; or the date the member attains age 65 years but not prior to the date which is 60 months after the date of duty disability retirement.

(5) Credited service shall not be projected for the purpose of calculating the amount of a disability annuity.

(6) At the end of the disability period the disability benefit would convert to a regular retirement benefit with service credit granted for the duty disability period.

(c) The amount of a disability retirement annuity shall not exceed the difference between 100 percent of the member's final average salary and the monthly equivalent of any weekly workers' compensation paid the retired member.

(d) In no case shall the amount of the duty disability annuity under the standard form of payment for a police officer member be less than 42 percent of final salary, nor shall the amount of the non-duty disability annuity under the standard form of payment for a police officer member who has ten or more years of service be less than 25 percent of final salary.

(Code 1983, § 13-37; Ord. No. K-469, § 1, 2-20-2007; Ord. No. K-472, § 1, 3-5-2007)

**Sec. 2-277. Reexamination of disability retired member.**

(a) At least once each year during the first five years following a member's retirement on account of disability, and at least once in every three-year period thereafter, the retirement board may require a disability retired member who has not attained age 55 years to undergo a medical examination to be made by or under the direction of a physician designated by the board. If the retired member refuses to submit to the medical examination, payment of the retired member's disability annuity maybe suspended by the board until refusal is withdrawn. Should refusal continue for one year, all the retired member's rights in and to a disability annuity may be revoked by the retirement board. If the physician reports to the retirement board that the retired member is physically able and capable of resuming employment with the participating employer from which retired, and the retirement board concurs, the retired member shall be returned to employment and the disability annuity shall terminate. In returning the retired member to employment, reasonable latitude shall be allowed the participating employer in placing the retired member in a position commensurate to the retired member's type of work and compensation at the time of retirement.

PROOFS

(b) A disability retired member who is returned to employment shall again become a member and the credited service at the time of retirement shall be reinstated. The member shall be given credited service for the period the disability annuity was paid if within payment period weekly workers' compensation was paid on account of the same disability arising out of and in the course of employment by a participating employer; otherwise credited service shall not be given for the payment period.

(c) In the event a disability retired member who has not attained age 55 years becomes engaged in a gainful occupation, business or employment paying more than the difference between the retired member's final average salary and disability annuity, the annuity shall be reduced to an amount which together with the amount so earned equals but does not exceed the final average salary. However, for a police officer member, the reduced amount cannot be less than the minimums specified in section 2-276(d). Should the retired member's earnings change, the reduction of the annuity shall be adjusted accordingly. Gainful occupation, business or employment existing at the time of disability retirement, other than with a participating preceding disability retirement other than with a participating employer, shall not be considered to the extent of the amount of earnings in the calendar year preceding disability retirement. The retirement system may periodically request substantiated income information from retired members subject to this section. Failure to provide requested information within 90 days of the request shall cause suspension of payment of the disability annuity until the information is provided.

(Code 1983, § 13-~~16~~38; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-278. Disability review committee.**

(a) There shall be a disability review committee, made up of the following members:

(1) The treasurer and secretary and of the retirement board (who shall chair the committee);

(2) The risk management administrator for the city;

(3) The human resources director for the city;

(4) The human resources manager for the utilities authority;

(5) A designated representative for the police department;

(6) And the administrative department head of the department by whom the benefits applicant or retirant was employed.

(b) The disability review committee shall be responsible for the following:

(1) Preliminary investigation of each application for disability benefits, whether under section 2-275 or 2-276;

(2) Review and reexamination of continued entitlement of retirants to disability benefits;

(3) Devise forms for use in the disability administrative process, which forms shall include, but not be limited to, applications, authorizations and correspondence, with all such forms to receive approval by the retirement board;

(4) Obtain and consider all pertinent medical evidence which may be available or may be requested of the retirant or applicant;

(5) Establish policies and procedures necessary to carry out the responsibilities imposed by this section;

(6) Preparation and maintenance of a list of suitable outside consultants and medical experts, with such list to be periodically submitted to the retirement board for approval. Such list shall be available as a convenience in guiding the choice of a physician by the board's treasurer and secretary when making a medical referral in accordance with section 2-275(a)(7). But the choice of referral is not limited to listed consultants or physicians, should the treasurer and secretary reasonably determine that the referral should be made to consultant or physician whose name is not on the list;

(7) Submission of a written report setting out a recommendation to the retirement board upon completion of the preliminary investigation;

(8) Serve as an advisory body to the retirement board on matters relating to award, continuation and administration of disability benefit entitlement.

PROOFS

(Code 1983, § 13-38A; Ord. No. 15-003, § 1, 2-2-2015)

**Sec. 2-279. General coverage plan; applicability; credited service and/or age and credited service requirements for normal retirement; amount of normal retirement annuity; member contribution rate.**

(a) The general coverage plan is applicable to all members to whom a different coverage plan is not specifically made applicable.

(b) The credited service and/or age and credited service requirement for normal retirement are:

(1) 25 or more years of credited service; or

(2) Age 60 years or older and five or more years of credited service.

(c) The amount of a normal retirement annuity under the standard form of payment is:

(1) For general employees who are covered by a collective bargaining agreement, three percent of the member's final average salary times the member's credited service, not to exceed the applicable maximums set forth in sections 2-270 and 2-297.

(2) For general employees who are not covered by a collective bargaining agreement, three percent of the member's final average salary times the member's credited service, not to exceed the applicable maximums set forth in sections 2-270 and 2-297.

(d) The member contribution rate ~~is 5.16 percent~~ shall be the following percent of compensation:

(1) 5.16 percent for general employees employed by the city who are subject to collective bargaining.

(2) 5.16 percent for general employees employed by the city who are not subject to collective bargaining.

(e) The credited service requirement for vested termination of membership is five years. A vested former member may make application for benefit commencement on or after attainment of age 60 years.

(Code 1983, § 13-39; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-298, § 5, 9-16-2013; Ord. No. 18-037, § 2, 11-5-2018, eff. 9-16-2013)

**Sec. 2-280. Utilities authority coverage plan; applicability; credited service and/or age and credited service requirements for normal retirement; amount of normal retirement annuity; member contribution rate.**

(a) The utilities authority coverage plan is applicable to all members employed by the utilities authority.

(b) The credited service and/or age and credited service requirement for normal retirement are:

(1) 25 or more years of credited service; or

(2) Age 60 years or older and five or more years of credited service.

(c) The amount of a normal retirement annuity under the standard form of payment is three percent of final average compensation times credited service, subject to the applicable maximums set forth in sections 2-270 and 2-297.

(d) The member contribution rate is 6.16 percent of compensation.

(e) The credited service requirement for vested termination of membership is five years. A vested former member may make application for benefit commencement on or after attainment of age 60 years.

(Code 1983, § 13-40; Ord. No. K-52, § 2, 1-2-2001; Ord. No. K-383, § 1, 10-4-2005; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-298, § 6, 9-16-2013; Ord. No. 18-037, § 3, 11-5-2018, eff. 9-16-2013; Ord. No. 18-042, § 1, 12-17-2018, eff. 9-16-2013)

**Sec. 2-281. Deferred retirement option program (DROP).**

(a) *Generally.*

(1) In general, and subject to the provisions of this section, the deferred retirement option program, hereinafter referred to as the DROP, is a program under which an eligible member of the retirement system may elect to retire, participate, and become a retirant of the retirement system, deferring receipt of retirement benefits while continuing employment with the participating employer. The deferred monthly benefits of a DROP participant shall accrue in the retirement system on behalf of the DROP

PROOFS

participant, plus earnings (losses) at the rate of investment return earned (or lost) during the period of DROP participation. DROP assets are self-directed by the member and are subject to administrative expenses.

(2) During the period of DROP participation, neither the participating employer nor the DROP participant is obligated to make additional contributions to the retirement system on behalf of the DROP participant. Upon termination of employment and participation in the DROP, the DROP participant shall receive his total DROP benefits and begin to receive his previously determined normal retirement benefits under the option elected prior to DROP participation. Employment while participating in the DROP does not guarantee employment for any specified period. A DROP participant is a retired member of the retirement system.

(b) *Eligibility to participate in the DROP.*

(1) Any member who is eligible to receive a normal retirement annuity and is employed by a participating employer may participate in the DROP and there is no break in service between the member's last working day as an employee and first day as a retired member and DROP participant. The member shall advise the participating employer and the retirement system in writing of the date on which DROP shall begin.

(2) Election to participate shall be forfeited if not exercised within the first 30 years of credited service. However, participation in the first year of enactment will be extended to all eligible members.

(3) The total years of participation in the DROP shall not exceed five years.

(4) Upon a member's election to participate in the DROP, he shall cease to be a member and shall no longer accrue any benefits under the retirement system. For all retirement system purposes, the member becomes, a retired member. The amount of credited service and final average salary freeze as of the date of entry into the DROP. Retirement system amendments which become effective after the date of participation in the DROP will not be applicable to the DROP participant, unless expressly stated by the amendment.

(5) Upon electing to participate in the DROP, the member shall submit on forms required by the retirement system and/or the third-party administrator:

a. A written election to retire;

b. A written election to participate in the DROP;

c. An irrevocable resignation from service to the city and withdrawal from the DROP effective after no more than 60 months participation in the DROP;

d. A properly completed DROP application for normal retirement as provided in this section; and

e. Any other information required by the retirement system or by the third-party administrator or provider.

(6) Reemployed retired members of the city's retirement system are not eligible to participate in DROP.

(c) *Amounts payable upon election to participate in DROP.*

(1) Monthly retirement benefits that would have been payable had the member terminated employment with the participating employer and elected to receive monthly pension payments will be paid into the DROP and credited to the retired member. Payments into the DROP will be made monthly over the period the retired member participates in the DROP, up to a maximum of 60 months.

(2) Each DROP participant shall have a DROP account to which his monthly retirement benefits will be transferred. The participating employer shall select a third-party administrator or provider for this purpose. Payments to the DROP shall be directly deposited with a third-party administrator or provider. Each DROP participant shall direct the manner in which the amounts in his DROP account shall be invested from options selected by the participating employer and approved by the board of trustees. The DROP account will be responsible for investment expenses and the DROP participant will be responsible for the risks associated with investment outcomes. If a retired member does not terminate employment

PROOFS

at the end of participation in the DROP, all future DROP transfers shall cease and be permanently forfeited.

(3) No payments will be made to a retired member until he terminates employment with the city utilities authority.

(4) Employee benefits, other than benefits under the retirement system, which are granted to employees, will be provided to DROP participants.

(5) Upon termination of employment, the retired member, or if deceased, such retired member's named beneficiary, and verification of the same to the board of trustees, a retired member or named beneficiary will receive the balance of the DROP in accordance with the option listed below:

*Direct rollover*. All accrued DROP benefits, plus interest and earnings, if any, shall be paid from the DROP directly to the custodian of an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased DROP participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in section 402(c)(9) of the Internal Revenue Code.

(6) Any form of payment selected must comply with the minimum distribution requirements of the IRC 401(a)(9).

(7) The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for income deduction orders and federal income tax levies.

(8) DROP participants shall not be eligible for disability retirement benefits as provided under the retirement system. In the event a DROP participant becomes incapacitated for employment by the participating employer, the DROP participation will terminate, and the former DROP participant will elect one of the alternatives under subsection (c)(5) of this section.

(9) Death benefits under the DROP.

a. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided under subsection (c)(5) of this section.

b. The monthly retirement benefit transferred to the DROP account during the month of a DROP participant's death shall be the final transfer for such DROP account.

c. Eligibility to participate in the DROP terminates upon the death of a DROP participant. A DROP participant's annuity beneficiary shall not be eligible for retirement system death benefits as provided in section 2-273 or 2-274, unless the DROP participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being transferred to the DROP.

(10) Cost-of-living adjustment. The DROP participants' monthly retirement benefit shall be increased as provided in section 2-283.

(d) *Administration of the program.*

(1) The board of trustees shall make such rules as are necessary for the effective and efficient administration of this subsection. The board of trustees shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek qualified independent advice.

(2) The DROP will be cost-neutral to the city. To maintain the cost-neutral basis to the city, any increase or decrease in the cost of administering the DROP will be absorbed by the participating employer and/or the DROP accounts on a proportionate basis as determined by the participating employer.

(Code 1983, § 13-40.1; Ord. No. K-511, § 1, 10-1-2007; Ord. No. L-85, § 1, 10-19-2009)

**~~Sec. 13-41. Reserved.~~**

PROOFS

**Sec. 2-282. Police officer coverage plan; applicability; credited service and/or age and credited service requirements for normal retirement; amount of normal retirement annuity; member contribution rate.**

(a) The police officer coverage plan is applicable to all members who are a police officer employed by the city.

(b) The credited service and/or age and credited service requirement for normal retirement are:

(1) 25 or more years of credited service; or

(2) Age 55 years or older and five or more years of credited service.

(c) The amount of a normal retirement annuity under the standard form of payment is three percent of the member's final average salary times the member's credited service, not to exceed the applicable maximum set forth in sections 2-270 and 2-297:

(1) For police officers who are covered by a collective bargaining agreement, three percent of the member's final average salary times the member's credited service, not to exceed the applicable maximums set forth in sections 2-270 and 2-297.

(2) For police officers who are not covered by a collective bargaining agreement, three percent of the member's final average salary times the member's credited service, not to exceed the applicable maximums set forth in sections 2-270 and 2-297.

(d) The member contribution rate shall be the following percent of compensation:

(1) 5.16 percent for police officers employed by the city who are subject to collective bargaining;

(2) 5.16 percent for police officers employed by the city who are not subject to collective bargaining.

(e) The credited service requirement for vested termination of membership is five years. A vested former member may make application for benefit commencement on or after attainment of age 60 years.

(Code 1983, § 13-42; Ord. No. L-298, § 7, 9-16-2013; Ord. No. 18-037, § 4, 11-5-2018, eff. 9-16-2013)

**Sec. 2-283. Cost-of-living adjustment pertaining to COLA.**

The board may, but is not required, with the advice of the plan's actuary, to adjust the pensions of retired members annually to reflect the change in the cost-of-living as measured by the Consumer Price Index or such other index approved by the board, provided that such adjustments may only be made from investment return of the fund in excess of that required to satisfy the actuarial interest assumption used in the most recent actuarial valuation of the plan. The adjustment shall be subject to a maximum in any plan year of three percent of the current benefit amount. The cumulative value of any cost-of-living adjustments granted pursuant to this section shall not be greater than the cumulative net actuarial gains and losses incurred after the effective date of the ordinance from which this section is derived. The procedures and methods to be followed in the determination of any adjustments shall be established from time to time by the board.

(Code 1983, § 13-43; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-284. Accounting.**

The mandatory accounting funds of the retirement system are the member's deposit fund, the employer accumulation fund and the annuity reserve fund. The retirement board may establish such additional funds and accounts as it from time to time deems appropriate. The maintenance of separate funds and accounts does not require the actual segregation of retirement system assets among the funds and accounts. The accounting records of the retirement system shall be maintained in a manner which permits determination of the equity of each participating employer in the assets of the retirement system.

(Code 1983, § 13-44; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-285. Members' deposit fund.**

(a) The member's deposit fund is hereby created. It shall be the fund in which shall be accumulated the contributions of members, and from which shall be made refunds and transfers of accumulated member contributions, as provided in this division.

PROOFS

(b) A member's contributions to the retirement system shall be as provided by the coverage plan applicable to the member.

(c) Each participating employer shall cause the contributions provided for in subsection (b) of this section to be deducted from the compensation of each member on each payroll. The members' contributions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member is thereby changed. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of the member's compensation less the deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by such payment, except as to benefits provided by the retirement system. When deducted, the contributions shall be paid to the retirement system within five working days and shall be credited to the member's accumulated member contribution account.

(Code 1983, § 13-45; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-286. Accumulated member contributions—Transfer.**

Upon retirement, a member's accumulated member contributions shall be transferred to the annuity reserve fund. Except as otherwise provided in this division, at the expiration of a period of four years following the date a member ceases to be a member, any balance of the member's accumulated member contributions unclaimed by the member or the member's legal representative, shall be transferred to the employer accumulation fund.

(Code 1983, § 13-46; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-287. Accumulated member contributions—Refund of.**

(a) The accumulated member contributions of a member or a vested former member who has not met a credited service and/or credited service and age requirement for normal retirement shall be paid to the former member or vested former member upon written request to the retirement system.

(b) If a member, vested former member or former member dies prior to retirement and no annuity becomes payable by the retirement system on account of the death, the deceased's accumulated member contributions shall be paid to the deceased's refund beneficiary. If there is no refund beneficiary surviving the deceased, the accumulated member contributions shall be paid to the estate of the deceased.

(Code 1983, § 13-47; Ord. No. K-469, § 1, 2-20-2007)

~~**Sec. 13-48. Reserved.**~~

**Sec. 2-288. Employer accumulation fund; funding objective; contributions by participating employers.**

(a) The employer accumulation fund is the fund in which shall be accumulated the contributions made by participating employers. The funding objective for the retirement system is to establish and receive contributions during each plan year which are sufficient to:

(1) Fund the actuarial cost of benefits likely to be paid on account of service rendered by members during the plan year (normal cost); and

(2) Liquidate the unfunded actuarial cost for benefits likely to be paid on account of service rendered by members prior to the plan year (unfunded actuarial accrued liability) over not more than 30 years from the date of establishment of each increment to the unfunded actuarial accrued liability, but in no case over a longer period than the maximum period established by state statute or the maximum period established by the governmental accounting standards board for the purpose of determining pension expense.

(b) Participating employer contributions shall be determined by annual actuarial valuation using a level percent of compensation actuarial cost method. A separate contribution rate shall be determined for each coverage plan. Each participating employer shall appropriate or budget the contributions so determined and pay the contribution to the retirement system.

(c) Administrative expense incurred in the operation of the retirement system shall be charged to the employer accumulation fund and paid on a current basis in addition to the annual funding costs otherwise

PROOFS

determined.

(Code 1983, § 13-49; Ord. No. K-469, § 1, 2-20-2007)

**~~Secs. 13-50, 13-51. Reserved.~~**

**Sec. 2-289. Investment of ~~moneys.~~**

(a) The retirement board shall be the trustees of the ~~moneys~~ and assets of the retirement system and shall have full and unrestricted discretionary power and authority to invest and reinvest such portion of the ~~moneys~~ and assets as in its judgment is not immediately required for the payment of pensions, refunds of accumulated contributions and expenses. The retirement board shall have full and unrestricted discretionary power and authority to hold, sell, assign, transfer or otherwise dispose of any securities and investments in which any ~~moneys~~ of the retirement system have been invested, as well as the proceeds of such investments. In exercising its discretionary power and authority with respect to the management of the ~~moneys~~ and assets of the retirement system, the retirement board shall have in mind the responsibilities which are attached to such office and shall exercise the judgment and care under the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, considering probable income and appreciation as well as the probable safety of capital. Within the limitations of the foregoing standards, investments may be made in accordance with the provisions of applicable state law, if any.

(b) The board may employ investment counsel to advise in the making and disposition of investments and may delegate discretionary authority to its investment counsel within the framework of a duly adopted investment policy.

(c) The board may employ the services of a bank, insurance company or other investment company in the execution of its investment transactions.

(Code 1983, § 13-52; Ord. No. K-469, § 1, 2-20-2007)

**~~Secs. 13-53, 13-54. Reserved.~~**

**Sec. 2-290. Allowance of regular interest.**

All interest and other earnings on ~~moneys~~ and investments of the retirement system shall be credited to the employer accumulation fund. The retirement board may use a portion of the earnings of the system to defray the costs of investing and managing the assets of the system. The retirement board shall, at the end of each fiscal year credit interest to accumulated member contributions and to the annuity reserve fund. Interest shall be calculated on the accumulated member contribution balance at the beginning of the fiscal year and on the mean balance in the annuity reserve fund. The interest so credited shall be charged to the employer accumulation fund.

(Code 1983, § 13-55; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-291. Right to annuity not subject to garnishment; assignment.**

(a) The right of a person to annuity payments, to the return of accumulated member contributions, the annuity itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this division and any ~~moneys~~ belonging to the retirement system shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any process of law whatsoever, and shall be unassignable, except as is specifically provided in this division. The city shall have the right of setoff from the employee's retirement and benefit system for any claim arising from larceny by, embezzlement by or fraud of a member.

(b) If a member or a survivor annuity beneficiary is covered by a group insurance or prepayment plan participated in by a participating employer and should the member or survivor annuity beneficiary be permitted to and elect to continue such coverage, the annuity recipient may authorize the retirement board to have deducted from his annuity the payments required to continue coverage under the group insurance or prepayment plan.

(Code 1983, § 13-56; Ord. No. K-469, § 1, 2-20-2007)

**~~Secs. 13-57, 13-58. Reserved.~~**

PROOFS

**Sec. 2-292. Annuity reserve fund created.**

The annuity reserve fund shall be the fund from which shall be paid all annuities. In the event a disability annuity is terminated as provided in section 2-277 and the retired member returns to employment with a participating employer, the annuity reserve at that time shall be transferred from the annuity reserve fund to the member's deposit fund, and the employer accumulation fund in the same proportion as was originally transferred from the said funds to the annuity reserve fund.

(Code 1983, § 13-59; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-293. Gifts, devises, etc., to retirement system.**

All gifts, devises and bequests to the retirement system shall be credited to the employer accumulation fund division as the retirement board shall determine.

(Code 1983, § 13-60; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-294. Subrogation.**

In the event a person becomes entitled to an annuity or other benefit payable from funds of the retirement system, as a result of an accident or injury caused by the act of a third party, the participating employer shall be subrogated to the rights of the said person against such third party to the extent of the benefits which the retirement system pays or becomes liable to pay.

(Code 1983, § 13-61; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-295. Correction of errors.**

The retirement board shall correct errors in the records of the retirement system and in the actions of the retirement board and/or its agents and staff. The retirement board shall seek to recover overpayments and shall make up underpayments. Recovery of overpayments may be accomplished by reducing future payments so that the actuarial present value of actual payments is equal to the actuarial present value of correct payments.

(Code 1983, § 13-62; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-296. Member contribution pickup.**

(a) Upon implementation, a member's participating employer shall, solely for the purpose of compliance with section 41724(h) of the Internal Revenue Code, pick up, for the purposes specified in that section, member contributions required by this division for all compensation of the member after implementation. Member contributions picked up under the provisions of this section shall be treated as participating employer contributions for purposes of determining income tax obligations under the Internal Revenue Code; however, such picked up member contributions shall be included in the determination of the member's compensation for all other purposes under federal and state laws.

(b) Member contributions picked up under this section shall continue to be designated member contributions for all purposes of this division and shall be considered as part of the member's compensation for purposes of determining the amount of a member contribution. The provisions of this section are mandatory with respect to all employees of a participating employer, and the individual member shall have no option concerning the pickup or to receive the contributed amounts directly instead of having them paid by the participating employer to the retirement system.

(c) Implementation of this section shall be by resolution of the ~~governing body~~ city commission of a participating employer adopted subsequent to receipt of a letter of determination from the Internal Revenue Service as to the qualified status of the retirement system.

(Code 1983, § 13-63; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-297. Qualified plan.**

(a) The city intends the retirement system to be a qualified pension plan under section 401 of the Internal Revenue Code, as amended, and that the trust be an exempt organization under section 501 of the Internal Revenue Code. The retirement board shall administer the retirement system so as to fulfill this intent.

PROOFS

(b) Employer-financed benefits limitation.

(1) 415 Internal Revenue Code limits:

a. Basic limitations. Subject to the adjustments in subsection (b)(1) of this section, the maximum amount of the actual annual retirement income paid in any year with respect to a participant under this plan attributable to employer-provided benefits shall not exceed the dollar amount allowable for any calendar year pursuant to section 415(b) of the Code, as adjusted in such calendar year for increases in the cost-of-living in accordance with regulations issued by the Secretary of the Treasury under section 415(d) of the Internal Revenue Code. For the purposes of applying the basic limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following benefits shall not be taken into account:

1. Any ancillary benefit which is not directly related to retirement income benefits;

2. Any other benefit not required under section 415(b)(2) of the Internal Revenue Code and Treasury regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the Internal Revenue Code.

b. Participation in other defined benefit plans. The limitation of this section with respect to any participant who at any time has been a participant in any other defined benefit plan (as defined in section 414(j) of the Internal Revenue Code) maintained by the city shall apply as if the total benefits payable under all defined benefit plans in which the participant has been a participant where payable from one plan.

c. Adjustments in limitations.

1. In the event the participant's retirement benefits become payable before age 62, the maximum amount of annual retirement income limitation prescribed by this article shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of section 415(b) of the Internal Revenue Code, so that such limitation (as reduced) equals an annual benefit (beginning when such retirement income begins) which is equivalent to section 415(b) of the Internal Revenue Code maximum amount of annual retirement income beginning at age 62. This limitation shall not apply to qualified police or firefighters, as that term is defined in section 415(b)(2)(G) of the Internal Revenue Code.

2. In the event the participant's benefit is based on at least 15 years of credited service, the adjustments provided for in subsection (a) of this section shall not apply.

3. The reductions provided for in subsection (a) of this section shall not be applicable to disability benefits or preretirement death benefits.

4. In the event the participant's retirement benefit becomes payable after age 65, for the purposes of determining whether this benefit meets the basic limitation set forth in subsection (b)(1)c.1 of this section, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made using an assumed interest rate of five percent and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

5. Less than ten years of service. The maximum retirement benefits payable under this division to any participant who has completed less than ten years of credited service with the city shall be the amount determined under subsection (b)(1)c.1 of this section multiplied by a fraction, the numerator of which is the number of the participant's years of credited service and the denominator of which is ten. The reduction provided for in this subsection shall not be applicable to disability benefits or preretirement death benefits.

6. Ten-thousand-dollar limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a participant shall be deemed not to exceed the limitations in this section if the

PROOFS

benefits payable, with respect to such participant under this plan and under all other qualified defined benefit pension plans to which the city contributes, do not exceed $10,000.00 for the applicable plan year and for any prior plan year and the city has not any time maintained a qualified defined contributions plan in which the participant participated.

7. Reduction of benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the participant's benefit under any defined benefit plans in which participant participated, such reduction to be made first with respect to the plan in which participant most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the participant participated, such reduction to be made first with respect to the plan in which participant most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans; provided, however, that necessary reductions may be made in different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such participant.

8. Cost-of-living adjustments. The limitations as stated herein shall be adjusted annually in accordance with any cost-of-living adjustment prescribed by the Secretary of the Treasury pursuant to section 415(d) of the Internal Revenue Code.

d. This section shall be effective for distributions after December 31, 2001.

e. For the purposes of applying the limitations of section 415(b) of the Internal Revenue Code, the term "compensation" means and includes base pay, incentive pay, longevity pay, shift premiums, police incentive pay, overtime pay, base salary or wages while absent from work on account of vacation, holiday, illness or other authorized paid leave, payments in consideration of unused sick and vacation time, and city contributions on behalf of the employee to a deferred compensation program maintained pursuant to section 457 of the Internal Revenue Code. Additionally, this limitation specifically includes the crediting of compensation while absent from service for military duty; such crediting shall not exceed the compensation that would have been credited under the system if system services had continued.

(c) The provisions of this division notwithstanding, the retirement board shall at all times administer the retirement system in compliance with the provisions of section 415 of the Internal Revenue Code which are applicable to public employee retirement plans.

(d) It is the intent of the city that the retirement system be permanent and remain in effect for an indefinite period. The city, however, reserves the right to modify, amend or discontinue the retirement system at any time. The city expressly reserves the right to amend the retirement system in order to take advantage of or comply with any statute, rule or regulation of the federal government of the state or any duly constituted agency thereof.

(e) In the event the retirement system is discontinued or terminated, all members shall immediately become fully vested in their benefits. The discontinuance or termination shall be carried out in all respects in conformance with applicable statute, rule or regulation of the federal government or the state or any duly constituted agency thereof.

(f) Actuarial equivalencies shall be calculated using such rates of interest and mortality tables as the retirement board shall from time to time adopt. In no case shall a rate of interest be less than five percent a year, compounded yearly. No change in interest rate or mortality table shall reduce the accrued benefit of any member. In the event the makeup of the retirement board is changed in a manner that brings the board under the direct control of an employer, actuarial equivalencies shall be calculated using the 1974 Group Annuity Mortality Table (Male) and an interest rate of five percent a year, compounded yearly.

(g) All assets of the retirement system shall be held and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall be used for no other purpose. No part of the assets shall be used for or diverted to purposes other than for the exclusive benefit of participants and beneficiaries prior to satisfaction of all retirement system obligations.

PROOFS

(h) Members of the retirement board and its employees and agents are prohibited from:

(1) Having a beneficial interest, direct or indirect, in an investment of the retirement system;

(2) Borrowing from the retirement system; and

(3) Receiving any pay or emolument from any individual or organization providing services to the retirement system.

(i) 401(a)(31) rollovers.

(1) Direct transfers of eligible rollover distributions.

a. *General.* This subsection (g)(1) applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this subsection (g)(1), a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

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

*Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.

*Distributee* means and includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is entitled to payment for alimony and child support under an income deduction order are distributees with regard to the interest of the spouse or former spouse.

*Eligible retirement plan* means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, a qualified trust, an annuity plan described in section 403(a) of the Internal Revenue Code, an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A) of the Internal Revenue Code or an annuity contract described in section 403(b) of the Code, that accepts the distributee's eligible rollover distribution.

*Eligible rollover distribution* means any distribution of all or any portion of the balance to the credit of the distributee, except that the term "eligible rollover distribution" does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more and any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(j) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For the purpose of this section, the term "eligible employee" means an individual who was a member of the retirement system before the first plan year beginning after September 30, 1996.

(k) 401(a)(9) Internal Revenue Code required distributions.

(1) Effective for distributions after December 31, 1996, in accordance with section 401(a)(9) of the Internal Revenue Code, all benefits under this plan will be distributed, beginning not later than the required beginning date set forth in subsection (k)(2) of this section, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and a beneficiary.

(2) Any and all benefit payments shall begin by the later of:

a. April 1 of the calendar year following the calendar year of the member's retirement date; or

b. April 1 of the calendar year following the calendar year in which the member attains age 70 1/2.

PROOFS

(3) If an employee dies before his entire vested interest has been distributed to him, the remaining portion of such interest will be distributed at least as rapidly as provided for under this plan.

(4) All distributions under this plan will be made in accordance with this section, section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, notwithstanding any provisions of this plan to the contrary, effective beginning January 1, 2003.

(5) Any remaining portion of the member's interest that is not payable to a beneficiary designated by the member will be distributed within five years after the member's death; and

(6) Any portion of the member's interest that is payable to a beneficiary designated by the member will be distributed either:

a. Within five years after the member's death; or

b. Over the life of the beneficiary or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the member died or, if the designated beneficiary is the member's surviving spouse, commencing not later than the end of the calendar year following the year in which the member would have attained age 70 1/2.

(Code 1983, § 13-64; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-150, § 3, 10-18-2010)

**Secs. 2-298--2-329. Reserved.**

*Subdivision II. Retirement Board*

**Sec. 2-330. Created; composition.**

(a) There is hereby created a retirement board in which is vested the power and authority to administer, manage and operate the retirement and benefit system, and to construe and make effective the provisions of this article. The board shall consist of the following persons:

(1) Two members of the city commission to be designated by the city commission.

(2) Two members from the general membership, one of these to be elected by members covered by the utilities authority coverage plan and the other to be elected by the members covered by the general coverage plan.

(3) One member to be elected by the members covered by the police officer coverage plan.

(4) The director of finance.

(5) A member to be designated by the city utilities authority.

(b) The elections of members to the retirement board shall be held under such rules and regulations as the retirement board shall from time to time adopt.

(Code 1983, § 13-71; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-331. Meetings; quorum; rules; records.**

The retirement board shall hold at least four meetings each year at a time and place designated by the board, and as many other meetings that are deemed necessary to transact the business of the retirement system. At any meetings of the retirement board, four members shall constitute a quorum. Each retirement board member shall be entitled to one vote on each question and at least four concurring votes shall be required for a decision by the board at any of its meetings. The board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the board shall be public. As to F.S. ch. 185, all acts and decisions shall be effectuated by vote of a majority of the members of the board.

(Code 1983, § 13-72; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-332. Officers; actuary; contracts.**

(a) The retirement board, at its first meeting in October, shall designate from its own number a chairperson and vice chairperson.

PROOFS

(b) The director of finance of the city shall be treasurer and secretary of the retirement system and the custodian of its assets.

(c) The city attorney or his designee shall be legal advisor to the retirement board.

(d) The retirement board shall designate an actuary who shall be the technical advisor to the board and who shall perform such other duties as the retirement board shall from time to time designate.

(e) The retirement board is authorized and empowered to employ such professional and other services as are required for the proper administration of the retirement system. Such services shall be employed on a contractual or fee basis and persons performing such services shall not be considered employees of the city. Compensation for such services shall be fixed by the retirement board, subject to approval by the city commission.

(Code 1983, § 13-73; Ord. No. K-469, § 1, 2-20-2007; Ord. No. 16-012, § 2, 6-20-2016)

**Sec. 2-333. Annual reports.**

The secretary-treasurer shall keep, or cause to be kept, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system. The retirement board shall annually report to the mayor and city commission showing the fiscal transactions of the retirement system for the preceding fiscal year. The board shall furnish the mayor and the city commission such additional information regarding the operation of the system as the mayor or city commission shall from time to time request.

(Code 1983, § 13-74; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-334. Adoption of experience tables and regular interest.**

The retirement board shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are necessary in the operation of the retirement system on an actuarial basis.

(Code 1983, § 13-75; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-335. Vacancies.**

A retirement board member provided for in section 2-330(a)(2) or (3) who ceases to be a member shall be considered to have resigned from the retirement board and the board shall, by resolution, declare the office vacant. A vacancy on the retirement board shall be filled, for the unexpired term, in the same manner as the office was previously filled. In the event the retirement board member provided for in section 2-330(a)(4) ceases to be director of finance, the retirement board shall appoint an employee from the department of finance to serve on the board until such time as the director of finance takes office.

(Code 1983, § 13-76; Ord. No. K-469, § 1, 2-20-2007)

**Sec. 2-336. Terms of office.**

The term of office of a retirement board member provided for in section 2-330(a)(2) and (3) shall be for three years. The retirement board members provided for in subsections section 2-330(a)(1) and (4) shall serve for the term of their tenure in office. The city utilities authority member shall serve for a term of three years.

(Code 1983, § 13-77; Ord. No. K-469, § 1, 2-20-2007)

**Secs. 2-337--2-360. Reserved.**

## DIVISION 5. POLICE OFFICERS' RETIREMENT/PENSION FUNDS*

***State law reference**—Municipal police pensions, F.S. ch. 185.

### *Subdivision I. In General*

**Sec. 2-361. Police officers' state contribution fund created.**

The police officers' state contribution fund is hereby created. It shall be the fund in which shall be accumulated the ~~moneys~~ received from the state for police officers~~'~~ members. In no case shall the city contribute to the said fund and in no case shall disbursements from the fund exceed the balance credited to the fund.

(Code 1983, § 13-155; Ord. No. K-469, § 1, 2-20-2007)

PROOFS

**Secs. 2-362--2-380. Reserved.**

*Subdivision II. Police Officers' Retirement Trust Fund*

**Sec. 2-381. Definitions.**

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

*Actuarial equivalence* or *actuarially equivalent* means that any benefit payable under the terms of this plan in a form other than the normal form of benefit shall have the same actuarial present value on the date payment commences as the normal form of benefit. For the purposes of establishing the actuarial present value of any form of payment, all future payments shall be discounted for interest and mortality by using 7 1/2 percent interest and the 1983 Group Annuity Mortality Table for Males, with ages set ahead five years in the case of disability retirees.

*Average salary* means the average regular monthly salary of the police officer during his best three years of the last ten years of credited service prior to retirement, termination, or death. The term "average salary" includes amounts paid ~~a~~ in differential wages while a member was deployed from employment to active duty military service.

*Code* means the Internal Revenue Code of 1986, as amended from time to time.

*Credited service* means that period of continuous uninterrupted employment with the city as a police officer from the effective date of the ordinance from which this division is derived, or his last date of employment, if later, and the earlier of his date of termination of service or his normal retirement date, as hereinafter described. An authorized temporary leave of absence, granted by the employing authority, whether paid or unpaid, shall not be construed as a break in credited service provided the police officer's credited benefits remain in the plan. Time spent in compulsory service of the United States by the police officer will be credited, provided the police officer re-enters the service of the city as a police officer within 12 months after the date of release from such military service, except that members who die or become disabled while serving on active duty military service shall be entitled to the rights of this section even though such member was not reemployed by the city. Members who die or become disabled while on active duty military service shall be treated as though reemployed the day before the member became disabled or died, was credited with the service they would have been entitled to under this section, and then either died a non-duty death while employed or became disabled from a nonduty disability.

*Police officer* means any duly appointed and enrolled police officer in the regular full-time employ of the city.

*Police officers' retirement plan,* herein called the plan, means a special plan created exclusively for the purposes herein provided.

*Salary* means the regular monthly salary paid to a police officer for services rendered. For the purposes of applying the limitations of section 415(b) of the Internal Revenue Code, the term "compensation" means and includes base pay, incentive pay, longevity pay, shift premiums, police incentive pay, overtime pay, base salary or wages while absent from work on account of vacation, holiday, illness or other authorized paid leave, payments in consideration of unused sick and vacation time, and city contributions on behalf of the employee to a deferred compensation program maintained pursuant to section 457 of the Internal Revenue Code. Additionally, this limitation specifically includes the crediting of compensation while absent from service for military duty; such crediting shall not exceed the compensation that would have been credited under the system if system services had continued.

*Total disability* means as defined in F.S. § 185.18(2), as amended.

(Code 1983, § 13-161; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-84, § 1, 7-20-2009; Ord. No. L-118, § 1, 5-3-2010)

**Sec. 2-382. Police officers' retirement law and rules adopted.**

The provisions thereof and all rules and regulations promulgated pursuant to F.S. ch. 185, known as "Municipal Police Officers' Retirement Trust Funds," are hereby adopted by the city, except as inconsistent with the provisions of city ordinances or portions thereof.

(Code 1983, § 13-162; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008)

PROOFS

**Sec. 2-383. Established; purpose; effective date.**

(a) There is hereby established a retirement plan for the members of the city police department. The purpose of this plan is to establish the terms and conditions under which supplementary retirement benefits will be provided to eligible members of the police department. The benefits under this plan shall be in addition to the amounts to which eligible members are entitled under the city employees' pension plan and in addition to amounts received as Social Security benefits or from any other pension plan. The effective date of this plan shall be the anniversary date of the plan. This system is intended to be a tax qualified plan under section 401(a) of the Internal Revenue Code and meet the requirements of a governmental plan, as defined in section 414(d) of the Internal Revenue Code.

(b) There is hereby created a board of trustees of the retirement plan for the members of the city police department which shall be solely responsible for administering the trust fund. The membership of the board of trustees consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the city and must be appointed by the city commission, and two of whom must be police officers, as defined in F.S. § 185.02 who are elected by a majority of the active police officers who are members of such plan. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the city commission. Upon receipt of the fifth person's name, the city commission shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members appointed or elected, shall serve as trustee for a period of four years and may succeed himself in office. Each resident member shall serve as trustee for a period of four years, unless sooner replaced by the city commission, at whose pleasure the member serves, and may succeed himself as a trustee. Each police officer member shall serve as trustee for a period of four years unless he sooner leaves the employment of the city as a police officer, whereupon a successor shall be chosen in the same manner as an original appointment. Each police officer may succeed himself in office.

(Code 1983, § 13-163; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-111, § 1, 2-1-2010; Ord. No. L-118, § 2, 5-3-2010)

**Sec. 2-384. Excise tax on casualty insurance premiums.**

There is hereby assessed and levied on every insurance company, corporation or other insurer now engaged in or carrying on, or which shall hereafter engage in or carry on the business of insuring with respect to casualty risks, as shown by the records of the state department of insurance, an excise or license tax in addition to any lawful license or excise tax now levied by the city, amounting to 0.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the corporate limits of the city.

(Code 1983, § 13-164; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008)

**Sec. 2-385. Records; accounts; disbursements; deposits; contributions; actions.**

(a) The board of trustees shall keep and maintain a full and complete permanent record of all accounts, receipts, disbursements, deposits, and all other official actions of the board. These records shall be available to all members participating in the plan.

(b) The trustees, if they so desire, may designate any one of their members to execute all instruments requiring execution by the board of trustees and/or they may designate the chairperson to execute such instruments or exercise such powers as they may determine. The members of the board of trustees shall be free from any liability for any action taken or omitted in carrying out their duties of administering the plan, except that which results from their own willful misconduct.

(c) The board of trustees may employ a money manager to advise the board in the making and disposition of investments and may delegate discretionary authority to its money manager within the framework of a duly adopted investment policy. The board of trustees may also employ the services of a bank, insurance company, or other investment company in the execution of its investment transactions.

(d) All ~~moneys~~ and investments of the plan shall be held for the sole purpose of meeting disbursements for annuities and other payments authorized, and shall be used for no other purpose. Available cash on deposit shall not exceed ten percent of the total assets of the plan.

PROOFS

(e) In addition to all other powers of the board of trustees as provided by law, the board of trustees may invest and re-invest the assets of the plan as follows:

(1) The board shall have the power and authority to invest and reinvest the ~~moneys~~ of the fund and to hold, purchase, sell, assign, transfer, and dispose of any securities and investments held in the fund, including the power and authority to employ counseling or investment management services. The aim of the investment policies shall be to preserve the integrity and security of fund principal, to maintain a balanced investment portfolio, to maintain and enhance the value of the fund principal, and to secure the maximum total return on investments that is consonant with safety of principal, provided that such investments and reinvestments shall be limited only by the investments permitted by the investment policy guidelines adopted by the board in accordance with state law. Notwithstanding the foregoing, investments in foreign investments are limited in accordance with F.S. § 185.06(1)(b)4. The board members must discharge these duties with respect to the plan solely in the interest of the participants and beneficiaries and:

a. For the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan;

b. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

c. By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(2) Notwithstanding anything else in this section and as provided in F.S. 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section. Beginning January 1, 2010, the board must proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have directly in that company. The divestiture of any such security must be completed by September 10, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by F.S. § 215.473 as provided for in F.S. § 185.06(7) and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of determining which companies are scrutinized companies, the board may utilize the list of scrutinized companies as developed by the state board of administration. No person may bring any civil, criminal or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

(3) Marketable, investment grade real estate investment trusts, but not to include investments in private mortgages, land, private equity or other illiquid real estate investments.

(4) Notwithstanding anything else in this section and as provided in F.S. § 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section. Beginning January 1, 2010, the board must proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have directly in that company. The divestiture of any such security must be completed by September 10, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by F.S. § 215.473 as provided for in F.S. § 185.06(7) and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of determining which companies are scrutinized companies, the board may utilize the list of scrutinized companies as developed by the state board of administration. No person may bring any civil, criminal or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this section.

PROOFS

(Code 1983, § 13-165; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-111, § 2, 2-1-2010; Ord. No. 14-002, § 1, 2-3-2014)

**Sec. 2-386. Retirement.**

(a) *Normal retirement date.* The normal retirement date for participants retiring on or after October 1, 1999, shall be age 55 or older with ten or more years' service. With the consent of the board of trustees, a participant may retire within the ten-year period prior to his normal retirement date and in such an event the cash accumulated under this plan may be applied to purchase an actuarially reduced pension at such earlier retirement date. A participant may also retire with no reduction in pension benefits after obtaining 25 or more years of credited service.

(b) *Amount of retirement income*.

(1) Each police officer who is a participant in the plan shall be entitled to two percent of his average monthly salary for each year of service from the effective date (July 29, 1958) until his normal retirement date, subject to the following limitations:

1. Credited service is limited to a maximum of 30 years; and

2. Retirement income under this section is limited to a maximum of the greater figure as computed by either two percent of average monthly salary with a $1,000.00 per month maximum (based on 30 years' credited service) or one percent of average monthly salary with no maximum per month (based on 30 years' maximum service).

(2) The normal retirement income at normal retirement date provided under this plan shall be a retirement annuity guarantee payable for ten years certain and for lifetime thereafter. The benefit provided under this plan shall be increased to the extent required to ensure that the benefit provided under this plan and the benefit provided under the retirement system for officers and employees of participating employers are actuarially equivalent to a retirement annuity of two percent per year of service guaranteed for ten years certain and for lifetime thereafter. If a retired member has elected an option with a joint pensioner or beneficiary and his retirement income benefits have commenced, he may thereafter change the designated joint pensioner or beneficiary up to two times in accordance with F.S. § 185.341 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retired member is not required to provide proof of the good health of the joint annuitant or beneficiary being removed and the joint annuitant or beneficiary being removed need not be living. Any retired member who desires to change his joint annuitant or beneficiary shall file with the board of trustees a notarized notice of such change. Upon receipt of a completed change of joint annuitant form or such other notice, the board of trustees shall adjust the retired member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and there is no impact to the plan. No retired member's current benefit shall be increased as a result of the change of beneficiary.

(c) *Disability benefits.*

(1) *Duty disability.* The benefit provided in the event of under this plan shall be increased to the extent required to ensure that the benefit provided under this plan and the benefit provided under the retirement system for officers and employees of participating employers are actuarially equivalent to a retirement annuity of at least two percent of average monthly salary per year of service guaranteed for ten years certain and life.

(2) *Non-duty disability.* The benefit provided under this plan shall be increased to the extent required to ensure that the benefit provided under this plan and the benefit provided under the retirement system for officers and employees of participating employers are actuarially equivalent to a retirement annuity guaranteed for ten years certain.

(3) *Disability process.*

a. A police officer will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a police officer; and a police officer will be considered permanently disabled if, in the opinion of the board of trustees, such police

PROOFS

officer is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (c)(3)b of this section.

b. A police officer will not be entitled to receive any disability retirement income if the disability is a result of:

1. Excessive and habitual use by the police officer of drugs, intoxicants, or narcotics;

2. Injury or disease sustained by the police officer while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;

3. Injury or disease sustained by the police officer while serving in any armed forces. This exclusion does not affect members who have become disabled as a result of intervening military service under the federal Heroes Earnings Assistance and Relief Tax Act of 2008 (H.R. 6081; P.L. 110-245);

4. Injury or disease sustained by the police officer after employment has terminated.

c. No police officer shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any police officer retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(4) *Additional provisions.* Any condition or impairment of health of any police officers employed in the city caused by tuberculosis, hypertension, heart disease, hardening of the arteries, hepatitis, or meningococcal meningitis resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty, provided that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition, and provided further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. In order to be entitled to the presumption in the case of hepatitis, meningococcal meningitis, or tuberculosis, the member must meet the requirements of F.S. § 112.181. The final decision as to whether a member meets the requirements for duty disability pension rests with the board and shall be based on substantial competent evidence on the record as a whole.

(Code 1983, § 13-166; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-84, § 3, 7-20-2009; Ord. No. L-111, § 3, 2-1-2010)

**Sec. 2-387. Death benefits.**

Upon the death of a plan member who dies with ten years credited service, and vested in the plan, the beneficiary or beneficiaries shall be entitled to a lump sum payment, in cash, equal to the pension benefit the deceased member would have been entitled to receive at his normal retirement date of age 55, actuarially reduced. A plan member's beneficiary or beneficiaries shall be designated in accordance with the provisions of F.S. § 185.162. The benefit provided under this section and in conjunction with the benefit provided under the retirement system for officers and employees of participating employers shall in all cases provide at a minimum a benefit that is the actuarial equivalent of the benefit required under F.S. § 185.21.

(Code 1983, § 13-167; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008)

**Sec. 2-388. Employee withdrawal from the plan.**

(a) Employees who terminate employment prior to ten years' continuous service in the police department shall not be eligible for benefits.

(b) Employees who terminate with ten or more years continuous service with the police department shall be entitled to a benefit equal to the purchase of an annuity equal to the value of the lump sum payment at age 50 as

PROOFS

computed in section 2-386(c) actuarially reduced by three percent for each year that the member retires early. The member can elect to wait to receive the benefit until age 55 without an actuarial reduction. Employees hired after December 17, 1984, shall not be eligible to receive lump sum benefits and may only accept the purchase of an annuity as provided herein. The benefit provided under this section and in conjunction with the benefit provided under the retirement system for officers and employees of participating employers shall in all cases provide, at a minimum, a benefit that is the actuarial equivalent of the benefit required under F.S. §§ 185.16(4) and 185.19.

(c) Employees who become totally and permanently disabled after ten or more years of continuous service shall be entitled to 100 percent of the lump sum amount accumulated on their behalf as of date of disability as computed in section 2-386(c). The lump sum shall be equal in value to the amount of monthly benefits to which the member is entitled.

(d) Notwithstanding any of the provisions hereof, if the early monthly retirement income payable to any person entitled to benefits hereunder is less than $75.00 per month, the trustees in the exercise of their discretion may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

(e) Notwithstanding any of the provisions hereof, if the monthly retirement annuity from the municipal retirement system is equal to 50 percent of the average monthly salary of the retiring police officer, or if the combined monthly annuity from the municipal retirement system, federal Social Security retirement and the city police retirement fund is equal to 50 percent of the retiring police officer's average monthly salary, the trustees may, in the exercise of their discretion, specify that the actuarial equivalent of the monthly benefit in excess of 50 percent of such average monthly salary be paid in a lump sum.

(Code 1983, § 13-168; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008)

**Sec. 2-389. Police members' deposit fund.**

(a) The police members' deposit fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contribution of members, and from which shall be made refunds and transfers of accumulated contributions as provided in this division.

(b) A member's contribution to the retirement system, specifically to the city police officers' retirement system as set up in accordance with F.S. ch. 185, shall be as follows: After the effective date of Ordinance No. I-272, 3 1/2 percent of the compensation of each member of this municipal police officers retirement trust fund, set up in accordance with F.S. Ch. 185, shall be paid by each member to said system. Effective for the first full payroll period after May 2, 2011, the member's contribution shall be 4 1/2 percent of the salary or compensation of each member of the city police officers' retirement trust fund which shall be paid by each member to said system. Effective for the first full payroll period after October 1, 2011, the member's contribution shall be seven percent of the salary or compensation of each member of the city police officers' retirement trust fund which shall be paid by each member to said system.

(c) The officers responsible for making up the payroll shall cause the contributions provided for in subsection (b) of this section to be deducted from the compensation of each member on each payroll, for each payroll period, so long as he is a member of his retirement system. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of his compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by him during the period covered by such payment, except as to benefits provided by the retirement system. When deducted, each of said contributions shall be paid into the members deposit fund and shall be credited to the individual account therein of the member from whose compensation said deduction was made. Effective the first day of the first full payroll period following the effective date of this section, the city shall pick up the member contribution required by this section. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. The city shall pick up the member contributions from funds established and available for salaries, which funds would otherwise have been designated as member contributions and paid to the fund. Member contributions picked up by the city pursuant to this section shall be treated for purposes of making a refund of members' contributions, and for all other purposes of this and other contributions made prior to the effective date of the ordinance from which this section is derived. The intent of this section is to comply with section 414(H)(2) of the Internal Revenue Code.

(d) Should any police officer leave the service of the city before accumulating aggregate time of ten years

PROOFS

toward retirement and before being eligible to retire under the provisions of this division, such police officer shall be entitled to a refund of all his contributions made to the city police officers' retirement trust fund without interest, less any benefits paid to him.

(e) Should any city police officer who has been in the service of the city for at least ten years and has contributed to the city police officers' retirement trust fund for at least ten years elect to leave his accrued contributions in the city police officers' retirement trust fund, such police officer, upon attaining the age of retirement authorized under this Code, may retire at the amount of such retirement income otherwise payable to him.

(f) Should any city police officer die before being eligible to retire under the provisions of this division, the heirs, legatees, beneficiaries or personal representative of said deceased police officer shall be entitled to a refund of 100 percent, without interest, of the contributions made to the city police officers' retirements trust fund by such deceased police officer.

(Code 1983, § 13-169; Ord. No. K-469, § 1, 2-20-2007; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-212, § 1, 5-2-2011; Ord. No. L-229, § 1, 12-5-2011)

**Sec. 2-390. Forfeiture of pension; conviction and forfeiture.**

Any participant who is convicted of any of the following offenses committed prior to retirement, or whose employment is terminated by reason of his admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this plan, except for the return of his accumulated contributions as of the date of termination:

(1) Specified offenses are as follows:

a. The committing, aiding or abetting of an embezzlement of public funds.

b. The committing, aiding or abetting of any theft by a public officer or employee from the employer.

c. Bribery in connection with the employment of a public officer or employee.

d. Any felony specified in F.S. ch. 838.

e. The committing of an impeachable offense.

f. The committing of any felony by a public officer or employee who willfully and with intent to defraud the public or the public agency, for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties or position of his public office or employment position.

g. The committing on or after October 1, 2008, of any felony defined in F.S. § 800.04 against a victim younger than 16 years of age, or any felony defined in F.S. ch. 794 against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his public office or employment position.

(2) For the purpose of this section, the term "conviction" means an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or a nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the state senate of an impeachable offense.

(3) For the purpose of this section, the term "court" means any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior to forfeiture, the board shall hold a hearing on which notice shall be given to the police officer whose benefits are being considered for forfeiture. Said police officer shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the police officer shall be afforded a full opportunity to present his case against forfeiture.

(4) Any police officer who has received benefits from the plan in excess of his accumulated contributions after police officer's rights were forfeited pursuant to this section shall be required to pay back to the

PROOFS

fund the amount of the benefits received in excess of his accumulated contributions. The board may implement all legal action necessary to recover such funds.

(5) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit from the plan.

a. A person who violates this subsection (5), commits a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083.

b. In addition to any applicable criminal penalty upon conviction for a violation described in this subsection (5), a police officer or beneficiary of the plan may, in the discretion of the board, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under the plan. For purposes of this subsection, the term "conviction" means a determination of ~~guilt~~ that is the result of a plea or trial, regardless of whether adjudication is withheld.

(Code 1983, § 13-170; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-84, § 3, 7-20-2009)

**Sec. 2-391. Pension validity.**

The board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under this plan if the same is found to be erroneous, fraudulent or illegal for any reason, and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this plan be erroneously, improperly or illegally classified. Any overpayments or under payments shall be corrected and paid or repaid in a reasonable manner determined by the board.

(Code 1983, § 13-171; Ord. No. L-34, § 1, 8-18-2008)

**Sec. 2-392. Claims procedure.**

(a) The applicant for benefits under this plan may, within 20 days after being informed of the denial of his request for pension benefits, appeal the denial by filing a reply to the proposed denial with the pension plan board of trustees. If no appeal is filed within the time period specified, then the denial is final.

(b) The board shall hold a hearing within 45 days after receipt of the appeal. Written notice of the hearing shall be sent by certified mail to the applicant ten days prior to the hearing, at the address listed on the application.

(c) The board shall have the power to subpoena, require the attendance of witnesses, and the production of documents for discovery, prior to and at any proceedings provided for in the plan. The claimant may request in writing the issuance of subpoenas by the board. A reasonable fee may be charged for the issuance of any subpoenas, not to exceed the fees set forth in the state statutes.

(d) The procedures at the hearing shall be as follows:

(1) All parties shall have an opportunity to respond, to present physical and testimonial evidence and argument, on all issues involved, to conduct cross-examination, to submit rebuttal evidence, and to be represented by counsel. Medical depositions may be accepted in lieu of live testimony, at the board's discretion.

(2) All witnesses shall be sworn.

(3) The applicant and the board shall have an opportunity to question all witnesses.

(4) The formal rules of evidence and the formal rules of civil procedures shall not apply. The proceedings shall comply with the essential requirements of due process of law.

(5) The record in a case governed by this section shall consist only of:

a. A tape recording of the hearing, to be taped and maintained as part of the official files of the board of trustees by the pension's secretary.

PROOFS

b. Evidence received or considered.

c. All notices, pleadings, motions and intermediate rulings.

d. Any decisions, opinions, proposed or recommended orders or reports by the board of trustees.

(e) Within ten days after the hearing, the board shall take one of the following actions:

(1) Grant the pension benefits by overturning the denial by majority vote;

(2) Deny the benefits and confirm the denial.

The board's decision shall be in writing set forth as an order.

(f) Findings of fact by the board shall be based on competent, substantial evidence on the record.

(g) Upon rendering its order, the board shall send by certified mail a copy of the order to the applicant.

(h) The applicant may seek review of the order of the board by filing a petition for writ of certiorari with the circuit court within 30 days of the order being rendered.

(Code 1983, § 13-172; Ord. No. L-34, § 1, 8-18-2008)

**Sec. 2-393. Required distributions.**

(a) In accordance with section 401(a)(9) of the Internal Revenue Code, all benefits under this plan will be distributed, beginning not later than the required beginning date set forth in subsection (b) of this section, over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a beneficiary designated in accordance with the provisions of F.S. § 185.162.

(b) Any and all benefit payments shall begin by April 1 of the calendar year following the calendar year of the member's retirement date; provided, however, all participants who will reach 70 before December 31, 1999, may, at participant option, elect to begin benefits on April 1 of the calendar year following the calendar year in which the member attains age 70 1/2.

(c) If an employee or elected officer dies before his entire vested interest has been distributed to him, the remaining portion of such interest will be distributed at least as rapidly as provided for under section 2-386.

(Code 1983, § 13-173; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-118, § 3, 5-3-2010)

**Sec. 2-394. Rollover distributions.**

(a) *Applicability.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

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

*Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.

*Distributee* means and includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is entitled to payment for alimony and child support under an income deduction order, are distributees with regard to the interest of the spouse or former spouse.

*Eligible retirement plan* means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, a qualified trust, an annuity plan described in section 403(a) of the Internal Revenue Code, an eligible deferred compensation plan described in section 457(b) of the Internal Revenue Code which is maintained by an eligible employer described in section 457(e)(1)(A) of the Internal Revenue Code, or an annuity contract described in 403(b) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution.

PROOFS

*Eligible rollover distribution* means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more and any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. This definition is effective January 1, 2003.

(Code 1983, § 13-174; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-118, § 4, 5-3-2010)

**Sec. 2-395. Internal Revenue Code limits.**

(a) *Limits on compensation.* Compensation in excess of limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for an eligible employee shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993.

(b) *415 Internal Revenue Code limits.*

(1) *Basic limitations.* Subject to the adjustments in subsection (b)(3) of this section, the maximum amount of the actual annual retirement income paid in any year with respect to a participant under this plan attributable to employer provided benefits shall not exceed the dollar amount allowable for any calendar year pursuant to section 415(b) of the Internal Revenue Code, as adjusted in such calendar year for increases in the cost-of-living in accordance with regulations issued by the Secretary of the Treasury under section 415(d) of the Internal Revenue Code. For purposes of applying the basic limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For the purposes of this section, the following benefits shall not be taken into account:

a. Any ancillary benefit which is not directly related to retirement income benefits;

b. Any other benefit not required under section 415(b)(2) of the Internal Revenue Code and Treasury regulations thereunder to be taken into account for the purposes of the limitation of section 415(b)(1) of the Internal Revenue Code.

(2) *Participation in other defined benefit plans.* The limitation of this section with respect to any participant who at any time has been a participant in any other defined benefit plan (as defined in section 414(j) of the Internal Revenue Code) maintained by the city shall apply as if the total benefits payable under all defined benefit plans in which the participant has been a participant where payable from one plan.

(3) *Adjustments in limitations.*

a. In the event the participant's retirement benefits become payable before age 62, the maximum amount of annual retirement income limitation prescribed by this division shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of section 415(b) of the Internal Revenue limitation (as reduced) equals an annual benefit (beginning when such retirement income begins) which is equivalent to the section 415(b) of the Internal Revenue Code maximum amount of annual retirement income beginning at age 62. This limitation shall not apply to qualified police or firefighters, as that term is defined in section 415(b)(2)(G) of the Internal Revenue Code.

b. In the event the participant's benefit is based on at least 15 years of credited service, the adjustments provided for in subsection (b)(3)a of this section shall not apply.

c. The reductions provided for in subsection (b)(3)a of this section shall not be applicable to disability benefits or preretirement death benefits.

d. In the event the participant's retirement benefit becomes payable after age 65, for the purposes of determining whether this benefit meets the basic limitation set forth in subsection (b)(1) of this section, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made using an assumed interest rate of five percent and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

e. Less than ten years of service. The maximum retirement benefits payable under this division to any

PROOFS

participant who has completed less than ten years of credited service with the city shall be the amount determined under subsection (b)(1) of this section multiplied by a fraction, the numerator of which is the number of the participant's years of credited service and the denominator of which is ten. The reduction provided for in this subsection shall not be applicable to disability benefits of preretirement death benefits.

f. Ten thousand dollar limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a participant shall be deemed not to exceed the limitations in this section if the benefits payable with respect to such participant under this plan and under all other qualified defined benefit pension plans to which the city contributes, do not exceed $10,000.00 for the applicable plan year and for any prior plan year and the city has not at any time maintained a qualified defined contributions plan in which the participant participated.

g. Reduction of benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the participant's benefit under any defined benefit plans in which participant participated, such reduction to be made first with respect to the plan in which participant most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the participant participated, such reduction to be made first with respect to the plan in which the participant most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans; provided, however, that necessary reductions may be made in different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such participant.

h. Cost-of-living adjustments. The limitations as stated herein shall be adjusted annually in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to section 415(d) of the Internal Revenue Code.

i. For any person who first becomes a participant in any plan year beginning on or after January 1, 1996, compensation for any plan year shall not include any amounts in excess of the Internal Revenue Code section 401(a)(17) limitation (as amended by the Omnibus Budget Reconciliation Act of 1993), which limitation of $200,000.00 shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost-of-living in the manner provided by section 401(a)(17)(B) of the Internal Revenue Code. For any person who first became a participant prior to the first plan year beginning on or after January 1, 1996, the limitation on compensation shall be not less than the maximum compensation amount that was allowed to be taken into account under the plan as in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost-of-living since 1989 in the manner provided by section 401(a)(17)(1991) of the Internal Revenue Code.

j. This section shall be effective for distributions after December 31, 2001.

k. For the purposes of applying the limitations of section 415(b) of the Internal Revenue Code, the term "compensation" means and includes base pay, incentive pay, longevity pay, shift premiums, police incentive pay, overtime pay, base salary or wages while absent from work on account of vacation, holiday, illness or other authorized paid leave, payments in consideration of unused sick and vacation time, and city contributions on behalf of the employee to a deferred compensation program maintained pursuant to section 457 of the Internal Revenue Code. Additionally, this limitation specifically includes the crediting of compensation while absent from service for military duty; such crediting shall not exceed the compensation that would have been credited under the system if system services had continued.

(Code 1983, § 13-175; Ord. No. L-34, § 1, 8-18-2008; Ord. No. L-118, § 5, 5-3-2010; Ord. No. L-212, § 2, 5-2-2011)

**Sec. 2-396. Termination of plan and distribution of fund.**

Upon termination of the plan by the city for any reason, or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in F.S. chapter 121, or upon written notice to the board of

PROOFS

trustees by the city that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination or discontinuance and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after taking into account the expenses of such distribution. The board shall inform the city if additional assets are required, in which event the city shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer entitled to benefits under the plan, as specified in subsection (3) of this section.

(3) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) of this section involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

(4) If there is asset value remaining after the full distribution specified in subsection (3) of this section, and after payment of any expenses incurred with such distribution, such excess shall be returned to the city, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the city and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the city and the state.

(5) The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection (2) of this section, the amounts under subsection (3) of this section.

(Code 1983, § 13-176; Ord. No. L-111, § 4, 2-1-2010)

**Sec. 2-397. Deferred retirement option plan (DROP).**

(a) *Eligibility to participate in the DROP.*

(1) Any member who is eligible to receive a normal retirement pension may participate in the DROP. Members shall elect to participate by applying to the board of trustees on a form provided for that purpose, including an irrevocable letter of resignation from service to the city and withdrawal from the DROP effective after no more than 60 months of participation in the DROP.

(2) Election to participate shall be forfeited if not exercised within the first 27 years of combined credited service. However, participation in the first year of enactment will be extended to those members with 28 years of service in calendar year 2011.

(3) A member shall not participate in the DROP beyond the time of attaining 30 years of service and the total years of participation in the DROP shall not exceed five years. For example:

a. Members with 25 years of credited service at time of entry shall only participate for five years.

b. Members with 26 years of credited service at time of entry shall only participate for four years.

c. Members with 27 years of credited service at time of entry shall only participate for three years.

(4) Upon a member's election to participate in the DROP, he shall cease to be a member and is precluded from accruing any additional benefit under the pension fund. For all fund purposes, the member becomes a retirant. The amount of credited service and final average salary freeze as of the date of entry into the DROP.

(b) *Limitations on participation.*

PROOFS

(1) DROP election shall be irrevocable following deposit of the first payment into the member's account.

(2) A member may participate in the DROP only once. After DROP participation commences, a member may not rejoin the retirement system as an active member nor shall the member be eligible to receive disability or preretirement death benefits from the system.

(3) A member shall continue to receive all other benefits guaranteed active members under any collective bargaining agreement or applicable city policy, unless otherwise addressed in this plan.

(4) Members who are also participating in the DROP in the city retirement and benefits plan must cease participation in both DROP programs at the same time. If the entry date into both was not the same date, then the termination date of participation in both DROP plans will be the earlier termination date.

(5) If a police officer fails to terminate employment at the end of participation in the DROP, interest credits shall cease on the current balance and there shall be no future DROP deposits and those amounts will be forfeited.

(c) *Amounts payable upon election to participate in DROP.*

(1) Monthly retirement benefits would have been payable had the member terminated employment with the department and elected to receive monthly pension payments will be paid into the DROP and credited to the retirant. Payments into the DROP will be made monthly over the period the retirant participates in the DROP, up to a maximum of 60 months.

(2) Members who are entitled to a lump-sum payment under section 2-388 of the pension plan may enter into the DROP. However, the member's benefit will be paid as a monthly annuity, during the period of the DROP and for the member's lifetime thereafter (with ten years of payments guaranteed). The member will be entitled to the lump sum of the DROP balance at the end of the DROP term, but no other lump sum will be payable.

(3) Payments to the DROP will be invested in a member directed account. The board shall select a third-party administrator or provider for this purpose. The member's DROP account will be required to pay the expenses of investment and the DROP participant shall be responsible for the investment risks.

(4) No payments will be made from DROP until the member terminates employment with the city. Upon termination from DROP and from employment, a member's monthly pension benefit will be paid directly to the member.

(d) *Amounts payable upon termination of employment.*

(1) Upon termination of employment, participants in the DROP shall receive the balance of the DROP account in accordance with the following rules:

a. Members must elect to begin to receive payment from the DROP upon termination of employment.

b. Payments shall be made in a lump sum and the entire account balance will be paid to the retirant upon approval of the board of trustees. The account balance may be rolled over via a trust to trustee transfer as provided for in section 2-394.

c. Any form of payment selected by a police officer must comply with the minimum distribution requirement of the section 401(A)(9) of the Internal Revenue Code (e.g., payments must commence by age 70 1/2 or retirement, whichever is later).

d. The beneficiary of the DROP participant who dies before payments from DROP begin shall have the same rights as the participant in accordance with this section.

(2) Members may elect a beneficiary to receive the DROP balance upon the member's death.

(3) Benefit amounts not guaranteed. All benefits payable under this DROP program shall be paid solely from DROP assets. Neither the city nor the board of trustees shall have any duty to pay the member, except as set forth in this program. No rate of return on DROP assets is guaranteed and by their participation, members consent to the terms of this program and discharge the city and board of trustees from any and all liability, except as set forth in this program.

PROOFS

(4) There shall be no material fiscal impact or effect on the city as a result of this section.

(Code 1983, § 13-177; Ord. No. L-212, § 3, 5-2-2011)

**Secs. 2-398--2-422. Reserved.**

## ARTICLE V. FINANCE*

***State law reference—**Municipal finance and taxation, F.S. § 166.201 et seq.

### Sec. 2-423. Investment of city funds.

(a) From and after May 20, 1985, the city hereby adopts the attached as its official investment policy, subject to the provisions and restrictions contained therein.

(b) A copy of the investment policy shall be on file with the city clerk's office and the city finance director's office, and is available for review by any interested party.

(c) Policies and procedures.

(1) The primary investment objectives are safety of capital, liquidity of funds, and investment income, in that order.

(2) The investment returns are compared against recognized benchmarks for similar investment.

(3) In carrying out its investment activities, the city adopts the prudent person rule.

(4) As far as possible, investments are made in accordance with known/anticipated cash needs and cash flow requirements.

(5) Whenever feasible and appropriate, all investments are subjected to the competitive bidding process.

(6) The operational procedures established within the city's department of finance contain the component parts of the internal control program which establishes functional control over the investable assets of the city. These procedures are subject to annual review by the city's independent public accountants.

(7) All officials involved in the investment process annually participate in continuing education in subjects or courses related to investment practices and products.

(Code 1983, § 2-1; Ord. No. I-110, § 1, 5-20-1985; Ord. No. K-50, § 1, 12-4-2000)

**State law reference—**Investment of Local Government Surplus Funds Act, F.S. § 218.40 et seq.

### Sec. 2-424. Fiscal year.

The fiscal year of the city shall begin on October 1 and end on September 30 of each year.

(1957 Charter § 98)

**State law reference—**Municipality to adopt above fiscal year, F.S. § 166.241.

### Sec. 2-425. Sale or lease of certain city owned property; notice; deposit or bond.

(a) The city commissioners of the city are hereby expressly authorized to lease or sell and convey any property, real or personal, belonging to the city and not required for public purposes; provided, however, that no lease beyond a term of one year or sale of any real property shall be made unless notice thereof shall be published once a week for two consecutive weeks in some newspaper of general circulation published in the said city, calling for bids for the lease or purchase of the real estate so advertised to be leased or sold, and in each case, the bid of the highest bidder complying with the terms and conditions set forth in such notice shall be accepted unless the commissioners shall reject any and all bids. The city commissioners may require a deposit to be made or a surety bond to be given in such form or in such amount as the commission shall determine with each bid submitted.

(b) In exercising the powers conferred in section 13(a) of the Charter, the city commissioners may lease or sell any such property, real or personal, for such price and upon such terms and conditions as the said commissioners shall deem proper; provided, however, that in giving notice for the lease or sale of the real estate the terms and conditions shall be stated in such notice. In making any lease or sale or of property under this section, the commission is hereby authorized and empowered to lease or convey title to such property to the lessee or purchaser

PROOFS

thereof and to execute a proper lease or conveyance thereof.

(c) Whenever, in the opinion of the city commission, the city holds and possesses any real or personal property not needed for city purposes and such property may be to the best interest of the city, exchanged for other real or personal property which the city may desire to acquire for city purposes, the said city commission is authorized and empowered to make such an exchange; provided, however, before any exchange of property shall be effected a notice setting forth the terms and conditions of any such exchange of property shall be first published once a week for two consecutive weeks in a newspaper of general circulation published in the city before the adoption by the commission of a resolution authorizing the exchange of such properties.

(d) If the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of the state should desire any real or personal property that may be owned by the city for public or community interest and welfare, then the United States, or any department or agency thereof, state or political subdivision, agency or municipality may apply to the commission for a conveyance or lease of such property. The commission, if satisfied that such property is required for such use and is not needed for city purposes, may thereupon convey or lease the same at private sale to the applicant for such price, whether nominal or otherwise, as such commission may fix regardless of the actual value of such property. The fact of such application being made, the purpose for which the property is to be used and the price or rent therefor shall be set out in a resolution duly adopted by such commission. In the case of a lease, the terms of such lease shall be recited in such resolution. No advertisement shall be required.

(e) The provisions of subsections (a) through (d) of this section shall not be construed to cover the sale or disposition of those lands conveyed to the city for a specific purpose and containing a reversionary clause whereby said lands shall revert to the grantor upon failure to use said real property for such purposes.

(f) The provisions of this section shall not apply to the sale of any public utility plant owned by the city.

(g) The provisions of this section shall not apply to the sale or exchange by the city of any obsolete, outmoded, unusable or unserviceable piece of equipment or parts or supplies therefor.

(1957 Charter § 13)

**Secs. 2-426--2-436. Reserved.**

## ARTICLE VI. PURCHASING*

***State law reference**—Consultants' Competitive Negotiations Act, F.S. § 287.055.

### Sec. 2-437. General provisions.

(a) *Purpose and application.*

(1) *Purpose.* The purpose of this article is to provide for the fair and equitable treatment of all persons involved in public purchasing by the city, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

(2) *Application.* This article applies to contracts for the procurement of supplies, services, and construction, entered into by the city after the effective date the ordinance from which this ~~of this~~ article is derived, unless the parties agree to its application to contracts entered into prior to the effective date; provided, however, that this article shall not apply to the obtaining of legal services. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this article shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

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

PROOFS

*Architect-engineer and land surveying services* means those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the state.

*Blind trust* means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust.

*Brand name or equal specification* means a specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet city requirements, and which provides for the submission of equivalent products.

*Brand name specification* means a specification limited to one or more items by manufacturers' names or catalogue numbers.

*Business* means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

*Change order* means a written order signed and issued by the purchasing director, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing director to order without the consent of the contractor.

*Confidential information* means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.

*Construction* means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. The term "construction" does not include the routine operation, routing repair, or routing maintenance of existing structures, buildings, or real property.

*Contract* means all types of city agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.

*Contract modification (bilateral change)* means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

*Contractor* means any person having a contract with the city or a using agency thereof.

*Cost analysis* means the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

*Cost data* means factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

*Cost-reimbursement contract* means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this article, and a fee or profit, if any.

*Direct or indirect participation* means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

*Disadvantaged business* means a small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

*Employee* means an individual drawing a salary or wages from the city, whether elected or not; any noncompensated individual performing personal services for the city or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the city; and any noncompensated individual serving as an elected official of the city.

*Financial interest* means:

PROOFS

(1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than $1,000.00 per year, or its equivalent;

(2) Ownership of five percent of any property of business; or

(3) Holding a position in a business such as officer, director, trustee, partner, employee, or like, or holding any position of management.

*Gratuity* means a payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

*Immediate family* means a spouse, children, parents, brothers, and sisters.

*Invitation for bids* means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

~~*Person* means any business, individual, union, committee, club, other organization, or group of individuals.~~

*Price analysis* means the evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.

*Pricing data* means factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The term "pricing data" refers to data relevant to both prime and sub-contract prices.

*Procurement* means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. The term "procurement" also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

*Public agency* means a public entity subject to or created by the city.

*Qualified products list* means an approved list of supplies, services, or construction items described by model or catalogue numbers, which, prior to competitive solicitation, the city has determined will meet the applicable specification requirements.

*Request for proposals* means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

*Responsible bidder or offeror* means a person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

*Responsive bidder* means a person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.

*Services* means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. The term "services" does not include employment agreements or collective bargaining agreements.

*Small business* means a United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.

*Specification* means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. The term "specification" may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

*Supplies* means all property, including, but not limited to, equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

*Using agency* means any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this article.

PROOFS

(c) *Public access to procurement information.* Procurement information shall be a public record to the extent provided in F.S. ch. 119 and shall be available to the public as provided in such statute.

(Code 1983, § 2-61; Ord. No. J-419, § 2, 4-20-98)

**Sec. 2-438. Office of the purchasing director.**

(a) ~~Establishment, appointment, and tenure.~~ *Establishment of the position of purchasing director.* There is hereby created the position of purchasing director, who shall be the city's principal public purchasing official.

~~(2) [ *Reserved* ].~~

~~(3) [ *Reserved* ].~~

(b) *Authority and duties.*

(1) *Principal public purchasing official.* Except as otherwise provided herein, the purchasing director shall serve as the principal public purchasing official for the city, and shall be responsible for the procurement of supplies, services, and construction in accordance with this article, as well as the management and disposal of supplies.

(2) *Duties.* In accordance with this article, and subject to the supervision of the city manager, the purchasing director shall:

a. Procure or supervise the procurement of all supplies, services, and construction needed by the city;

b. Exercise direct supervision over the city's central stores and general supervision over all other inventories of supplies belonging to the city;

c. Sell, trade, or otherwise dispose of surplus supplies belonging to the city; and

d. Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.

(3) *Operational procedures.* Consistent with this article, and with the approval of the city manager and the city commission, the purchasing director may adopt operational procedures relating to the execution of its duties.

(c) *Delegations to other city officials.* With the approval of the city commission and the city manager, the purchasing director may delegate authority to purchase certain supplies, services, or construction items to other city officials, if such delegation is deemed necessary for the effective procurement of those items. Notwithstanding the provisions of subsection (b) of this section (authority and duties), procurement authority with respect to certain supplies, services, or construction may be delegated to other city officials by the city manager with the approval of the city commission, when such delegation is deemed necessary for the effective procurement of these supplies, services, or construction.

(Code 1983, § 2-62; Ord. No. J-419, § 2, 4-20-98)

**Sec. 2-439. Source selection and contract formation.**

(a) *Methods of source selection.*

(1) *Competitive sealed bidding.*

a. *Conditions for use.* All contracts of the city shall be awarded by competitive sealed bidding except as otherwise provided in subsections (a)(2) (competitive sealed proposals), (a)(3) (contracting for designated professional services), (a)(4) (small purchases), (a)(5) (sole source procurement), and (a)(6) (emergency procurements) of this section and section 2-442(d) (public announcement and selection process).

b. *Invitation for bids.* An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.

c. *Public notice.* Adequate public notice of the invitation for bids shall be given a reasonable time. Such notice will include publication in a newspaper of general circulation in the city, once a week

PROOFS

for two consecutive weeks, the first issue thereof to be not less than ten days prior to the reception of such bids. The public notice shall state the place, date, and time of bid opening.

d. *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the purchasing director deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with section 2-437(c) (public access to procurement information).

e. *Bid acceptance and bid evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

f. *Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

   1. The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

   2. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing director.

g. *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the finance director, and such bid does not exceed such funds by more than five percent, the purchasing director is authorized, when time or economic considerations preclude resolicitation of work or a reduced scope, to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.

h. *Multi-step sealed bidding.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

(2) *Competitive sealed proposals.*

a. *Conditions for use.* When the purchasing director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the competitive sealed proposals method.

PROOFS

b. *Request of proposals.* Proposals shall be solicited through a request for proposals.

c. *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in subsection (a)(1)c of this section (competitive sealed bidding, public notice).

d. *Receipt of proposals.* No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public viewing only after contract award.

e. *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors.

f. *Discussion with responsible offerors and revisions to proposals.* As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.

g. *Award.* Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

(3) *Contracting for designated professional services.*

a. *Authority.* For the purpose of procuring the services of accountants, clergy, physicians, ~~lawyer,~~ dentists, as defined by the laws of the state, any using agency requiring such services may procure them on its own behalf, in accordance with the selection procedures specified in this subsection (a)(3). A using agency procuring such services shall consult with the purchasing director. No contract for the services of legal counsel may be awarded without the approval of such officer as may be required by applicable law.

b. *Selection procedure.*

1. *Conditions for use.* Except as provided under subsection (a)(5) (sole source procurement) or (a)(6) (emergency procurements) of this section, the professional services designated in subsection (a)(3)a of this section shall be procured in accordance with this subsection (a)(3)b.

2. *Statement of qualifications.* Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. A using agency using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

3. *Public announcement and form of request for proposals.* Adequate notice of the need for such services shall be given by the using agency requiring the services through a request for proposals. The request for proposals shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.

4. *Discussions.* The head of a using agency procuring the required professional services or a designee of such officer may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

PROOFS

5. *Award.* Award shall be made to the offeror determined in writing by the head of the using agency procuring the required professional services or a designee of such officer to be best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

(4) *Small purchases.* Any contract not exceeding $500.00 may be made in accordance with the small purchase procedures authorized in this article. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

(5) *Sole source procurement.* A contract may be awarded without competition when the purchasing director determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The purchasing director shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item procured under each contract, and the identification number of each contract file.

(6) *Emergency procurements.* Notwithstanding any other provisions of this article, the purchasing director may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item procured under the contract, and the identification number of the contract file.

(7) *Cancellation of invitations for bids or requests for proposals.* An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

(b) *Qualifications and duties.*

(1) *Responsibility of bidders and offerors.*

a. *Determination of nonresponsibility.* If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the purchasing director. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be made a public record.

b. *Right of nondisclosure.* Information furnished by a bidder or offeror pursuant to this section shall not be disclosed by the city outside of the office of the purchasing director, or using agency, without prior written consent by the bidder or offeror.

(2) *Cost or pricing data.*

PROOFS

a. *Required submissions relating to the award of contracts.* A prospective contractor shall submit cost or pricing data when the contract is expected to exceed $100,000.00 and is to be awarded by competitive sealed proposals, as provided for in subsection (a)(2) of this section (competitive sealed proposals), or by sole source procurement authority, as provided for in subsection (a)(5) of this section (sole source procurement).

b. *Exceptions.* The submission of cost or pricing data relating to the award of a contract is not required when:

1. The contract price is based on adequate price competition;

2. The contract price is based on established catalogue prices or market prices;

3. The contract price is set by law or regulation; or

4. It is determined in writing by the purchasing director that the requirements of section (b)(2)a of this section (cost or pricing data; required submissions relating to the award of contracts) may be waived, and the determination states the reasons for such waiver.

c. *Required submissions relating to change orders or contract modifications.* A contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract, when the change or modification involves aggregate increases or aggregate decreases in costs plus applicable profits that are expected to exceed $100,000.00.

d. *Exception.* The submission of cost or pricing data relating to the pricing of a change order or contract modifications not required when:

1. Unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience; or

2. It is determined in writing by the purchasing director that the requirement of subsection (b)(2)c of this section (cost or pricing data; required submission relating to change orders or contract modification) may be waived and the determination states the reason for such waiver.

e. *Certification required.* A contractor, actual or prospective, required to submit cost or pricing data, in accordance with this section, shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

f. *Price adjustment provision required.* Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including the profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

(3) *Cost or price analysis.* A cost analysis or a price analysis, as appropriate, shall be conducted prior to award of the contract other than one awarded under subsection (a)(1) of this section (competitive sealed bidding). A written record of such cost analysis or price analysis shall be made a part of the contract file. In making a price analysis, consideration must be given to any differing terms and conditions.

(4) *Bid and performance bonds on supply or service contract.* Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing director or head of a using agency deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

(c) *Types of contracts and contract administration.*

(1) *Types of contracts.*

PROOFS

a. *General authority.* Subject to the limitations of this section, any type of contract which is appropriate to the procurement and which will promote the best interests of the city may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than only other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

b. *Multi-term contracts.*

1. *Specified period.* Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the city, provided that the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

2. *Determination prior to use.* Prior to the utilization of a multi-term contract, it shall be determined in writing that:

i. Estimated requirements cover the period of the contract and are reasonably firm and continuing; and

ii. Such a contract will serve the best interests of the city by encouraging effective competition or otherwise promoting economies in city procurement.

3. *Cancellation due to unavailability of funds in succeeding fiscal periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any non-recurring cost incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.

c. *Multiple source contracting.*

1. *General.* A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the city's actual requirements is limited by the provision of Uniform Commercial Code section 62-306(1).

2. *Limitations on use.* A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple source award shall be made in accordance with the provision of subsections (a)(1) (competitive sealed bidding), (a)(2) (competitive sealed proposals), (a)(4) (small purchases), and (a)(6) (emergency procurements) of this section, as applicable. Multiple source awards shall not be made when a single award will meet the city's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier section to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.

3. *Contract and solicitation provisions.* All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that:

i. The city shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and

ii. The city shall reserve the right to take bids separately if the purchasing director approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the city.

PROOFS

4. *Intent to use.* If a multiple source award is anticipated prior to issuing a solicitation, the city shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.

5. *Determination required.* The purchasing director shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

(2) *Contract clauses and their administration.*

a. *Contract clauses.* All city contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The purchasing director, after consultation with the city attorney, may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:

1. The unilateral right of the city to order in writing changes in the work within the scope of the contract;

2. The unilateral right of the city to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;

3. Variations occurring between estimated quantities of work in contract and actual quantities;

4. Defective pricing;

5. Liquidated damages;

6. Specified excuses for delay or nonperformance;

7. Termination of the contract for default;

8. Termination of the contract in whole or in part for the convenience of the city;

9. Suspension of work on a construction project ordered by the city; and

10. Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:

i. When the contract is negotiated;

ii. When the contractor provides the site or design; or

iii. When the parties have otherwise agreed with respect to the risk of differing site condition.

b. *Price adjustments.*

1. Adjustments in price resulting from the use of contract clauses required by subsection (c)(2)a of this section shall be computed in one or more of the following ways:

i. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

ii. By unit prices specified in the contract or subsequently agreed upon;

iii. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

iv. In such other manner as the contracting parties may mutually agree; or

v. In the absence of agreement by the parties, by a unilateral determination by the city of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the city, as accounted for in accordance with reference to cost principles, and subject to the provision of section 2-444 (appeals and remedies).

2. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of subsection (b)(2) of this section (cost or pricing data).

PROOFS

c. *Standard clauses and their modification.* The purchasing director, after consultation with the city attorney, may establish standard contract clauses for use in city contracts. If the purchasing director establishes any standard clauses addressing the subjects set forth in subsection (c)(2)a of this section, such clauses may be varied provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that any variations are supported by a written determination that states the circumstance justifying such variation, and provided that notice of any such material variation be stated in the invitation for bids or request for proposals.

(3) *Contract administration.* A contract administration system designed to ensure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.

~~(4) Cost reimbursement provisions. [ Reserved ].~~

(5) *Approval of accounting system.* Except with respect to firm fixed-price contracts, no contract type shall be used, unless it has been determined in writing by the purchasing director that:

a. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

b. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

(6) *Right to inspect plant.* The city may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the city.

(7) *Right to audit records.*

a. *Audit of cost or pricing data.* The city may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to subsection (b)(2) of this section (cost or pricing data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three years from the date of final payment under the contract.

b. *Contract audit.* The city shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the subcontract.

(8) *Reporting of anticompetitive practices.* When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the state attorney general and the appropriate legal officer for the jurisdiction conducting the procurement.

(9) *City procurement records.*

a. *Contract file.* All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the city in a contract file by the purchasing director.

b. *Retention of procurement records.* All procurement shall be retained and disposed of by the city in accordance with records retention guidelines and schedules approved by the city commission.

(10) *Fiscal responsibility.* In respect to any contract issued or entered into under the provisions of this section, the city manager shall have the power and authority to increase or decrease the same up to and including the sum of $50,000.00 for extra service, work or labor to be performed or for the deletion thereof. Any charges in excess of said sum of $50,000.00 may be made only when authorized by the commission. The

PROOFS

commission may also otherwise alter or extend the terms of any such contract upon written recommendation of the city manager.

(Code 1983, § 2-63; Ord. No. J-419, § 2, 4-20-98; Ord. No. 18-014, § 1, 6-4-18)

**Sec. 2-440. Purchasing procedures.**

(a) *Purchases ~~of less than~~ not exceeding $500.00.*

(1) Each department shall be responsible for purchases not exceeding $500.00.

(2) Each department head shall designate the person or persons who will be responsible for the purchasing activity in the department and the department head will notify the purchasing director of the person so designated. Departmental purchases shall be conducted as follows:

a. The department head must verify the availability of funds in the proper appropriation prior to placing an order.

b. Two or more purchase orders for the same commodity may not be issued if the total of the purchase orders exceeds $500.00.

c. Persons authorized by the department head to issue purchase orders will be responsible for correctly filling in the purchase order and providing supporting documentation from the vendor.

d. The copies of the purchase order issued shall be routed as follows:

1. Original to vendor.

2. First copy to purchasing ~~department~~ director.

3. Second copy to be held by the ordering department for their records.

4. Third copy is to be held by the ordering department until the material ordered is received. Upon receipt of the material this copy is to be signed by the person receiving the material and forwarded to the finance department to match with the fourth copy as verification of delivery.

5. Fourth copy to finance department.

(3) The purchasing director will review and monitor the purchasing activities, offer advice on selection of proper vendors, and will meet with departments at least quarterly to review the procedures being followed.

(b) *Purchases from ~~$500.00 to $2,500.00~~ $500.01 through $2,500.00.* Purchases expected to exceed $500.00 but be less than ~~$2,500.00~~ $2,500.01 are to be handled by the purchasing department. Departments are to submit a requisition for purchase in a format prescribed by the purchasing director. The requisition for purchase request will include three comparative quotes for purchases over $500.00 through $2,500.00 if they can be obtained by the department. The purchasing director, or his designee, will review and verify information and/or obtain quotes, then select the bid/quote that is the most responsive and responsible. Purchase order is processed. All purchase orders exceeding $500.00 but less than ~~$2,500.00~~ $2,500.01 must be signed by both the purchasing director and the finance director.

(c) *Purchases from ~~$2,500.00 to~~ 2,500.01 through $50,000.00.* Purchases expected to exceed ~~$2,500.00~~ $2,500.01 but be less than ~~$50,000.00~~ $50,000.01 are to be handled by the purchasing ~~department~~ director or designee. Departments are to submit a requisition for purchase in a format prescribed by the purchasing director along with specifications. The purchasing department will prepare the bid documents for an informal bid. After bids are received, they are forwarded to the user department for evaluation and recommendation. After recommendation purchase order is processed. All purchase orders exceeding $2,500.00 but less than ~~$50,000.00~~ $50,000.01 must be signed by both the purchasing director and finance director.

(d) *Purchases exceeding $50,000.00.* Purchases which exceed $50,000.00 are handled in the same manner as purchases from ~~$2,500.00 to~~ $2,500.01 through $50,000.00, except that all bids are sealed and formal, and will require approval from the city commission.

(e) *Surplus sales.*

PROOFS

(1) The purchasing director is responsible for the declaration and disposal of all surplus material and equipment.

(2) Material and equipment having an estimated value of ~~less than~~ $1,000.00 or less may be declared as surplus by the purchasing director and the department head. Material and equipment having an estimated value in excess of $1,000.00 must be declared surplus by the city commission.

(f) *Procedures for disposition of materials and equipment to surplus are as follows with no exceptions.*

(1) Complete the asset disposition form.

(2) Contact the purchasing ~~department~~ director or designee to make arrangements for delivery of material or equipment (561-460-2200, ext. 122).

(3) If it is some type of equipment that has a license plate, please remove the license plate and submit to the purchasing ~~department~~ director or designee t along with asset disposition form.

(4) If it is equipment that has a city I.D. sticker, please remove and submit to the purchasing ~~department~~ director or designee along with asset disposition form.

(g) *Violations of purchasing procedures (employees).*

(1) No officer, department, employee or agency shall, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purposes in excess of the amounts appropriated for that general classification of expenditure pursuant to this article. Any contract, verbal or written, made in violation of this article shall be null and void. Any officer or employee of the city who shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment and he and his sureties shall be liable to the city by reason of corrupt or improper approval of any claim or account against the city.

(2) Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget in which such contract is made, when such contract is permitted by law.

(Code 1983, § 2-63.1; Ord. No. 18-014, § 1, 6-4-18)

**Sec. 2-441. Specifications.**

(a) *Maximum practicable competition.* All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the city's needs, and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications, including but not limited to, those prepared for the city by architects, engineers, designers, and draftsmen.

~~(b) *Qualified products list.* Reserved.~~

(b) *Brand name or equal specification.*

(1) *Use.* Brand name or equal specifications may be used when the purchasing director determines in writing that:

a. No other design or performance specification of qualified products list is available;

b. Time does not permit the preparation of another form of purchase description, not including a brand name specification;

c. The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or

d. Use of a brand name or equal specification is in the city's best interests.

(2) *Designation of several brand names.* Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

PROOFS

(3) *Required characteristics.* Unless the purchasing director determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(4) *Nonrestrictive use of brand name or equal specifications.* Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(c) *Brand name specification.*

(1) *Use.* Since use of a brand name specification is restrictive of product competition, it may be used only when the purchasing director makes a written determination that only the identified brand name item or items will satisfy the city's needs.

(2) *Competition.* The purchasing director shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under subsection (a)(5) of this section (sole source procurement).

(Code 1983, § 2-64; Ord. No. J-419, § 2, 4-20-98)

**Sec. 2-442. Procurement of construction, architect-engineer and land surveying services.**

(a) *Management of construction contracting; responsibility for selection of methods of construction contracting management.* The purchasing director and the city engineer shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the city engineer shall consider the city's requirements, its resources, and the potential contractor's capabilities. The city engineer shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.

(b) *Bid security and performance bonds.*

(1) *Bid security.*

a. *Requirement for bid security.* Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the purchasing director to ~~exceed~~ be $50,000.00 or more. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the city. Nothing herein shall prevent the requirement of such bonds on construction contracts under $50,000.00 when the circumstances warrant.

b. *Amount of bid security.* Bid security shall be in an amount equal to at least ten percent of the amount of the bid.

c. *Rejection of bids for noncompliance with bid security requirements.* When the invitation for bids requires security, noncompliance requires that the bid be rejected, unless it is determined that the bid fails to comply only in a nonsubstantial manner with the security requirements.

d. *Withdrawal of bids.* If a bidder is permitted to withdraw its bid before award as provided in section 2-439(a)(1)f (competitive sealed bidding; correction or withdrawal of bids; cancellation of awards), no action shall be had against the bidder or the bid security.

(2) *Contract performance and payment bonds.*

a. *When required; amounts.* When a construction contract is awarded in ~~excess~~ the amount of $50,000.00 or more, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

1. A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract; and

PROOFS

2. A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100 percent of the price specified in the contract.

b. *Reduction of bond amounts.* After notice to the city commission, the purchasing director is authorized to reduce the amount of performance and payment bonds to 50 percent of the contract price for each bond when a written determination is made that it is in the best interests of the city to do so.

c. *Authority to require additional bonds.* Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (b)(2)a of this section.

d. *Suits on payment bonds; right to institute.* Unless otherwise authorized by law, any person who has furnished labor or material to the contractor or subcontractors for the work provided in the contract, for which a payment bond is furnished under this section, and who has not been paid in full within 90 days from the date on which that person performed the last of the labor or supplied the material, shall have the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due that person. However, any person having a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bonds, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which that person performed the last of the labor or supplied the material. That person shall state in the notice the amount claimed and the name of the party to whom the material was supplied or for whom the labor was performed. The notice shall be served personally or by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

e. *Suits on payment bonds; where and when brought.* Unless otherwise authorized by law, every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the county or district in which the construction contract was to be performed.

(3) *Copies of bond forms.* Any person may request and obtain from the city a copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

(c) *Fiscal responsibility.* In respect to any contract issued or entered into under the provisions of this section, the city manager shall have the power and authority to increase or decrease the same up to and including the sum of $50,000.00 for extra service, work or labor to be performed or for the deletion thereof. Any charges in excess of said sum of $50,000.00 may be made only when authorized by the commission. The commission may also otherwise alter or extend the terms of any such contract upon written recommendation of the city manager. Any charges in excess of $25,000.00 shall be communicated to the city commission.

(d) *Architect-engineer and land surveying services; public announcement and selection process.*

(1) *Public announcement.* It is the policy of the city to announce publicly all requirements for architect-engineer and land surveying services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of architect-engineer and land surveying services, the purchasing director shall request firms to submit a statement of qualifications and performance data.

(2) *Selection process.* A selection committee composed of at least three members, including the purchasing director, another officer with appropriate professional experience and the head of a using agency in need of the architect-engineer or land surveying services shall conduct discussions with no less than three firms regarding the proposed contract and the relative utility of alternative methods of approach for furnishing the required services and shall select from among them no less than three of the firms deemed

PROOFS

most qualified to provide the required services. The selection shall be made in order of preference, based on criteria established and published by the selection committee.

(3) *Negotiations.* The purchasing director or appointed official shall negotiate a contract with the firm considered to be the most qualified for architect-engineer or land surveying services at compensation which the purchasing director determines in writing to be fair and reasonable to the city. In making this decision, the purchasing director shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the purchasing director be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the purchasing director determines to be fair and reasonable to the city, negotiations with that firm shall be formally terminated. The purchasing director shall then undertake negotiation with the second most qualified firm. Failing accord with the second most qualified firm, the purchasing director shall formally terminate negotiations. The purchasing director shall then undertake negotiations with the third most qualified firm. Should the purchasing director be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the selection committee shall select additional firms in order of their competence and qualifications, and the purchasing director shall continue negotiations in accordance with this section until an agreement is reached.

(Code 1983, § 2-65; Ord. No. J-419, § 2, 4-20-98; Ord. No. 18-014 , § 3, 6-4-18)

**State law reference--**Consultants' Competitive Negotiation Act, F.S. § 287.055.

**Sec. 2-443. Debarment or suspension.**

(a) *Authority to debar or suspend.* After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the purchasing director, after consulting with the city attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the city attorney, the purchasing director is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not to exceed three months. The causes for debarment include:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a city contractor;

(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) Violation of contract provisions, as set forth below, of a character which is regarded by the purchasing director to be so serious as to justify debarment action:

a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

(5) Any other cause the purchasing director determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this article; and

(6) For violation of the ethical standards set forth in section 2-446 (ethics in public contracting).

(b) *Decision to debar or suspend.* The purchasing director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

PROOFS

(c) *Notice of decision.* A copy of the decision required by subsection (b) of this section (decision to debar or suspend) shall be mailed or otherwise furnished immediately to the debarred suspended person.

(d) *Finality of decision.* A decision under subsection (b) of this section (decision to debar or suspend) shall be final and conclusive, unless fraudulent, or the debarred or suspended person within ten days after receipt of the decision taken an appeal to the city commission or commences a timely action in accordance with applicable law.

(Code 1983, § 2-66; Ord. No. J-419, § 2, 4-20-98)

**Sec. 2-444. Appeals and remedies.**

(a) *Bid protests.*

(1) *Right to protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the city commission. Protestors are urged to seek resolution of their complaints initially with the purchasing director. If a bidder or interested bidder wishes to protest either the results of or intended disposition of any bid, the bidder or interested bidder must:

a. File a notice of intent to protest in writing 72 hours after posting of bid tabulation or posting of intended disposition.

b. A formal written protest must be filed within ten days after notice of protest has been filed.

c. After receipt of a formal protest, the purchasing director consults with city attorney. Following consultation with city attorney, the purchasing director shall attempt to resolve the protest. This process must be completed within seven working days.

d. If protest is not resolved by mutual agreement between the protesting vendor and purchasing director, the purchasing director shall consult with city manager and city attorney, and issue a final written decision of the protest. This decision shall state the following:

1. Reasons for decision.

2. Inform the protesting vendor of his right to administrative hearing before the city commission. If he chooses not to appear, then all final decisions stand and the protest is said to be null and void.

(2) *Stay of procurements during protests.* In the event of a timely protest under subsection (a)(1) of this section, the purchasing director shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the city commission makes a determination on the record that the award of a contract without delay is necessary to protect substantial interest of the city.

(b) *Contract claims.*

(1) *Decision of the purchasing director.* All claims by a contractor against the city relating to a contract, except bid protests, shall be submitted in writing to the purchasing director for a decision. The contractor may request a conference with the purchasing director on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or revision.

(2) *Notice to the contractor of the purchasing director's decision.* The decision of the purchasing director shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under subsection (b)(3) of this section.

(3) *Finality of purchasing director's decision; contractor's right to appeal.* The purchasing director's decision shall be final and conclusive unless, within ten days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the city commission or commences an action in a court of competent jurisdiction.

PROOFS

(4) *Failure to render timely decision.* If the purchasing director does not issue a written decision regarding any contract controversy within ten days after written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been received.

~~(e) *Access to administrative forums.* Reserved.~~

(~~f~~c) *Authority of the purchasing director to settle bid protests and contract claims.* The purchasing director is authorized to settle any protest regarding the solicitation or award of a city contract, or any claim arising out of the performance of a city contract, prior to an appeal to the city commission or the commencement of an action in a court of competent jurisdiction.

(~~g~~d) *Remedies for solicitations or awards in violation of law.*

(1) *Prior to bid opening or closing date for receipt of proposals.* If prior to the bid opening or the closing date for receipt of proposals, the purchasing director, after consultation with the city attorney, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be canceled.

(2) *Prior to award.* If after bid opening or the closing date for receipt of proposals, the purchasing director, after consultation with the city attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be canceled.

(3) *After award.* If, after an award, the purchasing director, after consultation with the city attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:

a. If the person awarded the contract has not acted fraudulently or in bad faith:

1. The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the city; or

2. The contract may be terminated.

b. If the person awarded the contract has fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interests of the city.

(Code 1983, § 2-69; Ord. No. J-419, § 2, 4-20-98)

**Sec. 2-445. Cooperative purchasing.**

Any governmental purchasing authority may participate in this purchase for services and commodities from any successful award.

(Code 1983, § 2-70; Ord. No. J-419, § 2, 4-20-98)

**Sec. 2-446. Ethics in public contracting.**

(a) *Criminal penalties.* To the extent that violations of the ethical standard of conduct set forth in this article constitute violations of the state criminal code, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanction set forth in this part. Criminal, civil, and administrative sanctions against employees or nonemployees which are in existence on the effective date of this article shall not be impaired.

(b) *Employee conflict of interest.* It shall be unethical for any city employee to participate directly or indirectly in a procurement contract when the city employee knows that:

(1) The city employee or any member of the city employee's immediate family has a financial interest pertaining to the procurement contract; or

(2) Any other person, business, or organization with whom the city employee or any member of a city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

PROOFS

A city employee or any member of a city employee's immediate family who holds a financial interest in a disclosed blinded trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

(c) *Gratuities and kickbacks.*

(1) *Gratuities.* It shall be unethical for any person to offer, give, or agree to give any city employee or former city employee, or for any city employee or former city employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

(2) *Kickbacks.* It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(3) *Contract clause.* The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefore.

(d) *Prohibition against contingent fees.* It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(e) *Contemporaneous employment prohibited.* It shall be unethical for any city employee who is participating directly or indirectly in the procurement process to become or to be, while such a city employee, the employee of any person contracting with the governmental body by whom the employee is employed.

(f) *Waivers from contemporaneous employment prohibition and other conflicts of interest.* The city commission may grant a waiver from the employee conflict of interest provision, as provided for in subsection (b) of this section (employee conflict of interest), or the contemporaneous employment provision, as provided for in subsection (e) of this section (contemporaneous employment prohibited), upon making a written determination that:

(1) The contemporaneous employment or financial interest of the city employee has been publicly disclosed;

(2) The city employee will be able to perform its procurement functions without actual or apparent bias or favoritism; and

(3) The award will be in the best interests of the city.

(g) *Use of confidential information.* It shall be unethical for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

(h) *Sanctions.*

(1) *Employees.* The city manager may impose any one or more of the following sanctions on a city employee for violations of the ethical standards in this article:

a. Oral or written warnings or reprimands;

b. Suspension with or without pay for specified periods of time; or

c. Termination of employment.

(2) *Nonemployees.* The city commission may impose any one or more of the following sanctions on a nonemployee for violations of the ethical standards:

a. Written warnings or reprimands;

b. Termination of contracts; or

PROOFS

c. Debarment or suspension as provided in section 2-443(a) (authority to debar or suspend).

(i) *Recovery of value transferred or received in breach of ethical standards.*

(1) *General provisions.* The value of anything transferred or received in breach of the ethical standard of this article by a city employee or a nonemployee may be recovered from both city employee and nonemployee.

(2) *Recovery of kickbacks by the city.* Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

(Code 1983, § 2-72; Ord. No. J-419, § 2, 4-20-98)

**Secs. 2-247--2-460. Reserved.**

## ARTICLE VII. PUBLIC RECORDS*

***State law reference--**Public records, generally, F.S. ch. 119

### DIVISION 1. GENERALLY

**Secs. 2-460--2-479. Reserved.**

### DIVISION 2. DECONSTRUCTION OF OBSOLETE RECORDS*

***State law reference—**Records retention, F.S. § 119.021(2).

**Sec. 2-480. Schedule adopted.**

In accordance with F.S. chs. 119 and 267, the city commission has found and determined that certain classes or groupings of records of the city as set forth in the schedule entitled "Records Which Are No Longer Required for Permanent Retention," which schedule is hereby made a part of this section, are not required for permanent retention by the city after periods of time indicated. The number of years of retention set forth in the schedule shall date from the earlier of the end of the fiscal year in which the record originates or completion of audit of the record in any such class or grouping.

(Code 1960, § 2-100; Code 1983, § 2-101)

**Editor's note—**The schedule adopted by reference in the above section is on file in the office of the city clerk.

**Sec. 2-481. Index of records to be destroyed—Submission; approval; destruction certificate.**

Prior to destruction of any of the classes or groupings of records listed on the schedule adopted in this division, each department head shall prepare or cause to be prepared an index or schedule of the records of his department to be destroyed or cremated describing generally by classes or groupings only those records to be destroyed, and he shall submit the same in duplicate for the approval of the city auditor and city clerk not less than 60 days prior to any such destruction. After receiving a copy of the index or schedule approved by the city auditor and city clerk, the department head may proceed with the destruction. Upon destruction of any such records, a cremation or destruction certificate shall be executed by the city auditor and city clerk, or his authorized deputy, and shall be placed on file in the office of the city auditor and city clerk, and there retained as a permanent record of the city.

(Code 1960, § 2-101; Code 1983, § 2-102)

**Sec. 2-482. Index of records to be destroyed—Approval by state.**

The city clerk upon receipt of the index or schedule adopted in this division, shall cause a copy of same to be sent to the ~~Division of Archives, History and Records Management of the Florida Department of State~~ division of library and information services of the department of state for its consent prior to any destruction of the same. Unless consent for destruction is received from said division, the public records shall be preserved.

(Code 1960, § 2-102; Code 1983, § 2-103)

PROOFS

**Sec. 2-483. Index of records to be destroyed—Evidence of record destroyed.**

Any index or schedule described in this division shall be admissible in any court of competent jurisdiction or in any proceeding before any administrative board, tribunal, bureau, agency or officer of government or in connection with any transaction, as prima facie evidence of the record or records so cremated or destroyed when the index or schedule, or the appropriate portion thereof, is certified to under the hand and seal of the city auditor and the city clerk.

(Code 1960, § 2-103; Code 1983, § 2-104)

**Secs. 2-484--2-504. Reserved.**

## ARTICLE VIII. BOARDS, COMMISSIONS AND COMMITTEES

**Sec. 2-505. Application of article.**

(a) *Generally.* The terms "board," "commission" and/or "committee," when used in this article, shall refer to any board, commission and/or committee to be appointed by the city commission and/or city manager, whether created by state statute, the Charter, or city commission action, or whether appointed directly by the mayor-commissioner, now in existence or hereafter created. ~~All members so appointed to serve on said boards, commissions, and/or committees shall be residents of the city except for officials or employees of the city who serve upon the same by virtue of their employment with the city. The city commission may appoint members to the gas board, electrical board, board of examiners of contractors and board of adjustment and appeals who are residents of the county who do not reside in the city.~~ Any individual designated as an alternate member of a board shall neither discuss, deliberate on a matter nor vote unless certified by the board chair as a replacement for a regular board member at the meeting which such regular board member fails to attend, or has recused himself from voting on a particular issue.

(b) *Vacancies.* Vacancies on any such board, commission and/or committee for the unexpired term of any member thereof who resigns, who is removed or whose chair becomes vacant for any reason prior to the completion of such member's term, shall be filled by the alternate member, if any, who has served for the greatest, aggregate, continuous period of time as an alternate. The alternate vacancy thereby created shall be filled for the remainder of such alternate's unexpired term by appointment by the city commission.

(Code 1960, § 2-31; Code 1983, § 2-201; Ord. No. 459, § 1, 11-20-2006; Ord. No. L-126, § 1, 7-6-2010; Ord. No. 17-015, § 1, 4-17-2017)

**Sec. 2-506. Continuation until successors appointed and qualified.**

The members whose term of office expires as provided for in this article shall continue to serve and act until their successors are appointed and qualified.

(Code 1960, § 2-34; Code 1983, § 2-202)

PROOFS

Chapter 3

**RESERVED**

PROOFS

Chapter 4

# ALCOHOLIC BEVERAGES*

***State law reference**—Alcoholic beverages, F.S. Ch. 561 et seq.; municipal regulation of hours, location and sanitation of alcoholic beverage businesses, F.S. § 562.45; Municipal Home Rule Powers Act, F.S. ch. 166.

## Sec. 4-1. Definitions.

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

*Alcoholic beverage* means any beverages containing more than one percent of alcohol by ~~weight~~ volume. The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water.

~~*Beer* or *malt beverage:* All brewed beverages containing malt.~~

*Beer* means a brewed beverage that meets the federal definition of beer in 27 C.F.R. § 25.11 and contains less than six percent alcohol by volume.

~~*Bottle club:* A business establishment providing facilities for the consumption of alcoholic beverages by its patrons on the premises, but not licensed to sell alcoholic beverages, without regard as to whether the patrons are required to be members of the bottle club. A "bottle club" does not include a social, fraternal or civic association or organization which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests and is not licensed to sell alcoholic beverages. A "bottle club" can be a private club or a public business establishment in which the principal revenue would be derived from the sale of setups, mixers, ice and water, and charges for any entertainment provided.~~

*Bottle club* means a commercial establishment, operated for a profit, whether or nonprofit is actually made, wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed permanent structure. The term "bottle club" does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held, bona fide restaurants licensed by the division of hotels and restaurants of the department of business and professional regulation whose primary business is the service of full course meals, or hotels and motels licensed by the division of hotels and restaurants of the department of business and professional regulation.

*Club* means persons associated together as a chartered or incorporated club, including social clubs incorporated by orders of circuit judges after their charters have been found to be for objects authorized by law and approved by such judges as organized for lawful purposes and not for the purpose of evading license taxes on dealers in alcoholic beverages, as defined in this section, which organizations are bona fide clubs, and at the time of application for license hereunder, shall have been in continuous active existence and operation for a period of not less than two years.

*Container* means any can, cup, bottle, glass or other receptacle containing an alcoholic beverage.

*Intoxicating beverage* or *intoxicating liquor* means only those alcoholic beverages containing more than 3.2 percent of alcohol by weight.

*Malt beverage* means any brewed beverage containing malt.

*Manufacturer* means all persons who make alcoholic beverages except those who make beer or wine for personal or family consumption pursuant to F.S. § 562.165.

PROOFS

*Motor vehicle* means any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, or moped.

*Nightclub* means any place of business operating after 11:00 p.m. and where food, alcoholic beverages and refreshments are served and sold to the public in connection with dancing, theatrical or similar entertainment; and where, in addition to the space occupied by chairs and tables for service of meals, there shall be provided a floor space of at least 400 square feet, suitably prepared for dancing, and a band, orchestra or other form of music or musical entertainment is provided.

~~*Person* means any natural person, corporation, partnership, association or entity.~~

*Restaurant* means a business licensed as a restaurant by the state division of hotels and restaurants and by the city to be a place where full-course meals are prepared, in a full-service kitchen with a commercial stove, refrigerator and oven, which facility provides seating for at least 20 patrons with standard height dining room tables or booths of adequate size to accommodate the service of full-course meals in accordance with the number of chairs found at the table, with such seating exclusive of seating at bars, counters, or cocktail tables and has a city local business tax receipt as a restaurant. The primary operation of the restaurant shall be for the serving of full-course meals.

*Sale* or *sell* means any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under F.S. chs. 561—568.

~~*Wine:* All vinous beverages created either by natural fermentation or by natural fermentation with brandy added in the manner required by the laws and regulations of the United States, and the term "wine" shall further include all sparkling wines, champagnes, combinations of vinous beverages and vermouths.~~

*Wine* means all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine

(Code 1960, § 3-1(a—g); Code 1983, § 3-1; Ord. No. L-216, § 1, 7-5-2011)

**State law reference—**Similar provisions, F.S. §§ 561.01, 563.01, 564.01.

**Sec. 4-2. Consumption of alcoholic beverages—In public places generally.**

It is unlawful for any person to consume, and for any person other than the licensed beverage salesman or agent, to carry in any cup, can or other open or unsealed container any alcoholic beverage on the streets and sidewalks within the city, except as elsewhere provided in chapter 32.

(Code 1960, § 3-12; Code 1983, § 3-2; Ord. No. K-07, § 3, 4-17-2000)

**Sec. 4-3. Consumption of alcoholic beverages—At curb or drive-in stands.**

It is unlawful for any person to consume any alcoholic beverage at curb or drive-in stands, except within the building which is the address of the person holding a license for the sale or consumption of such alcoholic beverages on the premises.

(Code 1960, § 3-11; Code 1983, § 3-3)

~~**Sec. 3-3.1. Same—and possession of prohibited; exception; penalties for violations.**~~

~~(a) *Possession or consumption prohibited.* It shall be unlawful for any person to possess any container of alcoholic beverage, except in an original container with the seal unbroken, or to consume any alcoholic beverage in or on a motor vehicle, bicycle, motorized scooter, electric personal assistive mobility device, or moped being operated on a street or highway open for vehicular travel in or on any street in the City of Fort Pierce, Florida.~~

~~(b) *Inapplicability.* This section shall not apply to:~~

~~(1) Any person engaged in picking up empty beverage containers for the purpose of collecting deposits or value of the bottle or can itself, nor to any person taking part in a litter control campaign;~~

PROOFS

~~(3) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages, provided that such alcoholic beverage is being transported solely for commercial purposes;~~

~~(4) The transportation of any open container of alcoholic beverage in or on any motor vehicle, provided that such container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk or other nonpassenger or nondriver area of the motor vehicle;~~

~~(5) Transportation of any open container or consumption of alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxicabs, the separate passenger compartments of limousines, provided the operator thereof is not in immediate possession of or engaged in the consumption of any alcoholic beverage or open container of alcoholic beverage. The operator must have in his possession evidence of employment by a bona fide chauffeur's service, limousine service, taxicab company or bus company.~~

~~(c) *Penalties for violations.* Violation of this section is a misdemeanor and is punishable under applicable F.S. § 125.69 by imprisonment for up to 60 days or a fine of up to five hundred dollars ($500.00), or both such imprisonment and fine.~~

~~(Code 1983, § 3-3; Ord. No. I-221, §§ 2—4, 8, 5-18-1987; Ord. No. L-216, § 2, 7-5-2011)~~

**Sec. 4-4. Preservation of existing business.**

Businesses under this chapter in existence on September 30, 1971, but in conflict with the provisions of section 4-6, may continue in business until such time as the present owner of such establishments terminates operations or business, whereupon such nonconforming use shall not thereafter be reestablished.

(Code 1960, § 3-5; Code 1983, § 3-4)

**Sec. 4-5. Voluntary relocation.**

A business in existence on September 30, 1971, may be voluntarily relocated to a second site if:

(1) Such site is within the zoning area as designated in section 125-401; and

(2) Such site is within the distance restrictions as provided in section 4-6.

(Code 1960, § 3-6; Code 1983, § 3-5; Ord. No. L-216, § 3, 7-5-2011)

**Sec. 4-6. Areas for sale of alcoholic beverages—Distance restrictions established for consumption on- or off-premises.**

(a) *Minimum requirements.* Establishments located in the zoning districts outlined in section 125-401 shall meet the minimum distance requirements identified in Table 1.

| *Minimum Distance Requirements for Consumption On- or Off-Premises* | | | | |
|---|---|---|---|---|
| | *Consume* | *Church* | *School* | *Other Licensed Establishment* |
| Restaurant | On-premises | 1,600 feet | 1,600 feet | 1,600 feet |
| Bar/lounge | On-premises | 1,600 feet | 1,600 feet | 1,600 feet |
| Nightclub | On-premises | 1,600 feet | 1,600 feet | 1,600 feet |
| Liquor store | Off-premises | 500 feet | 500 feet | N/A |
| Grocery store | Off-premises | 500 feet | 500 feet | N/A |

(b) *Exceptions.* Hotels or motels with 100 rooms or more and restaurants with a minimum seating capacity of 200 and containing a minimum of 4,000 square feet shall not be subject to distant restrictions.

(c) *Distance restrictions established for consumption on- or off-premises.* Distance restrictions as established in this chapter for consumption on- or off-premises shall not apply to properties identified in the

PROOFS

Downtown Business and Entertainment Overlay District, as identified in 125-157(b).

(Code 1960, § 3-3; Code 1983, § 3-7; Ord. No. J-49, § 1, 9-7-1993; Ord. No. L-216, § 5, 7-5-2011)

**Sec. 4-7. Areas for sale of alcoholic beverages—Measurement of distance restrictions.**

(a) The manner of measurement of the distance referred to in section 4-6 shall be as follows: Begin at the main entrance of the church or school building or licensed premises, regardless of which zoning they are in, thence run to the centerline of the street right-of-way in front of such entrance, thence along the centerline of such street right-of-way to a point immediately opposite the main entrance of the proposed licensed premises, thence to the center of the main entrance of the building of the proposed licensed premises.

(b) If there is more than one public entrance to an establishment, the main entrance shall be construed to mean the principal or leading entrance to the premises involved and to which the traffic route, whether vehicular or pedestrian, of those going to and from said premises chiefly directs itself.

(Code 1960, § 3-4; Code 1983, § 3-8)

**Sec. 4-8. Waiver of distance procedure.**

Any person whose location or place of business does not meet the distance restrictions in section 4-6(a) and who is applying to the state division of alcoholic beverages and tobacco for a license may have this distance waived in the following manner:

(1) A request for waiver may be initiated by filing an application in writing for such waiver in the office of the department of planning and development.

(2) The department of planning and development shall refer such application to the city planning board for review and report after conferring with affected city departments. Such recommendation and report shall be forwarded to the city commission within 90 days of the receipt of a complete application.

(3) Upon receipt of the report from the planning board, the city commission shall conduct a public hearing thereon giving at least 15 days' notice thereof in a newspaper having general circulation in the city.

~~(4) In case, however, that the planning board recommends disapproval of the application for waiver, such waiver shall not be granted by the city commission except by four-fifths vote thereof.~~

(4) Before consideration of a request for waiver by the city commission pursuant to this section, notice by mail shall be given pursuant to section 125-37.

(5) Before any action is taken upon any application as provided in this section, either by the planning board or the city commission, the applicant shall deposit with the city a fee established by the city commission by resolution to cover the approximate cost of the procedure and such sum is not refundable in any event.

(Code 1960, § 3-10; Code 1983, § 3-9; Ord. No. I-60, § 1, 4-16-1984; Ord. No. I-104, § 1, 3-18-1985; Ord. No. J-49, § 2, 9-7-1993; Ord. No. L-86, § 1, 7-20-2009; Ord. No. L-216, § 6, 7-5-2011; Ord. No. 20-006, § 1, 3-16-2020)

**Sec. 4-9. Hours—Delivery by wholesale vendor.**

It shall be unlawful for any wholesale vendor to sell or deliver or attempt to sell or deliver, to any retail vendor any alcoholic beverage on Sunday between the hours of 12:00 midnight on Saturday and 12:00 midnight on Sunday.

(Code 1960, § 3-7; Code 1983, § 3-10)

**Sec. 4-10. Hours—Sale, etc.**

No alcoholic beverages may be sold, consumed, served or permitted to be served or consumed in any place holding a license under the division of alcoholic beverages and tobacco of the state department of business and professional regulation for the sale of alcoholic beverages regardless of alcoholic content, between the hours of 2:00 a.m. and 7:00 a.m. each day.

~~Reserved.~~

(Code 1960, § 3-8; Code 1983, § 3-11; Ord. No. J-41, § 2, 4-19-1993; Ord. No. K-51, § 1, 12-4-2000; Ord. No. L-40, §§ 1, 2, 9-15-2008)

PROOFS

**Sec. 4-11. Hours—Notification of violation.**

The city clerk shall, upon conviction of any person for the violation of any of the terms of section 4-10, notify by certified mail within five days the director of the state division of alcoholic beverages and tobacco of such conviction, giving the name of the person so convicted, the date of conviction, the date of the violation and other such information as shall be necessary to properly apprise the director of the circumstances of the violation and conviction.

(Code 1960, § 3-12; Code 1983, § 3-1)

**Sec. 4-12. Bottle clubs.**

(a) *Definition.* For the purposes of this section, the term "bottle club" means a business establishment providing facilities for the consumption of alcoholic beverages by its patrons on the premises, but not licensed to sell alcoholic beverages, without regard as to whether the patrons are required to be members of the bottle club. The term "bottle club" does not include a social, fraternal or civic association or organization which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests and is not licensed to sell alcoholic beverages. A bottle club can be a private club or a public business establishment in which the principal revenue would be derived from the sale of setups, mixers, ice and water, and charges for any entertainment provided.

(b) ~~*New bottle clubs Prohibited.* From the effective date [September 20, 1982] of this section no new~~ No bottle clubs, as defined in subsection (a) of this section, will be licensed or authorized to do business within the city.

~~(c) *Expired occupational licenses not renewable.* Any existing "bottle clubs" within the city shall have until their occupational license expires on September 30, 1983, to continue in business, and upon the date that the occupational license expires, it shall not be renewed and they shall terminate said business.~~

~~(d) *Notification.* All existing "bottle clubs" shall be notified of the ordinance from which this section is derived immediately upon its passage, by mailing a copy by certified mail, return receipt requested, to the address given upon the occupational license.~~

~~(Code 1983, § 3-13; Ord. No. H-226, §§ 1—4, 9-20-1982)~~

**Sec. 4-13. Minimum requirements for on-premises consumption.**

(a) An applicant holding a "beer and wine—consume on premises and package sales" license must be engaged in conducting a bona fide restaurant establishment, for which such waiver is sought, and to qualify as a bona fide restaurant the restaurant must:

(1) Have tables capable of seating not fewer than 20 persons simultaneously, for the purpose of serving meals;

(2) Dispense sales of beer and wine only to persons patronizing the establishment for the main purpose of ordering and consuming food;

(3) Have permanent kitchen facilities with a commercial stove, refrigerator and oven located within the premises in which meals are regularly prepared for service to patrons of the establishment.

(b) An applicant holding a "beer, wine and liquor—consume on premises and package sales" license must demonstrate that any parking area provided for is illuminated by not less than three footcandles per square foot of parking lot area.

(Code 1983, § 3-14; Ord. No. L-216, § 7, 7-5-2011)

**Sec. 4-14. Minimum standards for review for waiver of distance.**

The city commission shall determine if the health, safety, or general welfare has been provided with any waiver request and may impose any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

(1) The actual location and distance of the proposed establishment with respect to other places of business licensed to sell intoxicating beverages, whether on or off the premises, as well as churches and schools;

PROOFS

(2) The type and size of the establishment, including any bar floor space and seating capacity, and whether, in view of such type or size, the proposed establishment is likely to create a public nuisance or traffic impediment by drawing crowds or persons milling about outside the building.

(3) Whether adequate parking and landscaping for the facility is provided so as to meet the requirements set forth in sections 125-314 through 125-316;

(4) Whether the facility is physically separated or well buffered from all adjacent residentially zoned areas;

(5) Whether traffic generated by patrons or pickup/delivery vehicles will pass through low or moderate density residentially zoned neighborhood;

(6) Whether, if the facility is located within 1,600 feet of a church or school, it will generate traffic which may adversely affect the safety of persons attending such church or school.

(7) Before any action is taken upon any application as provided in this section, either by the planning board or the city commission, the applicant shall deposit with the city a fee established by the city commission by resolution to cover the approximate cost of the procedure and such sum is not refundable in any event.

(Code 1983, § 3-15; Ord. No. L-216, § 8, 7-5-2011)

**Sec. 4-15. Waiver exemptions.**

A location that has been granted a waiver of distance by the city commission shall not be required to obtain a new waiver of distance as a result of a change in tenancy, ownership or management unless a change in use occurs for a time period of 12 months or more.

(Code 1983, § 3-16; Ord. No. L-216, § 9, 7-5-2011)

PROOFS

Chapter 5

**RESERVED**

PROOFS

Chapter 6

# ANIMALS*

***State law reference—**Municipal Home Rule Powers Act, F.S. ch. 166; legal fences and livestock at large, F.S. ch. 588; cruelty to animals, F.S. ch. 828; animal industry, F.S. ch. 585; damage by dogs, F.S. ch. 767; local animal ordinances, F.S. §§ 828.27, 828.28.

## ARTICLE I. IN GENERAL

### Sec. 6-1. Definitions.

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

*Animal* means any non-speaking, live, vertebrate creature, domestic or wild.

*Animal control officer* means any person employed or appointed by the city who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty, licensure of animals, or seizure and impoundment of animals and to issue citations as provided in this chapter.

*Animal shelter* means any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

*At large* means any animal which is off the premises of its owner or keeper and not under the restraint of its owner or keeper.

*Attack* means an event whereby an unprovoked animal lunges at, runs after or otherwise chases or approaches a person or other animal and such event either occurs in a threatening or menacing manner or causes some type of injury.

*Bird* or *fowl* means any member of the avian species, regardless of sex.

*Bite* means an actual puncture or tear of the skin inflicted by the teeth of an animal.

*Breeder* means any person who owns, keeps, harbors, maintains, or has custody of dogs or cats that produce any litter or offspring that are offered for sale, or that produce a combined total of two or more litters during a 12-month period.

*Cat* means any feline, regardless of sex.

*Citation* means a written notice, issued to any person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. Pursuant to F.S. § 828.27, the citation shall contain:

(1) The date and time of issuance.

(2) The name and address of the person.

(3) The date and time the civil infraction was committed.

(4) The facts constituting probable cause.

(5) The ordinance violated.

(6) The name and authority of the officer.

(7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court.

(8) The applicable civil penalty if the person elects to contest the citation.

PROOFS

(9) The applicable civil penalty if the person elects not to contest the citation.

(10) A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(11) A conspicuous statement that, if the person is required to appear in court, the person does not have the option of paying a fine in lieu of appearing in court.

*Community cat* means a cat that has been sterilized, vaccinated, ear tipped and returned to the outdoors to live independent of human intervention.

*Confined* means physically preventing an animal from leaving the premises of its owner or keeper.

*Control* means the possession, ownership, care and custody of animals.

*Controlled burial* means burying at least two feet below the surface of the ground and 100 feet from any water well.

*Cruelty* means any act of neglect, torture or torment that causes the unjustifiable pain or suffering of an animal.

*Dangerous dog* means any dog that according to the records of the appropriate authority:

(1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury of a human being on public or private property;

(2) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(3) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the division.

*Dog* means any animal of the canine species, regardless of sex.

*Domestic animal* means dogs, cats, or other animals that are kept primarily as pets for pleasure rather than utility and that do not require a special permit by the state fish and wildlife conservation commission.

*Exposed to rabies* means a person, dog, cat or other animal that has been bitten by, or been exposed to, any animal known to have been infected with rabies.

*Extreme weather,* for the purposes of this chapter, means and includes, but is not to be limited to, the following conditions:

(1) Hurricane;

(2) Tropical storm;

(3) Above 85 degrees Fahrenheit with a heat index of 100 degrees; or

(4) Below 40 degrees Fahrenheit with a 35 degrees wind chill factor.

In determining whether extreme weather conditions exist, an animal control officer shall consider extenuating circumstances that provide for the safety of the animal through other means.

*Feral* means any dog or cat existing in a wild or untamed state. The term "feral" includes any dog or cat that has returned to an untamed state from domestication.

*Harbor* means the act of keeping and caring for an animal or providing premises to which the animal returns for food, shelter, or care for five consecutive days. The term "harbor" does not include those circumstances wherein an individual temporarily captures or holds a stray animal and immediately returns the animal to its owner or an animal control officer.

*Hunt* or *hunting* means to follow, search, or pursue any animal or the use of structures or tree stands for the purpose of capturing or killing either for food or in sport, or the use of any animal or hunting falcon for this purpose.

*Impoundment* means the taking of or picking up of and confinement of an animal by an officer under the provisions of this chapter.

PROOFS

*Leash* or *lead* means a cord, rope, chain or similar device which holds an animal under restraint and is not more than six feet in length.

*Livestock* means horses, mules, donkeys, cattle, calves, sheep, goats, pigs, hogs or any other grazing animal.

*Microchip* means a small chip implanted under an animal's skin that transmits an identification number to an electronic scanner, which provides pet ownership data through cross reference to microchip registry.

*Officer* means any law enforcement officer, as defined in F.S. § 943.10, or any animal control officer employed by the city.

*Ordinance* means any ordinance relating to the care, custody, control of or cruelty to animals enacted by the city, the violation of which is a civil infraction.

*Owner* means any person, partnership, corporation or entity possessing, owning, keeping, caring for, or harboring one or more animals, including any custodian or other person in charge of an animal.

*Proper enclosure of a dangerous dog* means, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements.

*Public nuisance.*

(1) Any animal which:

a. Attacks passersby or passing vehicles without provocation;

b. Attacks other animals;

c. Is repeatedly at large and not under restraint;

d. Trespasses on school grounds;

e. Damages private or public property;

f. Repetitively barks, whines, howls, chirps, caws, or whistles for a period of five minutes or more so as to disturb adjacent residents; or

g. Causes an annoyance in the neighborhood by acts, such as overturning garbage cans, defecating, digging holes on other than its owner's property, or such other acts as are generally regarded to create an annoyance.

(2) Any activity, such as, but not limited to, the feeding of wild animals or fowl, which:

a. Causes the fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to those in close proximity to the premises where the animals or fowl congregate; or

b. Causes a sanitary nuisance, as defined in F.S. § 386.01.

(3) The keeping of any wild animal in violation of the provisions of F.S. ch. 372 and regulations promulgated by the state game and freshwater fish commission.

*Quarantine* means a strict confinement, isolation and observation imposed on animal suspected of having rabies or any other infectious zoonotic disease, or premises or other defined geographic areas, to prevent the spread of disease or pests.

*Responsible person* means ~~a responsible person is~~ an individual who is at least 15 years of age or older who may provide temporary supervision or care for an animal as permitted by the owner of the animal. A responsible person as described herein may be the owner, or may be a person who is not the owner but has been permitted by the owner to provide temporary supervision or care.

*Severe injury* means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

*Sterilized* means rendered permanently incapable of reproduction.

PROOFS

*Tease* means to intentionally disturb, provoke, interfere with, or annoy any animal.

*Tether* means to tie or otherwise attach an animal to a stake, pole, tree, or other stationary object without providing direct control and supervision of the animal.

*Under restraint* means any animal confined within the premises of its owner or keeper, or under immediate, continuous physical control, secured by a leash or lead.

*Unprovoked* means the victim what has been conducting himself peacefully and lawfully has been bitten or changed in a menacing fashion or attacked by an animal.

*Unsterilized* means any non-spayed or non-neutered animal.

*Vicious animal* means any fierce or dangerous animal that constitutes a physical threat to human beings or other animals, or any animal for which the animal control officer has documentation to establish that the animal has bitten any person or other animal on two separate occasions without provocation within a period of one year.

(Code 1983, § 4-1; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016; Ord. No. 17-018, § 1, 4-17-2017; Ord. No. 17-039, § 1, 1-2-2018)

**Sec. 6-2. Prohibited animals.**

(a) Except as permitted by applicable city regulations, it shall be unlawful for any person to keep or harbor livestock; fowl, not including domesticated caged or perched birds kept indoors as pets, such as parrots, cockatoos, macaws, parakeets, cockatiels, and finches; animals that require a special permit by the state fish and wildlife conservation commission; or bees in any incorporated area of the city.

(b) A special exemption permit may be granted by the animal control division if said animals do not create a nuisance, health hazard or danger, and if said animals are not being raised for public consumption. Special exemption permits for backyard chickens may be granted as long as all the requirements outlined in section 6-94 are met. A denial of a special exemption permit may be appealed to the city manager.

(c) The fee for the special exemption permit will be set by resolution of the city commission.

(Code 1983, § 4-2; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016; Ord. No. 17-020, § 1, 7-17-2017)

**Sec. 6-3. Trapping prohibited.**

(a) The use of box traps, food-hold traps, snares, or any other device to capture any animal or fowl within the city shall be prohibited except for use by authorized animal control officers, state agencies, wildlife officers or their contractors to capture or control nuisance animals. This section shall not be interpreted to apply to the use of traps or devices to eradicate mice, rats, rodents, or other vermin.

(b) A violation of this section shall constitute a Class C civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-3; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-4. Hunting prohibited.**

(a) It shall be unlawful for any person to hunt any animal or fowl within the city.

(b) A violation of this section shall constitute a Class C civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-4; Ord. No. L-80, § 2, 4-20-2009)

**Secs. 6-5--6-26. Reserved.**

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. GENERALLY

**Sec. 6-27. Duties and powers; immunity from prosecution.**

(a) It shall be the duty of the animal control officer to enforce all city ordinances pertaining to animal regulation; to respond to complaints concerning animals running at large, cruelty to animals, injured animals, and

PROOFS

animals creating a nuisance; to apprehend dangerous and vicious animals; to issue notice of violation to owners of animals in violation of the city ordinances; to issue citations to owners of animals in violation of city ordinances; to work closely with other city departments in regards to animal regulation; and to perform such other duties and functions as the animal control supervisor and the city manager may deem necessary in the furtherance of animal regulation in the city.

(b) For the purpose of discharging the duties imposed by subsection (a) of this section, where an animal control officer has reasonable grounds to believe that a threat of imminent danger to the health, life or welfare of an animal based on objective observable fact, the animal control officer is empowered to enter upon any private property, not including any dwelling house or structure or fences enclosure, and to demand that the animal or, if applicable, the license tag of the animal, be exhibited to the officer The officer is empowered to enter upon private property, including fenced enclosures, but not a dwelling house or structure, for the purpose of apprehending a rabies suspect animal, animals in need of immediate medical attention including cruelly treated animals, and vicious animals not properly controlled by the owner. Refusal by any property owner to allow the officer to enter upon such person's property as authorized by this section shall constitute a violation. The animal control officer shall be immune from prosecution, civil or criminal, for reasonable good faith trespass upon real property as authorized by this section.

(Code 1983, § 4-88; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-28. Interference with animal control officer prohibited.**

No person may knowingly hinder, resist or oppose any animal control officer or other employee of the division in performance of his duties under this chapter; knowingly interfere with any animal trap set by, or at the direction of, such animal control officer; or molest or release any animal caught in such trap, unless directed to do so by an animal control officer.

(Code 1983, § 4-89; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-29. Enforcement and penalties.**

(a) Any officer who has probable cause to believe that any person has committed an act in violation of this chapter, or any other ordinance relating to the care, custody, control of, or cruelty to animals, may issue a citation to that person. The determination that a violation has occurred may be the result of the officer's own investigation or as the result of a credible complaint by an aggrieved person.

(b) Unless otherwise specified, any violation of this chapter, or any other ordinance of the city relating to the care, custody, control, or cruelty to animals, constitutes a civil infraction and may be punishable by a civil penalty not to exceed $500.00. If the person who has committed the violation does not contest the citation, a reduced civil penalty of less than the maximum allowed will be assessed as follows:

| *Reduced Civil Penalties for Violation of Provisions Relating to Animals* | | | |
|---|---|---|---|
| *Class* | *First Offense* | *Second Offense* | *Third Offense* |
| A | $50.00 | $100.00 | Mandatory court |
| B | $100.00 | $200.00 | Mandatory court |
| C | $250.00 | Mandatory court | Mandatory court |

(c) Within 30 days of the issuance of a citation for a violation of this chapter, the person cited must comply with one of the following options for disposition of the citation:

(1) Pay the reduced fine, as indicated herein, to the city in the manner provided on the citation form. A person making this election shall be deemed to have admitted the infraction and waived the right to a hearing; or,

(2) Request a hearing to contest the citation in county court, as provided by F.S. § 828.27, by contacting the county clerk of court, in the manner provided on the citation form.

PROOFS

a. The standard of proof in the court hearing shall be a preponderance of the evidence.

b. Contesting the citation shall be deemed a waiver of any right to pay the reduced civil penalty, and upon a finding by the court that the civil infraction was committed, the court may order the violator to correct the violation and impose a penalty up to the maximum civil penalty of $500.00, plus all applicable costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the reduced civil penalty as provided in this section. The judge may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the county judge determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or to correct the violation within the time provided, a civil judgment shall be entered against that person in the amount adjudicated, and any other lawful sanctions may be imposed by the court.

(d) Any person that is issued a citation and fails to pay the reduced civil infraction or request a court hearing within 30 days, or any person that requests to contest a citation by scheduling a court hearing and then fails to appear at such hearing, shall be deemed to have waived the right to contest the citation and a civil judgment shall be entered against the person in an amount not to exceed the maximum civil penalty of $500.00, plus all applicable cost of prosecution, plus court costs, but in no event shall any such civil penalty imposed by the court be less than the reduced civil penalty as provided in this section. However, the court shall have the discretion to continue or reschedule any hearing when it determines that doing so will further the interest of justice.

(e) Payment of any civil penalty imposed by the county court shall be made to the clerk of court, who shall forward the monies collected to the city.

(f) Civil penalties imposed pursuant to this section shall be independent of and in addition to any fees, cost, or charges arising from the impoundment or registration of animals as provided in this chapter.

(g) As provided by F.S. § 828.27, in addition to any civil penalties imposed pursuant to this section there shall be imposed and collected a surcharge of $5.00. The proceeds from such surcharge shall be used to pay the cost of the training for animal control officers.

(h) Nothing in this chapter shall prevent officers from charging violations related to the care and control of animals as criminal offenses, when so provided by state statutes.

(i) Nothing in this chapter shall prevent the animal control division supervisor from dismissing a citation if the violation is corrected or the facts presented are likely to result in an acquittal by the county court.

(Code 1983, § 4-90; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Secs. 6-30--6-46. Reserved.**

PROOFS

## DIVISION 2. IMPOUNDMENT

### Sec. 6-47. Authority.

Police and animal control officers are authorized to impound any animal or fowl as provided by this chapter or state law.

(Code 1983, § 4-1; Ord. No. L-80, § 2, 4-20-2009)

### Sec. 6-48. Requirement to check for identification.

Upon taking custody of any dog or cat, officers shall inspect the animal for a registration tag and scan the animal for the presence of a microchip in an attempt to gain ownership information required for the completion of duties as described herein. Such inspection and scanning shall be completed prior to any impoundment at an animal shelter.

(Code 1983, § 4-71; Ord. No. L-80, § 2, 4-20-2009)

### Sec. 6-49. Disposition; not under restraint, at large, and nuisance animals.

(a) Any animal or fowl not under restraint, found running at large in the city, or determined to be a nuisance animal, may be taken by or at the direction of an officer and impounded in the animal shelter, and there confined in a humane manner.

(b) Female animals in heat may be impounded when not kept under restraint or confined within a building or secure enclosure as provided in this chapter.

(c) When the owner is known and able to take immediate custody of an animal, and the animal is not a danger to public safety or a nuisance animal, officers should return the animal directly to the owner to avoid impoundment and animal shelter fees. However, this shall not prevent officers from taking enforcement action for any violations of this chapter.

(d) When the owner of an impounded animal can be identified, the animal control officer shall immediately upon impoundment provide the owner with written notice of such action. If the owner cannot be contacted, but their address is known, the animal control officers will post written notice of the impoundment at this address.

(e) Upon impoundment, the animal control officer will provide written notice to the animal shelter indicating that the animal is being impounded without a hold pursuant to this section. When known, this notice will include the name, address, and telephone number of the animal's owner.

(f) Any animal not reclaimed by its owner within five working days shall become the property of the local government authority or animal shelter, and shall be placed for adoption or euthanized. There shall be no requirement to hold a feral or wild animal impounded under this section prior to disposition.

(g) Any community cat that is found to be a public nuisance will be impounded at a local animal shelter who will determine the best outcome for the animal. Under no circumstances shall a community cat that has been declared a nuisance be returned to the location where it was removed.

(Code 1983, § 4-72; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 17-018, § 1, 4-17-2017)

**Sec. 6-50. Quarantine and disposition; animal bites cases and rabies infection.**

(a) When an animal has bitten or aggressively attacked a person or another animal, or is otherwise suspected of being rabid, the animal shall be quarantined for a period of ten days.

(b) When the owner of the animal is unknown, there is reason to suspect the animal of being rabid, or when the investigating officer otherwise determines the need for immediate impoundment and secure quarantine:

(1) Upon impoundment, the officer will provide written notice to the animal shelter indicating that the animal is being impounded with a hold for ten days pursuant to this section. When known, this notice will include the name, address, and telephone number of the animal's owner.

(2) If the owner of an impounded animal can be identified, the animal control officer shall immediately upon impoundment provide the owner with written notice of such action. If the owner cannot be contacted and their address is known, the animal control officers will post written notice of the impoundment at this address.

(3) When known, the owner shall be given written notice of their right to request a hearing. This ten-day period shall allow the owner to apply to a court of competent jurisdiction for remedies that may be available.

(4) The owner shall be responsible for the payment of all boarding costs and fees that are required to keep the animal.

(c) When the owner is known and capable of securely quarantining the animal, as determined by the investigating officer, and no suspicion of rabies infection exists:

(1) A written notice for quarantine shall be issued and direct the owner to keep the animal securely confined and kept from contact with any other animal.

(2) The owner may arrange, at their own expense, for the quarantine of the animal in a veterinary hospital, animal shelter, or at another secure site approved by the investigating animal control officer.

(3) Should the owner fail to comply with a notice for quarantine, the officer shall immediately impound the animal and quarantine it at an animal shelter, as provided herein.

(d) Animal control officers shall notify the county health department upon any positive indication of a rabies infection in an animal.

PROOFS

(Code 1983, § 4-73; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-51. Order to provide care, and disposition; mistreated or neglected animals.**

(a) Any police or animal control officer may remove from its present custody and impound, or issue an order to provide care to its owner, any animal found neglected, or cruelly treated pursuant to and in accordance with F.S. § 828.073.

(b) Animals taken into custody pursuant to this section shall be impounded in the animal shelter, and there confined in a humane manner until a court order is issued or other disposition is taken in accordance to F.S. § 828.073, or until a veterinarian determines euthanasia is necessary pursuant to F. S. §§ 828.012 or 828.122.

(c) Upon impoundment, the officer will provide written notice to the animal shelter indicating that the animal is to be held pursuant to this section. When known, this notice will include the name, address, and telephone number of the animal's owner.

(d) When an animal is impounded or an order to provide care is issued pursuant to this section, an animal control officer shall, within ten business days, petition the county court for a hearing to determine custody and disposition of the animal in accordance with F.S. § 828.073.

(e) When an animal control officer petitions the county court as provided in this section, then that animal control officer shall have written notice served to the owner or public notice published, at least three days prior to the court hearing, and in accordance with F.S. § 828.073.

(Code 1983, § 4-74; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-52. Disposition; animal fighting and baiting.**

(a) Upon a court finding probable cause for a violation of F.S. § 828.122, involving animal fighting or baiting, in application for a search or arrest warrant, or on the arraignment of any person so charged, the investigating officer shall petition the court to issue an order for seizure of any animals or equipment used in committing the violation in accordance with the same law.

(b) Animals taken into custody pursuant to this section shall be impounded in the animal shelter, and there confined in a humane manner until a court order is issued or other disposition is taken in accordance to F.S. § 828.073, or until a veterinarian determines euthanasia is necessary pursuant to F.S. §§ 828.012 or 828.122.

(c) Upon impoundment, the officer will provide written notice to the animal shelter indicating that the animal is to be held pursuant to this section. Additionally, when known, this notice will include the name, address, and telephone number of the animal's owner.

(Code 1983, § 4-75; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-53. Release of impounded animals; requirements and fees.**

(a) An animal shelter shall not release an animal impounded under this division to an owner until the following conditions have been met:

(1) The shelter has received approval to release the impounded animal by a city animal control officer.

(2) The owner has paid an impoundment fee equal to the per animal fee charged by the shelter to the city as specified in the contract in effect at that time.

(3) Based upon the circumstances that resulted in the animal's impoundment, the city manager or his designee may waive all or a portion of the impound fee. Such circumstances include, but are not limited to, the number of interactions with the animal in the past, compliance with city registration and rabies requirements, the quality of care the animal received prior to impound, compliance with city tethering requirements and quarantine holds due to bite cases.

(4) The owner of any dog or cat provides, or acquires through the animal shelter, proof of current and valid rabies vaccination and proof of registration as required within this chapter, except that owners residing outside the city shall not be required to comply with registration provisions within this chapter.

(b) The animal shelter shall collect all fees required prior to the release of any animal, provide a receipt for

PROOFS

same to the owner upon payment, and transmit the collected fees to the city as provided for by law.

(Code 1983, § 4-1=76; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 17-003, § 1, 2-6-2017)

**Sec. 6-54. Adoption of animals from city-funded agencies.**

(a) No dangerous dog, vicious animal, or animal that has been involved in an unprovoked bite or attack on a person shall be placed for adoption in the event that the owner does not reclaim the animal.

(b) A humane society, shelter, or other agency funded in any part by the city shall not release a dog or cat for adoption, unless the dog or cat has been sterilized by a licensed veterinarian, or before securing a written agreement for sterilization, as provided within F.S. § 823.15.

(c) A humane society, shelter, or other agency funded in any part by the city shall not release a dog or cat for adoption, unless that dog or cat has been implanted with a microchip, as defined by this chapter, and sufficient information to locate the adopter is provided to the entity maintaining such data for the microchip manufacturer.

(d) A humane society, shelter, or other agency funded in any part by the city shall not release a dog or cat for adoption, unless that dog or cat has been vaccinated for rabies as required by this chapter and registered and all tags and certificates as required herein have been issued to the owner, except that dogs and cats adopted by owners living outside the city shall not be required to comply with registration requirements.

(Code 1983, § 4-77; Ord. No. L-80, § 2, 4-20-2009)

**Secs. 6-55--6-81. Reserved.**

## ARTICLE III. ANIMAL CONTROL

**Sec. 6-82. Public nuisance.**

(a) It shall be unlawful for any owner to permit his animal to become a public nuisance or for any individual to create a public nuisance, as defined herein.

(b) The owner or keeper of any animal shall immediately remove any excreta deposited by the animal on public walks, recreation areas, or the property of others.

(c) A violation of this section shall constitute a class A civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-20; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-83. Running at large.**

(a) It shall be unlawful for any person to permit any cattle, horses, sheep, chickens, ducks, goats, turkeys, dogs, cats, or any other domestic, exotic or wild animals or fowl to run at large in the city except as otherwise provided by law or ordinance.

(b) A violation of this section shall constitute a Class A civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-21; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-84. Restraint of animals, generally.**

(a) Animals shall not be allowed outside the confines of their own homes without proper restraint, except as provided in this section.

(1) Dogs, cats and small domestic animals shall not be kept outside in crates, whether metal, wood, plastic or other material.

(2) Dogs, cats and small domestic animals may be kept outside in a fenced enclosure if the enclosure contains a shelter which meets the following requirements:

a. Is weatherproof and made of durable materials so as to provide adequate protection from the sun, wind and rain;

b. Provides a solid floor. Wire, grid or slat floors of structures that permit the animal's feet to pass

PROOFS

through openings, or sag under the animal's weight, or that otherwise do not protect the animal's feet or toes from injury are prohibited;

c. Provides a solid roof;

d. Contains clean and dry bedding material;

e. Is elevated a minimum of six inches from the ground and be free standing of water;

f. Provides sufficient space for each animal to comfortably stand up, sit down, lie down and turn around in the shelter. If the shelter is used for more than one animal at the same time, it must provide enough space for each animal to comfortably stand up, sit down, lie down, and turn around simultaneously;

g. Provides ingress and egress for the animal to enter and exit the shelter at all times;

h. Be kept in a clean and sanitary condition free from accumulated waste and debris.

(3) Any animal left unattended in an outdoor fenced enclosure shall be provided a minimum open space, excluding the shelter within the enclosure, based upon the dog's size as set forth below:

a. 20 pounds or less (small): 32 square feet.

b. 21 pounds to 50 pounds (medium): 60 square feet.

c. Over 50 pounds (large): 80 square feet.

d. An additional 16 square feet is required for each additional dog.

(4) Sufficient food and water shall be provided at all times daily, including weekend and holidays.

(5) No animal shall be tethered unless all of the following provisions are met:

a. A responsible person must be outside and within view of the animal at all times while tethered.

b. Animals that are younger than six months old, older than seven years, or ill shall not be tethered.

c. The length and weight of the tether shall be appropriate for the animal breed and shall be a minimum of ten feet long or four times the length of the animal (measured from tip of nose to base of tail), whichever is greater.

d. The tether must have swivels at both ends of the rope, chain or similar restraint for holding an animal in place, allowing a short radius in which it can move about and not become tangled.

e. Prong, choke or chain collars are prohibited in the use of tethering animal.

f. The area which the animal may reach while tethered shall be free of entanglements.

g. The length and location of the tether must not allow the animal to reach a fence or neighboring property.

h. Collar weight shall be appropriate for the animal as determined by a reasonable person.

i. A trolley system is permitted.

j. An animal may not be tethered in extreme weather, including, but not limited to, hurricanes, tropical storms or tornados.

k. The animal shall have access to a water, shade and a dry and raised area at all times.

(6) Any enclosed area where a dog is confined shall be kept free of objects that may injure the dog and shall be cleaned regularly to remove feces.

(7) Dogs on residentially zoned property shall not be maintained outdoors during periods of extreme weather.

(b) It shall be unlawful for any operator of a motor vehicle to allow an animal to ride in any unenclosed section of the vehicle without enclosing the animal in a cage that is secured to the vehicle or securing the animal with a restraint device that will not permit the animal to reach the outside perimeter of the vehicle.

PROOFS

(c) This section shall not apply to community cats, as defined in this chapter.

(d) A violation of this section shall constitute a Class B civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-22; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016; Ord. No. 17-018, § 1, 4-17-2017; Ord. No. 17-039, § 2, 1-2-2018)

**Sec. 6-85. Public areas.**

(a) It shall be unlawful for any person to bring any animal, except ~~seeing eye dogs, any dog trained to assist the handicapped,~~ a service animal or a governmental police dog, upon the beaches or parks owned by the city, except as may be provided in chapter 28, whether or not the animal is under restraint, or in restaurants, grocery stores, or other establishments selling groceries or staple goods; except that this prohibition shall not apply to outdoor portions of food service establishments when specifically authorized in subsection (b) of this section.

(b) As provided by F.S. § 509.233, there is hereby established a local exemption procedure to certain provisions of the Food and Drug Administration Food Code, as currently adopted by the state division of hotels and restaurants, to allow patrons' dogs within certain designated outdoor portions of public food service establishments. This exemption shall only apply to those public food service establishments that have received a permit and to those certain designated outdoor portions as identified on the approve permit application.

(1) *Permit requirements.* In order to protect the health, safety, and general welfare of the public, participating public food service establishments shall annually apply for and receive a permit from the city before allowing patrons' dogs on their premises. Application for the permit shall be made to the city's planning office and shall be reviewed and approved by both the planning department and the code compliance manager. Applications shall include, along with any other such information deemed reasonably necessary by the city in order to implement and enforce the provisions of this section, the following information:

a. The name, location, and mailing address of the public food service establishment.

b. The name, mailing address and telephone contact information of the permit applicant.

c. A diagram and description of the outdoor dining area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the city. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

d. If any portion of the outdoor dining area includes city rights-of-way, an approved sidewalk cafe permit must be obtained in conjunction with the application.

e. A description of the days of the week and hours of operation during which patrons' dogs will be permitted in the designated outdoor dining area.

f. A copy of a valid business tax receipt issued by the city.

g. The annual permit fee for establishing or maintaining a dog friendly outdoor dining area and related inspection fees shall be established by the city commission by resolution. The permit fee shall cover the processing of all paperwork including one on-site inspection to confirm compliance with the regulations outlined in this section. Inspection fees shall be charged for any additional inspections required to complete the processing for the application.

(2) *Reporting.* In accordance with F.S. § 509.233(5), the city shall provide the division of hotels and restaurants and the local department of health with a copy of all approved applications and permits issued on a quarterly basis.

(3) *Regulations and limitations.* In order to protect the health, safety, and general welfare of the public, and

PROOFS

pursuant to F.S. § 509.233, the following regulations and limitations shall apply to establishments which obtain such a permit:

a. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

b. Patrons in the designated outdoor dining area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor dining area.

c. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

d. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

e. Dogs shall not be allowed on chairs, tables, or other furnishings.

f. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

g. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor dining area.

h. Signs reminding employees of the applicable rules shall be posted on the premises in a manner and place as determined by the city.

i. Signs reminding patrons of the applicable rules shall be posted on the premises in a manner and place as determined by the city.

j. Signs shall be posted in a manner and place as determined by the city that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

k. Dogs shall not be permitted to travel through indoor or non-designated outdoor portions of the public food service establishment, and ingress and egress to designated outdoor dining area of the public food service establishment must not require entrance into or passage through any indoor area of the public food service establishment.

(4) *Expiration of permit.*

a. A permit issued pursuant to this section shall not be transferred to a subsequent owner, or upon the sale of other form of transfer of a public food service establishment, but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to re-apply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

b. Permits shall expire September 30 of each year. There shall be a late fee established by the city commission by resolution for failure to renew the permit within five days of expiration.

(5) *Complaints and reporting.* In accordance with F.S. § 509.233(6), the city shall accept and document complaints related to this program and shall report quarterly to the division of hotels and restaurants and the local department of health all such complaints and the city's enforcement response to such complaints.

(c) A violation of this section shall constitute a Class A civil infraction, punishable as provided within section 6-29.

(Code 1983, § 4-23; Ord. No. L-80, § 2, 4-20-2009; Ord. No. L-288, § 1, 4-1-2013)

**Sec. 6-86. Animal abuse, cruelty, or neglect.**

(a) It shall be unlawful for any person to abandon, beat, treat with cruelty, overwork, or otherwise abuse any

PROOFS

animal.

(b) It shall be unlawful for any person keeping an animal to fail to provide for that animal:

(1) Clean, sanitary and humane conditions; runs, shelters, and living areas shall be kept clean of animal excrement;

(2) Sufficient quantities of food and fresh water daily; food must be free from contamination and water placed in a container that cannot be tipped over or spilled;

(3) Proper air ventilation and circulation;

(4) Sufficient shelter, as defined in this chapter; and,

(5) Medical attention and/or necessary veterinary care when it is sick, diseased or injured.

(c) It shall be unlawful for an owner or operator of a motor vehicle to place or confine an animal or allow it to be placed or confined within an unattended motor vehicle without sufficient ventilation or under conditions for such a period of time as may be reasonably expected to endanger the health or wellbeing of such animal due to heat, lack of water, or such other circumstances as may be reasonably expected to cause suffering, disability, or death of an animal.

(d) It shall be unlawful for any person to expose any known poisonous substance, whether mixed with food or not, so that it may be consumed by any animal.

(e) A violation of this section shall constitute a Class C civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-24; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-87. Animal injury; unlawful killing.**

(a) It shall be unlawful for any person injuring any dog, cat, or other domestic animal by any means, including a motor vehicle, to fail to notify the owner of the animal, if known, the police department, or the animal control officer. Any person who, as an operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible.

(b) All domestic animals put to death shall be done so pursuant to F.S. ch. 828.

(c) A violation of this section shall constitute a Class B civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-25; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-88. Animal care.**

(a) It shall be unlawful for any person to tease or molest an animal.

(b) All dead animals shall be disposed of by means of cremation, controlled burial, ~~as defined herein,~~ or disposal to rendering companies. It shall be unlawful for any person or persons to dispose of dead animals by use of garbage collection containers.

(c) Female animals in heat (estrus) shall at all times be kept under restraint or confined within a building or secure enclosure in such a manner that such female animal cannot come into contact with male animal of like species except for planned breeding.

(d) A violation of this section shall constitute a Class A civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-26; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-89. Rabies vaccination required.**

(a) The owner or custodian of every dog, cat, and ferret, four months of age and older must obtain and maintain current and valid vaccination against rabies for these animals by a licensed veterinarian, and maintain a certificate of current and valid vaccination, in accordance with F.S. § 828.30.

PROOFS

(b) A dog, cat or ferret shall not be required to be vaccinated against rabies if a licensed veterinarian has examined the animal and has certified in writing that at such time vaccination would endanger the animal's health because of its age, infirmity, disability, illness or other medical considerations. Such exempt animal shall be vaccinated against rabies as soon as its health permits.

(c) A violation of this section shall constitute a Class B civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-27; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-90. Rabies control; reporting dog and cat bites; investigations.**

(a) In the event any person is bitten by a dog or cat within the limits of the city, such person, or the owner of such dog or cat when he has knowledge of the incident, shall report such incident to a police or animal control officer within 24 hours.

(b) Every physician or other practitioner shall report to a police or animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as is necessary for rabies control.

(c) Every licensed veterinarian shall report to the city or animal control officer his diagnosis of any animal observed by him as a rabies suspect.

(d) Animal control officers shall investigate bite cases and initiate action to quarantine involved animals or take other enforcement when necessary to protect public health.

(Code 1983, § 4-29; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-91. Limitation on the number of cats and dogs.**

(a) It shall be unlawful to own, harbor, or keep more than five domestic animals, four months or older.

(b) This section shall not pertain to breeders that are registered and in compliance with the requirements this chapter. Nor shall it apply to the ownership, care, custody or maintenance, in the ordinary course of business, of any animal by a research or veterinary medical facility, government operated or authorized animal shelter, humane society facility, boarding facility, or commercial pet shop, provided that said shelter, facility, or shop is operating in accordance with all applicable occupational licensing and zoning ordinances.

(c) A violation of this section shall constitute a Class B civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-30; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-92. Classification of dangerous dogs; requirements.**

(a) The provisions of F.S. ch. 767, pt. II (F.S. § 767.10 et seq.) ~~through 767.14, and all subsequent amendments regulating dangerous dogs, and defined in F.S. § 767.11(1),~~ are adopted by reference and incorporated herein.

(b) The owner of a dangerous dog shall present the city with proof that they have procured liability insurance or a surety bond in the amount of no less than $100,000.00 covering any damage or injury which may be caused by such dangerous dog. Said policy shall contain a provision requiring that the city be given notice immediately by the agent issuing the policy in the event the policy is canceled, terminates, or expires. Such liability insurance shall be obtained prior to issuing a certificate of registration for the dangerous dog, as provided for in this chapter, or prior to releasing the dog from impoundment, and shall be maintained so long as the dangerous dog resides within the city.

(c) An owner transferring ownership of any dog found to be dangerous under this article shall provide written notice to the new owner regarding the dog's classification as dangerous. An owner either, transferring ownership of, or moving the location of, a dog classified as dangerous under this article shall notify the city in writing regarding the new address, or the name, address, phone number of the person receiving the dog. Any person receiving a dog classified as dangerous must comply with all requirements of this chapter.

(d) A violation of this section shall constitute a Class C civil infraction, punishable as provided within this

PROOFS

chapter.

(Code 1983, § 4-31; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-93. Restraint and confinement of vicious animals or dangerous dogs.**

(a) It shall be unlawful for any owner to keep any vicious animal or dangerous dog, as defined herein, within the city unless it is confined within a secured building or securely fenced enclosure or to allow the animal to be taken outside this confinement without being under restraint and sufficiently muzzled to prevent biting.

(b) A violation of this section shall constitute a Class C civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-32; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-94. Backyard chickens; special exemption permit required.**

(a) A special exemption permit is required for keeping of chickens in incorporated areas of the city. The permit is personal to the permittee and may not be assigned. If the person applying for the permit is not the registered property owner of the property where the chickens are to be kept, the registered owner must provide written authorization and consent to the application. The registered owner's written authorization must be submitted at the time the application for the permit is tendered. Failure to attach the registered owner's authorization will result in denial of the permit.

(b) Chickens are permitted to be kept at an occupied single-family residence. Permits for maintaining chickens at duplexes, triplexes and other multifamily residential units will be considered on a case-by-case basis; determined by building configuration, lot size and the applicant's ability to comply with all regulations of this section. Chickens are not permitted to be maintained on unimproved and/or vacant properties, condominiums, apartment complexes and within manufactured/mobile home parks.

(c) A maximum of six female chickens (hens) may be kept per permit. Roosters are not permitted.

(d) The keeping of ducks, geese, turkeys, peafowl, and pigeons or any other poultry or fowl by any person within a penned enclosure is prohibited under this section. However, nothing in this section is intended to prohibit or restrict the existence of these species as free-range birds.

(e) The chickens shall be provided with a covered enclosure (henhouse/coop) and must be kept in a covered enclosure or fenced pen/run at all times. Free roaming chickens are prohibited.

(f) All chicken enclosures must meet the following requirements:

(1) The enclosure must be kept in the backyard of the residence.

(2) May not be located closer than ten feet from any property line of an adjacent property, nor within 25 feet of any adjacent residential structure.

(3) Must provide a minimum of four square feet per chicken and may not exceed 80 square feet.

(4) May not exceed six feet in height.

(5) The henhouse, coop, pen and/or run area must be cleaned regularly and no manure is permitted to accumulate on the floor or ground.

(6) Shall be constructed and maintained so as to prevent the harborage of rodents and other pests.

(g) Odors from chickens, chicken manure or other items associated with the keeping of chickens must not be perceptible at the property boundaries.

(h) All feed and other items associated with the keeping of chickens that are likely to attract rodents or to become infested with pests shall be kept in secure containers.

(i) Chickens are for personal use only. Selling chickens, eggs, feathers, chicken manure or the breeding of chickens is prohibited.

(j) The slaughter of chickens is prohibited in areas that are viewable from any adjacent property or public area.

PROOFS

(k) Violations of this section are a Class A violation. Three violations of any part of this section within a 12-month period may result in the revocation of the special exemption permit.

(Code 1983, § 4-33; Ord. No. 17-020, § 1, 7-17-2017)

**Secs. 6-95--6-116. Reserved.**

## ARTICLE IV. DOG AND CAT REGISTRATION

### Sec. 6-117. Registration required.

(a) Except as otherwise provided herein, it shall be unlawful for any person to own, keep, harbor, maintain, or have custody of any dog or cat four months or older, within the city, unless such dog or cat is registered in accordance with the provisions of this article.

(b) Registrations or identification tags shall not be transferred from one animal to another, nor from one owner to another.

(c) This section shall not apply to community cats, as defined in this chapter.

(d) A violation of this section shall constitute a Class B civil infraction, punishable as provided within this chapter, except that a violation of the section pertaining to the failure to register a dangerous dog constitutes a Class C civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-50; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 17-018, § 1, 4-17-2017)

### Sec. 6-118. Registration tags required.

(a) Dogs and cats must wear valid registration tags, issued pursuant to this article, securely affixed to a collar or harness at all times except when the animal is being shown in competition.

(b) A violation of this section shall constitute a Class A civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-51; Ord. No. L-80, § 2, 4-20-2009)

### Sec. 6-119. Registration process and fees.

(a) The animal control division will administer the registration program and is authorized to adopt rules and procedures necessary to fulfill this responsibility.

(b) Owners or custodians of dogs and cats requiring registration pursuant to this article shall register and obtain tags as follows:

(1) Within 30 days of acquiring the dog or cat; or

(2) Within 30 days after the owner or custodian takes residence in the incorporated areas of the city, whichever occurs later.

(c) Upon transfer of a previously registered animal to a new owner or custodian, the owner or custodian shall have a period of 30 days within which to comply with the requirements of this article. Except that, upon the transfer of a dangerous or vicious dog, as provided in this chapter, the owner or custodian shall have a period of seven days to comply.

(d) Registrations must be purchased from the animal control division, participating veterinarians, animal shelter, or other agents as approved by the city, except that only the animal control division shall process the registration of vicious or dangerous dogs.

(1) Applications for registration must include a proof of current and valid rabies vaccination as provided within this chapter, and applications for registration of sterilized dogs or cats must include a sterilization certificate issued by a licensed veterinarian. No registration will be issued without such certifications.

(2) Applications for the registration of vicious animals or dangerous dogs must include certificate of liability insurance as required within this chapter. Any registration issued pursuant to the presentation of this certificate shall immediately become invalid upon an owner's failure to maintain such liability insurance. No registration will be issued without such certificate.

PROOFS

(3) Fees, applications, and certification information will be forwarded to the city clerk by selling agents as required by administrative rule.

(e) The registration certificate and tag shall be valid for one year from the date of issuance.

(f) The registration provisions of this article shall not apply to:

(1) Any owner or custodian who is a nonresident or temporary resident, as defined herein, provided that the owner's animal has been vaccinated for rabies and this vaccination remains valid for the duration of the anticipated stay within the incorporated areas of the city and that a valid rabies tag is worn as required by this chapter. The term "temporary resident," as used herein, means a person who intends to reside within the city for a total period of less than six months during any 12-month period.

(2) The ownership, care, custody or maintenance, in the ordinary course of business, of any animal by a research or veterinary medical facility, animal shelter, boarding facility, or commercial pet shop, provided that said shelter, facility, or shop is operating in accordance with all applicable occupational licensing, code, and zoning ordinances.

(3) Government-owned law enforcement service dogs.

(f) Fees for registrations shall be as established by resolution ~~charged as follows~~:

~~(1) Annual fee for each sterilized cat or dog: $10.00.~~

~~(2) Annual fee for each nonsterilized cat or dog: $75.00.~~

~~(3) Replacement tags: $5.00.~~

(1) Non-sterilized cats and dogs that are registered with a veterinarian's certification that the animal's age or health prevents sterilization shall pay the same fee for sterilized cats and dogs.

(2) Fees shall be waived for any service dog or cat that is specially trained and actively engaged in service to assist the handicapped; however, these animals must be registered and comply with requirements to wear tags.

(h) Fees for the registration of dangerous dogs as required within this chapter shall be as established by resolution and be~~$100.00, which is~~ in addition to the applicable standard registration fee as provided herein.

(i) Proceeds from the registration program shall first be used for program administration; and then, remaining proceeds may be used for education and to support free or reduced cost pet spay and neuter programs

(Code 1983, § 4-52; Ord. No. L-80, § 2, 4-20-2009; Ord. No. 16-015, § 1, 8-15-2016)

**Sec. 6-120. Breeder registration required.**

(a) It shall be unlawful for any person to operate as a cat or dog breeder unless such person has been currently registered as a breeder in accordance with the provisions of this article.

(b) A violation of this section shall constitute a Class C civil infraction, punishable as provided within this chapter.

(Code 1983, § 4-53; Ord. No. L-80, § 2, 4-20-2009)

**Sec. 6-121. Breeder registration process, fees, and revocation.**

(a) All breeders of cats or dogs operating within the city, shall obtain a breeder registration certificate from the city clerk on or before October 1 of each year.

(b) A breeder registration certificate will not be issued unless the applicant demonstrates compliance with all applicable building, zoning, and business tax codes and ordinances. A breeder registration certificate shall be immediately revoked for failure to maintain compliance with such codes and ordinances.

(c) The annual fee for breeder registrations shall be as established by resolution ~~$100.00~~.

(d) The breeder registration number shall be included in all advertisements for sale of any animals offered for sale or breeding by the breeder.

(e) The breeder registration certificate shall be nontransferable.

PROOFS

(f) The breeder's registration certificate shall be immediately revoked upon any conviction for an offense involving cruelty, neglect, or abuse of animals. Breeders convicted of such offenses shall be ineligible for issuance of a registration certificate.

(g) There shall be no more than one registered breeder per residentially zoned property.

(h) Proceeds from breeder registration program shall first be used for program administration, and then, remaining proceeds may be used for education and to support free or reduced cost pet spay and neuter programs.

(Code 1983, § 4-54; Ord. No. L-80, § 2, 4-20-2009)

PROOFS

Chapter 7

**RESERVED**

PROOFS

Chapter 8

# COMMUNITY DEVELOPMENT*

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

## ARTICLE I. IN GENERAL

**Secs. 8-1--8-18. Reserved.**

## ARTICLE II. REDEVELOPMENT AGENCY*

***State law reference**—Community Redevelopment Act of 1969, F.S. § 163.330 et seq.

### Sec. 8-19. Establishment; purpose.

The city redevelopment agency is hereby established for the purpose of carrying out redevelopment activities for the area defined as slum and blighted in Resolution No. 82-25 and described as appendix A, and in any additional area as subsequently defined and approved by the city.

(Code 1983, § 2-293; Ord. No. H-239, § 1, 12-6-1982)

### Sec. 8-20. Powers.

The city redevelopment agency is vested with the ~~following~~ powers authorized by F.S. § 163.370.

~~— To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this article;~~

~~— To disseminate redevelopment information;~~

~~— To undertake and carry out community redevelopment projects and related activities within its area of operation, such projects to include:~~

~~— Acquisition of a slum area or a blighted area or any portion thereof;~~

~~— Demolition and removal of buildings and improvements;~~

~~— Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the community redevelopment plan;~~

~~— Disposition of any property acquired in the community redevelopment area at its fair value for uses in accordance with the community redevelopment plan;~~

~~— Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the community redevelopment plan;~~

~~— Acquisition of real property in the community redevelopment project area which, under the community redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property;~~

~~— Acquisition of any other real property in the community redevelopment area, when necessary to eliminate unhealthful, unsanitary or unsafe conditions, eliminate obsolete or other uses detrimental to the public welfare, or otherwise, to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities;~~

~~— Acquisitions, without regard to any requirement that the area be a slum or blighted area, of air rights in an area consisting principally of land in highways, railway tracks, bridge entrances, or other similar facilities which have a blighted influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of~~

PROOFS

housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income;

— Construction of foundations and platforms necessary for the provisions of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income;

— To recommend by four fifths vote of the agency, to the city commission, the condemnation of property under this article;

— To provide, or to arrange or contract for, the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities in connection with a community redevelopment project; and to agree to any conditions that it may deem reasonable and appropriate, attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a community redevelopment project and related activities, and to include in any contract let in connection with such a project and related activities, provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

— Within its area of operation:

— To acquire by purchase, lease, option, gift, grant, bequest, devise, or otherwise, except in eminent domain, any real property (or personal property for its administrative purposes) together with any improvements thereon;

— To hold, improve, clear or prepare for redevelopment any such property;

— To mortgage, pledge, hypothecate or otherwise encumber to dispose of any real property;

— To insure or provide for the insurance of any real or personal property or operations of the agency or of the municipality against any risks or hazards, including the power to pay premiums on any such insurance;

— To enter into any contracts necessary to effectuate the purpose of this part;

— To invest any community redevelopment funds held in reserves or sinking funds, or any such funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem revenue bonds issued pursuant to this part at the redemption price established therein or to purchase any such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled;

— To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this part, and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contracts for financial assistance with the federal government for, or with respect to, a community redevelopment project and related activities, such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this part;

— Within its area of operation, to make or have made all surveys and plans necessary to the carrying out of the purposes of this part and to contract with any person, public or private, in making and carrying out such plans, which plans may include, but not be limited to:

— Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;

— Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for undertaking of community redevelopment projects and related activities;

— Plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair,

PROOFS

~~rehabilitation, demolition, or removal of buildings and improvements;~~

~~— To develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and developing and demonstrating new or improved means of providing housing for families and persons of low income;~~

~~— To apply for, accept, and utilize grants of funds from the federal government for such purposes;~~

~~— To prepare plans for, and assist in the relocation of, persons (including individuals, families, business concerns, nonprofit organizations and others) displaced from a community redevelopment area, and to make relocation payments to, or with respect to, such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;~~

~~— To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this part;~~

~~— To close, vacate, plan or replan streets, roads, sidewalks, or other places;~~

~~— Within its area of operation, to organize, coordinate, and direct the administration of the provisions of this part, as they may apply to the city in order that the objective of remedying slum and blighted areas and preventing the causes thereof within the city, and to establish such offices in order to carry out such purposes most effectively.~~

(Code 1983, § 2-294; Ord. No. H-239, § 2, 12-6-1982)

**Sec. 8-21. Powers retained by city commission.**

The following powers shall continue to vest in the city commission:

(1) The power to determine an area to be a slum or blighted area, or combination thereof, to designate such area as appropriate for a community redevelopment project, and to hold any public hearings required with respect thereto;

(2) The power to grant final approval to community redevelopment plans and modifications thereof;

(3) The power to authorize the issuance of revenue bonds as set forth in F.S. § 163.385;

(4) The power to approve the acquisition, demolition, removal or disposal of property, as provided in F.S. § 163.370(4); and the power to approve the assumption of the responsibility to bear loss, ~~by the agency~~ as provided in F.S. § 163.370(4);

(5) The power to approve the development of community policing innovations;

(6) The power of eminent domain~~; a four-fifths vote of the city commission is required to condemn under this provision~~.

~~— The power to approve the budget and any amendments thereto;~~

~~— The power to allocate municipal funds from any source to fund the agency or to be applied to any bonds or notes issued by the agency.~~

(Code 1983, § 2-295; Ord. No. H-239, § 3, 12-6-1982)

**State law reference**—Similar provisions, F.S. § 163.358.

**Sec. 8-22. Redevelopment trust fund.**

(a) *Established.* The city redevelopment trust fund is hereby established for the purpose of funding redevelopment activities of the city redevelopment agency for the area defined as blighted in Resolution No. 82-25 and as described in appendix A, and in any additional area as subsequently defined and approved by the city, the aforesaid redevelopment trust fund to continue until all loans, advances and indebtedness, if any, and interest thereon, of the city redevelopment agency incurred as the result of the community redevelopment project have been paid.

(b) *Annual funding.* The city redevelopment trust fund shall be funded annually in an amount not less than

PROOFS

that increment in the income, proceeds, revenues and funds of the city derived from or held in connection with its undertaking in carrying out of community redevelopment projects under the downtown revitalization plan, as previously adopted or as hereinafter amended. Such increment shall be determined annually and shall be that amount equal to the difference between:

(1) The amount of ad valorem taxes levied each year by all taxing authorities, except school districts on taxable real property contained within the geographic boundaries described by appendix A of Resolution No. 82-25; and

(2) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year, by or for all taxing authorities except school districts, upon the total of the assessed value of the taxable property in the area described by appendix A of Resolution No. 82-25 and as shown upon the most recent assessment role used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance adopting the downtown revitalization plan.

(c) *Revenue bonds and notes.* Any revenue bonds and notes of every issue pursuant to creation of the city redevelopment trust fund shall be payable out of revenues pledged to and received by the city redevelopment agency and deposited to its redevelopment trust fund. The lien created by any such bonds or notes shall not attach until the revenues referred to herein are deposited in the redevelopment trust fund at the times, and to the extent that, such revenues accrue. The holders of such bonds or notes shall have no right to require the imposition of any tax or the establishment of any rate of taxation in order to obtain the amounts necessary to pay and retire such bonds or notes. The redevelopment trust fund shall receive the tax increment described in this section only as, if, and when such taxes are collected.

(d) *Limitation of revenue bond obligation.* Any revenue bonds issued under the provisions of the Community Redevelopment Act of 1969 (F.S. § 163.330 et seq.), and secured by the city redevelopment trust fund, shall not be deemed to constitute a debt, liability or obligation of the city. Any such revenue bonds shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power of the city is pledged to the payment of the principal of, or the interest on, such bonds.

(e) *Procedure for exemption.* A special district may request that it be exempted from the ad valorem tax levy imposed by this section. The request shall include the special district's reasons relating to the fiscal and operational impact its incremental payment has on the district, and whether the district is seeking a partial or complete exemption. In the event such request is made, the following procedure shall apply:

(1) A written request for exemption shall be submitted to the department of planning and development;

(2) The department of planning and development will submit a copy to the finance director for a report on the fiscal impact of any such proposal for exemption and its impact on incurred debt and whether such exemption, if granted, would impair any outstanding bonds that have pledged tax increment revenues to the repayment of the bonds. The department shall also forward a copy to the city redevelopment agency which shall review the request for exemption and make a recommendation to the city commission;

(3) The city commission shall hold a public hearing. Notice of the hearing shall be published in a newspaper having a general circulation in the city and notice shall describe the time, date, place and purpose of the hearing and identify generally the community redevelopment area covered by the downtown revitalization plan and the impact of the plan on the special district requesting the exemption. The decision to either grant or deny exemption will be made within 120 days after the date the written request was first submitted. In deciding whether to grant or deny the request, the commission shall consider:

a. Any additional revenue sources of the redevelopment agency which can be used in lieu of the special district's tax increments;

b. The fiscal and operational impact on the redevelopment agency;

c. The fiscal and operational impact on the special district;

d. The benefit to the special purpose for which the special district was created. The benefit to the special district must be based on specific projects contained in the approved community redevelopment plan for the designated community redevelopment area;

PROOFS

e. The impact of the exemption on incurred debt and whether such exemption will impair any outstanding bonds that have pledged tax increment revenues to the repayment of the bond;

f. The benefit of the activities of the special district to the approved community redevelopment plan;

g. The benefit of the activities of the special district to the city.

(4) In the event exemption is granted, the commission and the special district shall enter into an interlocal agreement establishing the conditions of the exemption, including, but not limited to, the period of time for which the exemption is granted;

(5) If the commission denies the request for exemption the commission shall provide the special district with a written analysis specifying the rationale for such denial. This written analysis shall include, but not be limited to, the following information:

a. A separate, detailed examination of each consideration listed in subsection (e)(3) of this section;

b. Specific examples of how the approved downtown redevelopment plan will benefit, and has already benefitted, the purpose for which the special district was created.

(Code 1983, § 2-296; Ord. No. I-44, §§ 1—4, 12-19-1983; Ord. No. J-496, § 1, 2-16-1999; Ord. No. K-237, §§ 1, 2, 9-2-2003)

**State law reference—**Redevelopment trust fund, F.S. § 163.387.

PROOFS

Chapter 9

**RESERVED**

PROOFS

Chapter 10

# CULTURAL AFFAIRS*

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

## ARTICLE I. IN GENERAL

**Secs. 10-1--10-18. Reserved.**

## ARTICLE II. ART IN PUBLIC PLACES

**Sec. 10-19. Definitions.**

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

*Artwork* means works in a variety of media produced by professional visual artists. Works may be permanent, temporary or functional.

*Board* means the arts and culture advisory board.

*Capital project* means any city capital improvement project costing more than $100,000.00 and paid for wholly or in part by funds appropriated by the city commission to construct or renovate any park, beach restoration, abovegrade utility, and to construct or renovate any city-owned building.

*Commission* means the city commission.

*Eligible construction costs* mean the total project appropriation, including engineering and design, but not including demolition costs, equipment costs except for the cost of custom designed equipment or equipment that creates a new use for a building or facility, real property acquisition costs, impact fees, enterprise funds, and soil remediation costs.

*Equipment costs,* for the purposes of the public art/design and transportation enhancement project calculation, means those costs for the acquisition of mechanical equipment of standard manufacture.

*Master plan* means the arts and culture master plan.

*Renovation* means a capital project or transportation capital project which is a major redesign of a facility or system or a portion of a facility or system which is included in the city's capital program budget and which requires a building permit from the appropriate governmental jurisdiction. Renovation shall also include a capital project or transportation capital project which is an expansion or upgrading of the capacity of the facility or system, enlarging the facility, or creating new use for the facility. The term "renovation" does not include repairs, maintenance, installation of mechanical equipment, or modifications required solely for ADA compliance.

*Strategic plan* means a ten-year manual of action criteria based on the arts and culture master plan for the selection of sites, artwork, public capital and transportation facilities, projects, programs, etc., to be developed by the board with public input and approval by the commission prior to its implementation. This manual shall provide for a comprehensive plan for the art in public places program which shall include the display of loaned art in appropriate public buildings.

*Transportation capital project* means any city capital transportation improvement project costing more than $100,000.00 and paid for wholly or in part by funds appropriated by the city to construct or renovate any highway or arterial, bridge or causeway, sidewalk, or bikeway or any road beautification project.

*Transportation enhancement project* means one or more of the following projects, prioritized in the following order:

(1) Visual enhancement of facilities for pedestrians and bicycles.

PROOFS

(2) Scenic or historic highway programs, including the provision of tourist and welcome center facilities.

(3) Landscaping and other scenic beautification projects.

(4) Historic preservation.

(5) Rehabilitation and operation of historic transportation buildings, structure or facilities, including historic railroad facilities.

(6) Preservation of abandoned railway corridors, including the conversion and use thereof for pedestrian or bicycle trails.

*Trust fund* means the Art in Public Places Trust Fund created pursuant to this article and shall include all gifts and donations deposited in the trust fund.

(Code 1983, § 2-355; Ord. No. J-527, § 1, 11-15-1999; Ord. No. 17-023 , § 1, 8-7-2017)

**Sec. 10-20. Art in public places program.**

(a) Appropriations for city capital projects shall include an amount equal to one percent of the total eligible construction costs to be used for artist design services and for the selection, acquisition and display of artworks for related education programs, for the maintenance of city artworks, and for the administration of the master plan and the strategic plan. Funds appropriated pursuant to this section shall not exceed $100,000.00 per project. Funds appropriated for one capital project, but not deemed necessary or appropriate by the council in whole or in part for that project, may be expended on other public art projects approved under the master plan and the strategic plan, subject to any bond restrictions and legal or grant restrictions. Bond funds shall be appropriated and accounted for in the bond capital project accounts. Projects costing less than $100,000.00 shall be subject to the public art calculation and such funds will be pooled for other art projects. All city departments may opt to participate in the art in public places program for any improvement project not otherwise subject to this article.

(b) Appropriations for transportation capital projects shall include an amount equal to one percent of the total eligible construction costs to be used for site specific transportation enhancement projects, including artist design services for such projects, for the maintenance of such projects, and for the administration of the master plan and the strategic plan, relating to such projects. Funds appropriated pursuant to this section shall not exceed $100,000.00 per project. Bond funds shall be appropriated and accounted for in the bond capital project accounts. Transportation projects costing less than $100,000.00 are subject to the transportation enhancement projects calculation and such funds shall be pooled for other transportation enhancement projects.

(c) The first priority for use of funds generated by a capital project shall be that capital project site. The monies appropriated under this article may be used for artist design services, for the development of design concepts and models, and for the selection, acquisition, purchase, commissioning, placement, installation, exhibition and/or display of artworks. Artworks and transportation enhancement projects shall be selected in accordance with the master plan and the strategic plan and may be temporary or permanent, may be integral to the architecture or may be incorporated into the project. Integration of the artists' design concepts into the project architecture and/or design should be ensured, insofar as is feasible, by the concurrent selection of the artist with the architect, engineer, or project designer.

(d) In the case of a project which involves the use of grant or city bond proceeds issued after the effective date of the ordinance from which this  this article is derived, amounts for artist design services and artworks described in this article shall be used for projects and capital purposes consistent with state and federal laws, the resolutions and/or ordinances approved by the commission and the terms of the grant agreement.

(e) With the exception of transportation capital projects or as otherwise restricted by the commission, any applicable bond resolution or ordinance, local, state or federal law, or the conditions of a granting authority, monies generated under this article may be pooled and expended for any public art and design project in the city, subject to the master plan and approved strategic plan. Pooled funds may be used as seed money for artists' fees to initiate partnerships with private and other public entities to provide public art and aesthetic enhancements in the city, pursuant to a written agreement.

(f) To the extent allowed by grant guidelines and by law, all city departments shall, from the effective date of the ordinance from which this this article is derived, include in all applications for funding to outside granting

PROOFS

organizations or governmental agencies, an amount equal to one percent of eligible construction costs for a capital project, not to exceed $100,000.00, or an amount equal to one percent of eligible construction costs for a transportation capital project, not to exceed $100,000.00, for artist design services and artworks or transportation enhancement projects, as specified herein.

(g) The minimum amount to be appropriated for artist design services, artworks, and transportation enhancement projects shall be the total eligible construction costs multiplied by 0.01. This calculation shall be made by the city department prior to the time of the appropriation for the city's capital program. An amount equal to 15 percent of the eligible allocation of the construction project may be used for projects support and community participation activities. For publicly-owned property, this may include staffing, artist selection-related costs (excluding travel of the selection committee), consultants, design/proposal/moquette costs, identifying plaques, project documentation, publicity, community education activities and other purposes as may be deemed appropriate for the administration of the program. An amount equal to 15 percent of the eligible public art allocation of the construction project for a capital project shall be set aside in a separate account within the trust fund for curatorial services and the preservation and maintenance of city artworks. An amount equal to 15 percent of the eligible public art allocation of the construction project for a transportation capital project shall be set aside in a separate account within the trust fund for curatorial services and the preservation and maintenance of the specific transportation enhancement project. The council shall recommend that any artwork or transportation enhancement project needing extraordinary operational or maintenance costs be reviewed by the appropriate city department prior to recommendation to the commission. The council shall also be responsible for conducting an annual maintenance survey of artworks and transportation enhancement projects. This survey shall include a condition report on each work, prioritized recommendations for the restoration or repair and maintenance, and estimated costs. Such repair and maintenance shall comply with any contractual obligations which may have been entered into by the city in the acquisition of the artworks. Expenditures of monies in the artwork and transportation enhancement projects maintenance and project support accounts shall be annually recommended by the council and included in the proposed annual budget submitted to the commission. Funds in the maintenance and conservation account not expended by the end of the close of any fiscal year shall be carried forward. The council shall also, review and update as necessary the insurance requirements for artworks at least every five years.

(Code 1983, § 2-356; Ord. No. J-527, § 1, 11-15-1999; Ord. No. 17-023, § 2, 8-7-2017)

**Sec. 10-21. Art in public places trust fund.**

(a) *Created.* There is hereby created an "Art in Public Places Trust Fund" consisting of all funds appropriated and deposited to the trust fund in connection with the construction or renovation of a facility or system pursuant to this article. The trust fund is also authorized to accept gifts, grants and donations made to the city for works of art. All appropriations, gifts, grants and awards of monies hereunder shall be deposited in an interest-bearing account entitled the "City of Fort Pierce Art in Public Places Trust Fund Account," which shall be a separate account established and maintained apart from the general revenue funds and accounts of the city. All interest in said account shall accrue to the use and benefit of the trust fund account.

(b) *Term of existence.* The City of Fort Pierce Art in Public Places Trust Fund Account shall be self-perpetuating from year to year unless specifically terminated by the commission.

(c) *Trust assets.* All appropriations, gifts, grants and awards of money or property received hereunder from either public or private donors shall be placed in trust for and inure to the use and benefit of the city for public art and design purposes; and said property and funds shall be expended, utilized and disbursed pursuant to the provisions of this section.

(d) *Appropriations and donations.*

(1) Eligible monies appropriated pursuant to this article shall be transferred to the trust fund. This transfer shall take place within 30 days of the original project appropriation by the commission.

(2) Funds deposited or credited to the City of Fort Pierce Art in Public Places Trust Fund Account, except funds for maintenance and conservation of city artworks and transportation enhancement projects, not expended or obligated by the close of any fiscal year shall be carried over automatically for a period of three years beyond the close of the city construction project, or upon recommendation of the council, carried over for an additional two years. Any funds carried over for three years, or upon request five

PROOFS

years, and still unexpended at the expiration of such period, shall be transferred to the general fund for general art purposes or transportation enhancement projects, as appropriate, only; provided that funds derived from other restricted sources shall revert to the funds from which originally appropriated at the expiration of said three- or five-year period, or if project is canceled, as applicable.

(3) Any gifts, grants and awards received, subject to a condition shall be expended strictly in accordance with such condition.

(Code 1983, § 2-357; Ord. No. J-527, § 1, 11-15-1999)

**Sec. 10-22. Ownership and maintenance of artworks.**

Unless otherwise provided, ownership of all works of art acquired by the city under this article shall be vested in the city, including copyrights, patents and other reproduction rights. The commission shall be responsible for managing the reproduction rights of each acquisition with advice from the ~~city commission~~ council. Custody, supervision, maintenance and preservation of the works of art shall be the responsibility of the city, and shall be carried out by qualified art professionals with appropriate collaboration with the council.

(Code 1983, § 2-358; Ord. No. J-527, § 1, 11-15-1999)

**Sec. 10-23. Compliance with state and federal laws.**

Nothing in this article shall be deemed or construed to require the city to appropriate or expend funds if the appropriation or expenditure of such funds for the purposes herein described would not be permitted under any state or federal law, rule or regulation; or the compliance with this article would in any way affect the treatment of interest on any bonds or other indebtedness or the city for federal income tax purposes; or the compliance with this article would in any way prevent or inhibit the city's compliance with state or federal laws, rules or regulations relating to debt obligations of the city.

(Code 1983, § 2-359; Ord. No. J-527, § 1, 11-15-1999)

PROOFS

Chapter 11

**RESERVED**

PROOFS

Chapter 12

# ELECTIONS*

***State law reference—**Electors and elections, F.S. ch. 97 et seq.; municipal electors, F.S. § 166.032.

## Sec. 12-1. Precinct polling places.

The polling places within the city for regular, runoff and special municipal elections shall be designated by the county supervisor of elections and shall coincide with locations adopted by the county commissioners for the conduct of county-wide elections. The city commission, by and through the city clerk, shall give notice of the location of each precinct polling place, after having received such notice from the supervisor of elections in due time, by one publication in a newspaper of general circulation in the city not less than ten days, nor more than 30 days, prior to any regular or special election held by the city.

(Code 1960, § 8-5; Code 1983, § 6-1)

## Sec. 12-2. Inspectors and clerks—Selection, duties.

All elections shall be held by inspectors and clerks selected by the city commission and shall be notified of their appointment by the supervisor of elections as soon as convenient thereafter. They shall represent diverse candidates, parties and factions as far as possible, and if any person so selected refuses or fails to appear and act, the supervisor of elections may name some suitable person as a substitute, subject to the same requirements of diversity. For convenience and relaxation inspectors and clerks may exchange their respective duties and functions from time to time.

(Code 1960, § 8-2; Code 1983, § 6-2)

**State law reference—**Inspectors, clerks and poll workers, F.S. § 102.012 et seq.

## Sec. 12-3. Inspectors and clerks—Oath.

No person shall assume to act as an election inspector or clerk until he has taken and subscribed an oath or affirmation similar to that required by the election laws.

(Code 1960, § 8-3; Code 1983, § 6-3)

## Sec. 12-4. Inspectors and clerks—Compensation.

Inspectors and clerks shall each receive such compensation for their services as may be determined by the city commission.

(Code 1960, § 8-4; Code 1983, § 6-4)

**State law reference—**Compensation of inspectors and clerks, F.S. § 102.021.

## Sec. 12-5. Special elections.

A special election may be called to vote on any matter authorized by the charter, general law or ordinance of the city by resolution passed by an affirmative vote of a majority of all commissioners.

(Code 1960, § 8-1; Code 1983, § 6-5)

## Sec. 12-6. Election districts.

(a) The city shall be and is hereby divided into two election districts, formerly known as qualifying districts. District 1 shall consist of all of that territory lying north and west of a certain dividing line, dividing the city into two districts. District 2 shall consist of all that territory lying on the mainland south and east of a certain dividing line, dividing the city into two districts, and shall further contain all of that territory referred to as the beach area on Hutchinson Island within the city limits.

PROOFS

(b) The dividing line between the two election districts, formerly known as qualifying districts, shall be and is hereby established as the centerline of that portion of Okeechobee Road, beginning from the western boundary of the city and running east to Virginia Avenue; thence along the centerline of that portion of Virginia Avenue running east from Okeechobee Road to 23rd Street; thence along the centerline of that portion of 23rd Street running north from Virginia Avenue to Birch Street; thence along the centerline of that portion of Birch Street running northeasterly from 23rd Street to 21st Street; thence along the centerline of that portion of 21st Street running north from Birch Street to Georgia Avenue; thence along the centerline of Georgia Avenue running east from 21st Street to 4th Street (U.S. Highway 1); thence along the centerline of 4th Street (U.S. Highway 1) running north to the north city limits.

(Code 1983, § 6-6; Ord. No. I-197, §§ 1, 2, 12-15-1986; Ord. No. J-60, §§ 2, 3, 10-4-1993; Ord. No. L-247, § 1, 2-21-2012)

PROOFS

Chapter 13

**RESERVED**

PROOFS

Chapter 14

# EMERGENCY MANAGEMENT AND EMERGENCY SERVICES*

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

## ARTICLE I. IN GENERAL

**Secs. 14-1--14-18. Reserved.**

## ARTICLE II. EMERGENCY MANAGEMENT*

***State law reference—**Disaster preparedness, F.S. ch. 252; emergency continuity of government, F.S. ch. 22; preservation of public peace by local authority, F.S. § 870.041 et seq.

### Sec. 14-19. Definitions.

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

*City manager* means the city manager, the deputy city manager, or his designee.

*Debris* means any vegetative matter or building materials or bulk waste placed curbside by the resident of the property.

*Disaster* means the actual occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from a natural or manmade cause, including, but not limited to, fire, flood, hurricane, tornado, snowstorm, ice storm, wind storm, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary actions, or similar occurrences resulting terrorist activities, riots, or civil disorders.

*Emergency* or *local emergency* means any natural or manmade event, including, but not limited to, flood, conflagration, hazardous material dispersal, hurricane, tornado, earthquake or explosion ~~with~~ the limits of the city resulting in imminently threatening the death or injury of persons, or the destruction of property, to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

*Right-of-way* means land in which the city owns the fee or has an easement devoted to or required for uses as a transportation facility. See F.S. § 334.03(22).

(Code 1983, § 2-282; Ord. No. K-496, § 1, 7-16-2007)

### Sec. 14-20. Intent.

It is the intent of this article to provide for the designation of a city official to declare a local state of emergency in the city, in the event of a natural or manmade disaster or emergency, or the imminent threat thereof, to protect and safeguard the safety, health, and welfare of the citizens of the city, and to authorize certain actions relating thereto when a quorum of the city commission is unable to meet.

(Code 1983, § 2-283; Ord. No. K-496, § 1, 7-16-2007)

### Sec. 14-21. Authority to declare state of emergency.

The mayor, or in his absence the mayor pro tem, is empowered to declare a local state of emergency whenever they shall determine that a natural or manmade disaster or emergency has occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action.

(Code 1983, § 2-284; Ord. No. K-496, § 1, 7-16-2007)

PROOFS

**Sec. 14-22. Activation of disaster plans and duration of state of emergency.**

(a) During the period of a declared state of emergency, the city manager shall activate the disaster emergency plans applicable to the city and shall be the authority for emergency measures such as evacuation orders and declaring of certain areas as being off limits, as well as authorize the use or distribution of any supplies, equipment, materials or facilities assembled or arranged to be made available pursuant to such plans.

(b) An emergency declared under this article shall terminate after seven days, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended in seven-day increments as determined necessary by resolution of the city commission.

(Code 1983, § 2-285; Ord. No. K-496, § 1, 7-16-2007)

**Sec. 14-23. City manager--General powers.**

(a) *Powers.* The city manager has the power to invoke any or all of the following provisions during a declared state of emergency or disaster:

(1) *Alcoholic beverages*. No person shall consume any alcoholic beverages in a public street or place which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(2) *Weapons*. No person shall carry or possess any rock, bottle, club, brick or weapon, who uses or intends to use the same unlawfully against the persons or property of another; such possession shall be prima facie evidence of an intent to violate the provisions of this subsection.

(3) *Restricted areas*. No person shall enter any area designated by the city manager as a restricted area unless in performance of official duties or with written permission from the city manager or his duly designated representative, or such person shall prove residence therein.

(4) *Curfews.* No person shall be allowed in the public streets or places throughout the city, or in any designated sections of the same, during the hours in which the city manager has declared a curfew, except for the provision of designated, essential services, such as fire, police, emergency medical services and hospital services, including the transportation of patients, utility emergency repairs, and emergency calls by physicians. The provisions of this subsection shall not apply to government employees in the performance of essential services or while in the service of protecting the life, health, property, welfare or public peace of the community.

(b) *Notice to news media.* Should the city manager deem it necessary to invoke any or all of the provisions of subsection (a) of this section, he shall give notice of the same by means of a written notification thereof to news media for immediate dissemination to the public.

(Code 1983, § 2-286; Ord. No. K-496, § 1, 7-16-2007)

**Sec. 14-24. City manager--Emergency powers.**

During a state of emergency, the procedures and formalities otherwise required of the city by law may be waived by the city manager and he may authorize actions pertaining to the following as he deems necessary:

(1) Performing public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community;

(2) Entering into contracts;

(3) Suspending bid provisions as set forth in article IV of chapter 2 for a period not to exceed six months from the declaration of the emergency;

(4) Incurring obligations;

(5) Employment of permanent and temporary workers;

(6) Utilization of volunteer workers;

(7) Rental of equipment;

(8) Acquisition and distribution of supplies, materials, and facilities;

PROOFS

(9) Appropriation and expenditure of funds;

(10) Implementing emergency personnel policies;

(11) Activating the statewide mutual aid system;

(12) Determining a threat to public health and safety that may result from the generation of widespread debris throughout the city, that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services, endangerment to all properties in the city, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all property whether public lands, public or private roads, and gated communities to eliminate an immediate threat to life, public health and safety to reduce the threat of additional damage to improved property and to promote economic recovery of the community at large;

(13) Authorize the city or their contracted agent right of access to private roads or gated communities as needed by emergency vehicles, such as, but not limited to, police, fire, medical care, debris removal, and sanitation to alleviate immediate threats to public health and safety;

(14) Authorize the removal of debris and wreckage resulting from a major disaster from all property whether public lands, public or private roads, or gated communities for a safe and sanitary living or functioning condition.

(Code 1983, § 2-287; Ord. No. K-496, § 1, 7-16-2007)

**Sec. 14-25. Emergency response costs.**

Any expenditure made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

(Code 1983, § 2-288; Ord. No. K-496, § 1, 7-16-2007)

**Sec. 14-26. Responsibility for debris removal.**

The city is not responsible for any debris that is generated by anyone other than the resident of the property. A contractor shall be responsible for removal and disposal of all debris and wreckage generated by such contractor.

(Code 1983, § 2-289; Ord. No. K-496, § 1, 7-16-2007)

**Sec. 14-27. Indemnity.**

Prior to the city taking action under this article, all owners of private property and gated communities shall be required to execute a right of entry agreement, including hold harmless and insurance clauses. The agreement shall be in a form approved by the city manager, or his designee, and shall be made available at the office of the city clerk upon request. The city manager, or his designee, shall maintain a file of such agreements.

(Code 1983, § 2-290; Ord. No. K-496, § 1, 7-16-2007)

**Secs. 14-28--14-57. Reserved.**

## ARTICLE III. ALARM SYSTEMS

**Sec. 14-58. Short title.**

This article shall be known and may be cited as the "City of Fort Pierce Alarm Systems Ordinance."

(Code 1983, § 14-16; Ord. No. I-245, pt. A, 12-7-1987)

**Sec. 14-59. Purpose.**

The purpose of this article is to establish standards and regulate the various types of intrusion, hold-up and other emergency signals from alarm users that require police and fire response or investigation.

(Code 1983, § 14-17; Ord. No. I-245, pt. A, 12-7-1987)

PROOFS

**Sec. 14-60. Definitions.**

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

~~Unless it is apparent from the context that another meaning is intended, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The following words, terms and phrases, when used in this ___, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

*Alarm* means a signal (audio or visual, recorded or live) transmitted to a law enforcement agency or the fire district indicating a predetermined condition. Said alarm is received either:

(1) Via a private alarm service company relayed to a law enforcement agency or fire district telephone.

(2) Via an audible/visual signal relayed to a law enforcement agency or fire district by a third party.

*Alarm agent* means any person employed by an alarm business whose duties include altering, installing, maintaining, moving, repairing, replacing, selling, servicing and responding to an alarm system.

*Alarm business* means any business operated by a person for a profit which engages in the activity of altering, installing, maintaining, moving, repairing, replacing, selling, servicing and responding to an alarm system.

*Alarm permit* means a permit issued by the county or third-party alarm administrator allowing the operation of an alarm system within the county.

*Alarm system* means any assembly of equipment, mechanical or electrical, arranged to:

(1) Signal the occurrence of a forced entry, fire, or other activity requiring urgent attention and to which law enforcement or the fire district is expected to respond; and/or

(2) Monitor and/or annunciate the status of alarm or supervisory devices.

*Alarm user* means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof wherein an alarm system, as defined in this section, is maintained within the city.

*Annunciator* means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, shows when an alarm device at a particular location has been activated or when line trouble is indicated.

*ANSI* means the American National Standards Institute.

*Answering service* means a telephone answering service providing, among its services, the service of receiving emergency signals from alarm systems on a continuous basis, directed through trained employees, and thereafter immediately relaying the message by live voice to the 911 communications center.

*Automatic dialing device* means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

*Automatic hold-up alarm system* means an alarm system in which the signal transmission is initiated by the action of the intruder.

*Burglar alarm* means an alarm system designated to indicate a condition of illegal forced entry or illegal attempted forced entry.

*Central station* means an office to which remote alarm and supervisory signaling devices are connected where operators supervise the circuits.

*Central station equipment* means the signal receiving, recording or retransmitting equipment installed in the central station.

*Central station system* means a system in which operation of electrical protection circuits and devices are

PROOFS

signaled automatically to, recorded in, maintained and supervised from a central station having trained operators in attendance at all times.

~~*City* and *county*. The word "city" means City of Fort Pierce, Florida, and the word "county" means St. Lucie County, Florida.~~

*Direct connect* means an alarm system which has the capability of transmitting system signals to and receiving them at an agency maintained by the local government; for example, a police communication center.

*Direct line* means a telephone line leading directly from a central station to the 911 communications center and the fire department, which is for use only to report emergency signals on a person-to-person basis. Direct lines are not permitted to any law enforcement center.

*False alarm* means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employees requiring an emergency response, when in fact an emergency does not exist or the activation of the alarm, whether intentional or unintentional. The term "false alarm" does not include:

(1) Alarms caused by hurricanes, tornadoes, earthquakes or other violent conditions;

(2) Alarms covered by F.S. § 806.101.

*Fire alarm* means an alarm system designated to indicate the presence of fire or smoke is in progress immediately preceding the alarm.

*Fire department* means the county/city fire district.

*Fire marshal* means the certified person designated as fire marshal by the county/city fire district or any authorized agent thereof.

*Hold-up alarm system* means an alarm system signaling a robbery or attempted robbery.

*Interconnect* means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

*Law enforcement agency* means any governmental agency or subunit thereof, providing law enforcement services within the county, or any authorized agent thereof.

*Law enforcement executive* means the sheriff and/or police chiefs in the county, or their designated representatives.

*Local alarm system* means a signaling system which when activated causes an audible and/or visual signaling device to be activated in or on the premises within which the system is installed.

*Manual hold-up alarm system* means an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

*Modified central station* means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits. Such a modified central station is not listed by Underwriters' Laboratories.

*Occupied residential dwelling unit* means an occupied dwelling that is used as a residence by a single housekeeping unit.

~~*Person* means any person, firm, partnership, association, corporation, company or organization of any kind.~~

*Primary trunkline* means a telephone line, leading directly into the communication center of any law enforcement agency, which is for the purpose of handling emergency calls on a person-to-person basis and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the city.

*Proprietary system* means an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes a signal line connected directly or by means of automatic

PROOFS

dialing device to a police communication center, a central station or answering service, the system is an alarm system, as defined in this section.

*Record title owner* means the person or persons in whose name title to real property are recorded on the public records.

*Remote signaling system* means an alarm signaling system which when activated by an alarm device transmits a signal from an alarm signaling device to a central location, other than the law enforcement agency, fire district and/or the 911 communications center, where appropriate action is taken to investigate and respond to the signal.

*Signal line* means the transmission line through which the signal passes from one of the elements of the signal transmission system to another.

*Special trunkline* means a telephone line leading into the communication center of any law enforcement agency and having the primary purpose of handling emergency signals or messages originating either directly or through a central location from automatic dialing devices.

*Subscriber* means a person who buys and/or leases, or otherwise obtains, an alarm signaling system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.

*Telephone company* means the utility that furnishes telephone services to the citizens of the city.

*U.L.* means Underwriters' Laboratories.

(Code 1983, § 14-18; Ord. No. I-245, pt. A, 12-7-1987; Ord. No. 16-022 , § 1, 1-3-2017)

**Sec. 14-61. Automatic dialing device—Interconnecting to trunklines.**

(a) No automatic dialing device shall be interconnected to any primary or special trunkline at any law enforcement agency or fire department in the city, unless under special investigative purposes as authorized by the chief executive of the law enforcement agency or the fire marshal for said county.

(b) If a law enforcement agency has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed, or operated in violation of subsection (a) of this section, it shall, in writing, order the owner, operator or lessee to disconnect and cease operation of the system within 72 hours of receipt of the order.

(c) Any automatic telephone dialing system installed as set forth in subsection (a) of this section, prior to the effective date of Ordinance No. 2015-5 shall be removed within 45 days of the order as referenced in subsection (b) of this section.

(Code 1983, § 14-19; Ord. No. I-245, pt. A, 12-7-1987; Ord. No. 16-022, § 2, 1-3-2017)

**Sec. 14-62. Automatic dialing device—Operating instructions service.**

(a) Every alarm business selling or leasing to any person an automatic dialing device, which is installed on such person's premises in the county after the effective date of the ordinance from which this article is derived, shall furnish that person with instructions which provide adequate information as required by the National Fire Protection Association (NFPA) standards to enable persons using such device to operate it properly and, if the device is to be serviced or maintained by another alarm business, shall furnish such other alarm business with a manual or other information, including a diagram of the final installation, necessary to enable it to service or properly maintain such device.

(b) If the law enforcement executive or fire marshal responsible finds such instructions to be incomplete or unclear, or inadequate to explain how the device operates and is constructed, he may require the alarm business to revise the instructions and mail them out by certified letter to provide adequate information and then to distribute the revised information to persons who have had such devices installed, as well as to persons subsequently having such devices installed.

(c) Every alarm business selling or leasing to any person an automatic dialing device, which is installed on such person's premises in the city after the effective date of the ordinance from which this article is derived shall furnish to the person buying or leasing such device written information and training concerning how service may be obtained at any time, including telephone number to call for service.

(Code 1983, § 14-20; Ord. No. I-245, pt. A, 12-7-1987)

PROOFS

**Sec. 14-63. Direct connections to law enforcement agencies and/or fire department.**

No direct connections shall be permitted in the city, unless authorized by the chief executive of the law enforcement agency or the fire marshal for said city.

(Code 1983, § 14-21; Ord. No. I-245, pt. A, 12-7-1987)

**Sec. 14-64. Equipment maintenance.**

(a) Each subscriber, at his expense, is required to maintain all components of his alarm system in good working order at all times to ensure that the sensory mechanism used in connection with such device is adjusted to suppress false indications of hold-ups or intrusions or fire or smoke conditions, so that the device will not be activated by impulses due to short flashes of light, wind, noises, vehicular noise or other forces unrelated to genuine alarms.

(b) No alarm system designed to transmit emergency messages shall be tested or demonstrated without first notifying the central station, 911 communications center and the fire department.

(c) Fire alarm systems shall be required to have a maintenance contract for testing and inspections, in accordance with National Fire Protection Association (NFPA) standards; for example, smoke and/or heat detectors, manual pull stations and water flow alarms (sprinkler systems). Copies of the maintenance contract and test results of the fire alarm system shall be forwarded to the fire marshal within 30 days from the date of the test.

(Code 1983, § 14-22; Ord. No. I-245, pt. A, 12-7-1987)

**Sec. 14-65. Alarm permit required; application; term; fee; issuance.**

(a) *Required.* It shall be unlawful for any person or company to operate, monitor, or be responsible for an alarm system, without prior registration with the third-party administrator designated by the county. This shall apply to both commercial and residential systems. Each person or company which operates, monitors, or has responsibility for alarm systems, who notifies the county of an alarm activation, shall, at the time of notification, disclose the name, address, telephone number, and permit number of the alarm user to the county.

(b) *Installation; notice.* A contractor, as defined in F.S. § 553.793, or an alarm system monitoring company that installs a monitored alarm system, shall provide written notice, on paper or electronically, to an owner, lessee, or occupant, or an authorized representative thereof, before activating or reactivating an alarm system, that the county requires the registration of the alarm system.

(c) *Activation; notice.* An alarm system monitoring company that activates an alarm system installed by an owner, lessee, or occupant, or authorized representative thereof, shall provide verbal notice to the owner, lessee, or occupant, or authorized representative thereof, before activating or reactivating an alarm system, that the county requires the registration of the alarm system.

(d) *Application.* Any person desiring an alarm system permit shall file an application with the third-party alarm administrator on a form provided by the administrator manually or electronically which includes but is not limited to, the following information:

(1) Name, address and telephone number of the applicant, and the alarm user, if different;

(2) Address and telephone number of the alarm user's premises or building to be served by the alarm;

(3) The name, address and telephone number of the person in charge of the premises or building served by the alarm. If the applicant is a corporation, the names and addresses of its principal officers. If the applicant is a partnership, association, or other business entity, the names and addresses of the partners or persons comprising the same;

(4) The name, address and telephone number of the person or entity installing said alarm;

(5) The name, address and telephone number of the person or entity monitoring said alarm;

(6) The name, address and telephone number of the person or entity providing maintenance and repair service to said alarm;

(7) A description of the alarm system proposed to be installed, including the manufacturer's name and model number, if any;

PROOFS

(8) The names, addresses and telephone numbers of two or more persons who will be available to secure the premises during any hour of the day or night;

(9) Classification of the alarm site as being equipped or non-equipped for duress alarm;

(10) Any such additional information deemed necessary in order to fully and properly administer this article.

Whenever any change occurs relating to the information required by this section, the applicant or permittee shall give written notice thereof to the county third-party alarm administrator within ten days after such change.

(e) *Term.* Alarm system permits are issued for a period of one year and will expire 365 days after the date of issuance or renewal, unless otherwise suspended or revoked at an earlier time. Upon expiration of an alarm system permit, a renewal permit must be obtained in the manner specified by the county before an alarm system may continue in use.

(f) *Fee.* No permit fee shall be charged to the alarm user by the county for each permit issued, including successive renewal permits.

(g) *Nontransferable.* Any alarm permit issued pursuant to this article shall not be transferable or assignable to another person or alarm site and shall cover only one building or premises.

(h) *Issuance.* An alarm permit shall be mailed to the alarm user by the third-party administrator, at the address of the alarm user stated on the application, within ten days after receipt of said completed application by the third-party administrator. An alarm permit shall be denied if:

(1) The requested information is not supplied on the application;

(2) Material information on the application is incorrect;

(3) Any person or entity listed on the application under subsections (d)(4) through (d)(6) of this section does not possess any required occupational or regulatory license to conduct the activities required by said subsections, unless the person or entity is the alarm user;

(4) All false alarm dispatch charges for excessive false alarms owed by the alarm user have not been paid;

(5) The alarm user had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

(i) *Public records exemptions.* To the extent allowed by law, all information contained in and gathered through the alarm permit applications, records relating to alarm dispatch requests, and applications for appeal shall be exempt and confidential information held in confidence by all employees or representatives of the county and by any third-party administrator or employees of a third-party administrator with access to such information.

(Code 1983, § 14-23; Ord. No. I-245, Pt. A, 12-7-1987; Ord. No. 16-022, § 3, 1-3-2017)

**Sec. 14-66. Excessive false alarm signals.**

(a) Prior to the activation or substantial modification or use of an alarm system, as defined in section 14-60, the owner, manager, or lessee of the premises shall furnish to the third-party alarm administrator on a form provided by the third-party alarm administrator manually or electronically which includes information deemed necessary to provide adequate response to the alarm.

(b) Owners, managers or lessees of existing alarm systems, as defined in section 14-60, shall have 30 days from the effective date of the ordinance from which this section is derived to comply with the notice requirements provided in section 14-65(b).

(c) Owners, manager or lessees, or agents of any alarm system shall respond to the alarm location, when requested, in order to reset or deactivate the alarm system within a reasonable time of notification. Failure to provide such access shall result in a false alarm assessment as provided in section 14-67.

(d) Prior to the activation or use of any type of general alarm device the owner, manager or lessee of the premises shall furnish to the third-party alarm administrator, information regarding the full names, addresses and telephone numbers of at least three persons for commercial properties and two persons for residential properties who can be reached at all times and who are authorized and have the capability to enter the premises and deactivate the alarm device. Owners, managers or lessees of the premises with alarm devices already installed shall have 30

PROOFS

days from the effective date of the ordinance from which this section is derived to comply with the notice requirements provided in section 14-65(b). It shall be the responsibility of the owner, manager or lessee of the premises to provide an updated list annually to the third-party alarm administrator. Failure to do so may result in a false alarm assessment subject to the sanctions of section 14-67.

(e) All burglar alarm systems having an audible or visual signal at the premises shall be equipped so as to automatically shut off the audible or visual signal after 15 minutes, except those systems required by law to have a longer operating period, in which case said system shall be equipped so as to automatically shut off the audible or visual signal at the conclusion of the longer required operating time.

(f) All alarm systems shall be properly maintained. System malfunction due to faulty maintenance shall not be grounds for an excused false alarm assessment.

(g) All alarm systems shall obtain all necessary permits and inspections for the installation of the system.

(h) All alarm companies that sell, lease, install, operate, monitor or have the responsibility for alarm systems, shall maintain the appropriate license, as required under F.S. ch. 489, and shall register annually with the county. A fine of $500.00 shall be assessed to any alarm monitoring company who fails to register. Each registration shall be valid for 12 months. The alarm monitoring company shall provide the following information:

(1) The name, street address and telephone number. Monitoring companies shall maintain, for a period of at least one year, records relating to alarm notification and shall provide such records to the county's third-party alarm administrator upon request, or a fine of $125.00 shall be assessed.

(2) The names, street addresses, and telephone numbers of all contracted alarm operators within the territorial jurisdiction of the county.

(3) The procedure used to verify the legitimacy of an alarm prior to notification of county law enforcement.

(4) The name, street address, and telephone number of the alarm company.

(i) An alarm company performing monitoring services shall:

(1) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, as a minimum, that a second call be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid, except in the case of a panic or robbery-in-progress alarm, or in cases where a crime-in-progress has been verified by video and/or audible means.

(2) Provide alarm user registration number, when available, to the 911 communications center to facilitate dispatch and/or cancellation.

(3) Communicate any available information about the location of the alarms to the communications center.

(4) Communicate a cancellation to the communications center as soon as possible following a determination that a response is unnecessary.

(j) Owners, managers or lessees, or agents of any alarm system within the city that has received notice of having had three or more false alarms in a one-year period shall obtain from a licensed alarm company an inspection report, in a form acceptable to the alarm administrator, that identifies the reason for the false alarms and that the issue has been fixed/resolved. This inspection report shall be provided to the third-party alarm administrator as well as the city's designated alarm administrator within 30 days of receiving notice of the third false alarm. Failure to comply with this provision shall result in a fine of $50.00, in addition to the false alarm response fine due.

(k) Owners, managers or lessees, or agents of any alarm system may take an alarm user awareness class (as offered by the county's third-party alarm administrator) in lieu of paying the $50.00 ~~fee~~ fine for a second false alarm violation. This class may only be taken once, can only be applied to the second false alarm ~~fee~~ fine ($50.00), and must be successfully completed by the owners, managers or lessees, or agents of any alarm system. Proof of successful completion of the class as offered by the third-party alarm administrator must be provided by the owners, managers or lessees, or agents of any alarm system to the city's designated alarm administrator within 60 days of the false alarm.

PROOFS

(Code 1983, § 14-24; Ord. No. I-245, pt. A, 12-7-1987; Ord. No. 16-022, § 4, 1-3-2017)

**Sec. 14-67. False alarm service charge; collection; disbursement; appeal; refusal to pay.**

(a) *False alarm.*

(1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by law enforcement and/or the fire district, and the management of the alarm site does not respond, a police officer or firefighter on the scene of the activated alarm system shall visually inspect the area protected by the system and shall exercise reasonable judgment to determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(2) If a police officer or firefighter at the scene of the activated alarm system determines the alarm to be false, said officer shall make a report of the false alarm, a notification of which shall be mailed or delivered by the third-party alarm administrator to the alarm user and/or record title owner at the address on file with law enforcement, advising the alarm user and record title owner of the false alarm.

(3) Law enforcement shall have the right to inspect any alarm system on the premises to which a response has been made and they may cause an inspection of such system to be made at any reasonable time thereafter to determine whether it is being used in conformity with the terms of this article.

(4) For each response by any emergency unit to an alarm, the responding agency will file a report, classifying the alarm as one of the following:

a. False alarm, system test with no notification or system malfunction.

b. False alarms, no system test, no owner response.

c. Valid alarm for cause designated.

(b) *Charges.*

(1) There shall be a fine charged for false alarms according to the following schedule during a rolling 12-month period:

| *False Alarm Fines* | | | |
|---|---|---|---|
| *Alarm within 12 Months* | *Fire/Rescue* | *Law Enforcement (Commercial)* | *Law Enforcement (Residential)* |
| First | $0.00 | $0.00 | $0.00 |
| Second | $200.00 | $100.00 | $50.00 |
| Third | $300.00 | $200.00 | $100.00 |
| Fourth | $500.00 | $400.00 | $150.00 |
| Fifth and Subsequent | $500.00 | $500.00 | $200.00 |

(2) Alarm companies shall not activate the alarm system prior to the registration. If a false alarm occurs prior to the registration of the alarm permit, the alarm monitoring company will be charged a fine of $250.00. If the alarm system is self-monitored the alarm user will be charged a fine of $50.00, which may be waived if the alarm permit is registered within 30 days.

(3) In addition, any person operating a non-permitted alarm system will be subject to an additional fine of $50.00. This ~~fee~~ fine may be waived if the permit is registered in 15 days.

(c) *Appeal.* An alarm user may appeal assessment of the fine to the city's designated alarm administrator by filing a written request for review setting forth the reasons for the appeal within 14 calendar days of the date of the notice of the assessed fine. The failure to file a request for an appeal within this time period shall constitute a waiver of the right to contest the assessment of the fine. The city's special magistrate shall serve as the hearing officer for all appeal hearings under this section. The filing of a request for an appeal shall stay the assessment of the fine until

PROOFS

the hearing officer renders a final decision. Upon receipt of a timely written request for an appeal, a hearing will be scheduled before the special magistrate. Notice of the hearing will be sent to the alarm user after receipt of the request for appeal. The special magistrate shall conduct a hearing and consider the evidence presented pursuant to F.S. ch. 162. At the conclusion of the hearing, the special magistrate shall issue findings of fact, based upon the evidence presented, and conclusions of law, and shall issue a written order. The special magistrate's decision is subject to review in the circuit court by proceedings in the nature of certiorari.

(d) *Collection.* Once notified by the third-party administrator, the user will have 30 days to pay any said service charges. All service charges collected shall only be used to offset the costs incurred in responding to false alarms.

(e) *Refusal to pay.* The city may proceed by a suit in a court of competent jurisdiction to collect said charge after demand thereof has been made by the third-party administrator and the payment thereof refused by the alarm user.

(f) *Disbursement.* Service charges will be disbursed to the city in a manner as agreed to by ~~as agreed to by~~ contract with the third-party administrator.

(Code 1983, § 14-25; Ord. No. I-245, pt. A, 12-7-1987; Ord. No. 16-022, § 5, 1-3-2017)

**Sec. 14-68. Penalties.**

Failure to comply with this article shall constitute a violation of this Code and may, at the city's option, be enforced by either the third-party administrator or the city by hearing and penalty, as generally provided by sections 1-69 through 1-106.

(Code 1983, § 14-26; Ord. No. I-245, pt. A, 12-7-1987; Ord. No. 16-022, § 6, 1-3-2017)

PROOFS

Chapter 15

**RESERVED**

PROOFS

Chapter 16

# ENVIRONMENT*

***State law reference**—Municipal Home Rule Powers Act, F.S. ch. 166; water resources, F.S. ch. 373; outdoor recreation and conservation lands, F.S. ch. 375; pollutant discharge prevention and removal, F.S. ch. 376; energy resources, F.S. ch. 377; land reclamation, F.S. ch. 378; fish and wildlife conservation, F.S. ch. 379; land and water management, F.S. ch. 380; environmental control, F.S. ch. 403.

## ARTICLE I. IN GENERAL

**Secs. 16-1--16-18. Reserved.**

## ARTICLE II. TREES

### DIVISION 1. GENERALLY

**Sec. 16-19. Park trees, street trees defined.**

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

*Park trees* mean trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the city or to which the public has free access as a park.

*Street trees* mean trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

(Code 1983, § 2-322; Ord. No. I-357, § 1, 12-4-1989)

**Sec. 16-20. Street tree species to be planted.**

The following list constitutes the official street tree species for the city; no species other than those included in this list may be planted as street trees without written permission of the city tree board:

| *City Tree Species* | | |
|---|---|---|
| *Small Trees* | *Medium Trees* | *Large Trees* |
| Dahoon Dolly | Drake Elm | Bald Cypress |
| Crepe Myrtle | Cabbage Palm | Florida Elm |
| Tree of Gold | ~~rrotwood~~ | Hackberry |
| Savanna Holly | Golden Rain Tree | Red Maple |
| Rigid Bottlebrush | Dahoon Dolly | Royal Palm |
| Pindo Palm | Bay Loblolly | Live Oak |
| Cherry Laurel | Loquat | Washington Palm |
| | Coconut Palm | Sycamore |
| | | Sweetgum |
| | | Date Palm |

(Code 1983, § 2-323; Ord. No. I-357, § 7, 12-4-1989)

PROOFS

**Sec. 16-21. Spacing.**

The spacing of street trees will be in accordance with the three species classes listed in section 16-20, and no trees may be planted closer together than the following: small trees, 20 feet; medium trees, 30 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.

(Code 1983, § 2-324; Ord. No. I-357, § 8, 12-4-1989)

**Sec. 16-22. Distance from curb and sidewalk.**

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 16-20, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.

(Code 1983, § 2-325; Ord. No. I-357, § 9, 12-4-1989)

**Sec. 16-23. Distance from street corners and fireplugs.**

No street tree shall be planted closer than 20 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet to any fireplug.

(Code 1983, § 2-326; Ord. No. I-357, § 10, 12-4-1989)

**Sec. 16-24. Utilities.**

No street trees, other than those species listed as small trees in section 16-20, may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Code 1983, § 2-327; Ord. No. I-357, § 11, 12-4-1989)

**Sec. 16-25. Public tree care.**

(a) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

(b) This section does not prohibit the planting of street trees by adjacent property owners, provided that the selection and location of said trees are in accordance with sections 16-20 through 16-24.

(Code 1983, § 2-328; Ord. No. I-357, § 12, 12-4-1989)

**Sec. 16-26. Tree topping.**

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. The term "topping" means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. 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 article at the determination of the city tree board.

(Code 1983, § 2-329; Ord. No. I-357, § 13, 12-4-1989)

**Sec. 16-27. Pruning; corner clearance.**

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property, when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic-control device or sign.

(Code 1983, § 2-330; Ord. No. I-357, § 14, 12-4-1989)

PROOFS

**Sec. 16-28. Dead or diseased tree removal on private property.**

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to the other trees within the city. The ~~city tree board~~ will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the city tree board shall forward the matter to the special magistrate for appropriate action.

(Code 1983, § 2-331; Ord. No. I-357, § 15, 12-4-1989; Ord. No. 17-017, § 4, 6-5-2017)

**Sec. 16-29. Interference with city tree board.**

It shall be unlawful for any person to prevent, delay or interfere with the city tree board or any of its agents or servants while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this article.

(Code 1983, § 2-332; Ord. No. I-357, § 16, 12-4-1989)

**Sec. 16-30. Arborist's license and bond.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be ~~twenty-five dollars ($25.00)~~ in the amount established by resolution, and shall be paid annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of $25,000.00 for bodily injury and $10,000.00 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Code 1983, § 2-333; Ord. No. I-357, § 17, 12-4-1989)

~~**Sec. 2-334. Penalty.**~~

~~Any person violating any provision of this article shall be, upon conviction or a plea of guilty, subject to a fine not to exceed five hundred dollars ($500.00).~~

~~(Code 1983, § 2-334; Ord. No. I-357, § 19, 12-4-1989)~~

**Secs. 16-31--16-48. Reserved.**

DIVISION 2. TREE BOARD

**Sec. 16-49. Created; established.**

There is hereby created and established a city tree board, which shall consist of five members. Members will consist of the director of public works, parks supervisor, urban forester and two residents of the city who shall be appointed by the city commission.

(Code 1983, § 2-316; Ord. No. I-357, § 2, 12-4-1989)

**Sec. 16-50. Terms of office; vacancy.**

(a) The terms of the two residents to be appointed by the city commission shall be two years~~, except that the term of one member appointed to the first board shall be for only one year~~.

(b) In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(Code 1983, § 2-317; Ord. No. I-357, § 3, 12-4-1989)

**Sec. 16-51. Compensation.**

Members of the board shall serve without compensation.

(Code 1983, § 2-318; Ord. No. I-357, § 4, 12-4-1989)

PROOFS

**Sec. 16-52. Duties and responsibilities.**

(a) It shall be the responsibility of the board to study, investigate, counsel, and develop and/or update annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city commission and, upon their acceptance and approval, shall constitute the official comprehensive city tree plan.

(b) The board, when requested by the city commission, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

(Code 1983, § 2-319; Ord. No. I-357, § 5, 12-4-1989)

**Sec. 16-53. Operation.**

The board shall choose its own officers, make its own rules and regulations and keep a journal of its findings. A majority of the members shall be a quorum for the transaction of business.

(Code 1983, § 2-320; Ord. No. I-357, § 6, 12-4-1989)

**Sec. 16-54. Review by city commission.**

The city commission shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city commission, which may hear the matter and make the final decision.

(Code 1983, § 2-321; Ord. No. I-357, § 18, 12-4-1989)

**Secs. 16-55--16-81. Reserved.**

## ARTICLE III. SEA TURTLE PROTECTION*

**Sec. 16-82. Lighting on beach.**

(a) *Purpose.* This section is intended to provide for the protection of sea turtles and sea turtle hatchlings. It is found and determined that light which is visible from any point standing on the beach has the potential of disorienting sea turtles and preventing them from reaching the sea. The standards set forth in this section are to be interpreted liberally to provide for the adequate protection of such sea turtles and are effective during the sea turtle nesting and hatching season from March 1 through October 31.

(b) *Regulations; standards.* The following regulations and standards shall apply to beachfront lighting within the city limits:

(1) Existing exterior artificial light fixtures shall be mounted as low as feasibly possible, shielded or replaced with alternative fixtures and lamps so that the source of light is not directly visible from the beach and does not directly or indirectly illuminate areas seaward of the primary dune. Traditional light bulbs should be replaced with alternate light sources, including, but not limited to, low pressure sodium lamps, true amber or red LED lights, or low wattage fluorescent bulbs (seven watts or less).

(2) For structures built prior to 2008, existing interior lights shall be shielded by window tint, shades and/or blinds that fully eliminate visible light on all windows and glass doors visible from any point on a nesting beach, including any side of the structure. Such blinds or shades shall be drawn after dark to completely cover windows visible from the beach. If the owner of such structure is found guilty of a repeat violation of this section, the enforcing authority may require that window tinting be installed.

(3) Site/building plans for new construction shall incorporate exterior and interior lighting designs that are fully compliant with standards for existing lighting. Building plans must include tinted glass or window film for all windows and glass doors visible from any point on a nesting beach, including the sides of the structure. Tinting/film must meet a transmittance value of 45 percent or less (amount of light visible from inside to outside).

(4) Lighting standards shall apply to all newly installed or replacement exterior and interior light fixtures, both public and private, in direct line-of-sight of the beach.

PROOFS

(Code 1983, § 5-375; Ord. No. L-79, § 2, 4-20-2009)

**Secs. 16-83--16-107. Reserved.**

## ARTICLE IV. MINING AND EXCAVATION OPERATIONS

**Sec. 16-108. Definition.**

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

*Mining and excavation operation* means and includes any operation which entails the excavation of earth in excess of 100 cubic yards from one parcel of property to another parcel of property, or from an area of a parcel of property to another area on the same parcel if a public road is used, except that the term "mining and excavation operation" does not include the following activities:

(1) Installing utilities;

(2) Installing foundations for any building or other structure;

(3) Digging drainage or mosquito ditches and canals by authorized units and agencies of government;

(4) Digging drainage or mosquito control ditches and canals by private persons when construction is permitted by all authorized agencies, if any;

(5) Excavating for accessory uses for land, such as parking lots, septic tanks, graves, swimming pools, etc.;

(6) Excavating, grading, and moving earth in conjunction with the platting of a subdivision permitted in accordance with all governing regulations;

(7) Excavating, grading and moving of earth or sand can still be carried on by governmental bodies, including the city, and they are expressly exempt from this article.

(Code 1983, § 9-350; Ord. No. I-168, § 1, 8-18-1986; Ord. No. I-195, § 2, 12-15-1986)

**Sec. 16-109. Mining and excavation operations prohibited.**

Except as otherwise provided for in this article, mining and excavation operations are prohibited in all districts.

(Code 1983, § 9-351; Ord. No. I-168, § 1, 8-18-1986)

~~**Sec. 9-352. Existing mining and excavation operations.**~~

~~(a) *General.* Except as otherwise provided in this article, mining and excavation operations in existence at the time this article [Ordinance Number I-168] becomes effective may continue in operation for a period of two years, after which they shall cease operation. Any operation which continues will be fenced with a minimum five foot high fence or with a fence four feet high plus an additional three strands of barbed wire which will raise the fencing to approximately five feet, said barbed wire to be angled inward not outward and said fence to equal approximately five feet in height. Said fence to be constructed within 60 days from the date of this amendment [December 15, 1986].~~

~~(b) *Extended period of operation.* Existing mining and excavation operations will be permitted to operate for a period of two years from the date of this amendment [December 15, 1986]. However, in order to continue operation, the following terms and specifications must be met and the failure to meet these terms and specifications will result in the violation of this article and authorize the city to close down said mining operation immediately. The terms and conditions under which said operation shall continue are as follows:~~

~~The operators of any existing sand mining operations will submit an application which will include the following information:~~

~~(1) The names and business addresses of all applicants;~~

~~(2) Proof of ownership of the property to be mined;~~

~~(3) The size of the property to be mined in acres;~~

~~(4) A list of all properties within 500 feet of the area to be excavated by property appraiser, tax~~

PROOFS

identification number and property owner's name;

__ The time table or schedule for mining activities, from commencement of operation through completion of reclamation;

__ The proposed days and hours of operation, including maintenance and service of equipment;

__ The method of extraction of processing, including disposition of overburden or top soils as well as the type of excavation equipment to be used;

__ The location and estimated output of machinery or equipment to be used in any screening, crushing or processing operation for materials excavated on the site;

__ Operating practices proposed:

__ To minimize noise, dust, air contaminants and vibrations;

__ To prevent undue damage to public streets and roads or creation of a traffic hazard;

__ To prevent overburdening the existing drainage systems;

__ To prevent undue pollution of surface and underground water and undue alteration of the water table; and

__ To provide for public safety.

__ Mining plan. The mining plan shall be submitted on twenty-four-inch by thirty-six-inch detail sheets and at a scale no smaller than one inch equals fifty (50) feet. Detail sheets shall include:

__ The north point, scale and date of the plan;

__ The location of the property to be mined by legal description and street address, if any;

__ The boundary lines and dimensions of the property;

__ The extent of the area to be excavated, with dimensions showing property lines, setbacks, corner locations, required berm and swale, and phase boundaries, if applicable;

__ A typical cross-section showing the slope and grade of excavation side-slopes, berm and swale;

__ Processing, storage and ponding of water detention area;

__ Proposed fencing, gates and parking.

__ Any existing mining operation continuing for more than 60 days after the adoption of this amendment [Ordinance number I-195, December 15, 1986] to Ordinance I-168 shall comply with the following requirements:

__ They shall enclose said sandmine area within a fence as described above being a minimum of five feet or four feet high plus three strands of barbed wire facing inward.

__ In all areas of a mine site which lie within 100 feet of residentially zoned property the operator shall, at the conclusion of said mining operation, slope said sandmine at a four-to-one grade. Sloping will commence no closer than twenty-five (25) feet from the boundary of the property and will continue to a point which is two feet below the mean water table.

__ All areas which are required to be sloped to a four-to-one grade must be mulched and seeded by the landowner.

__ The fencing which is required around the perimeter of the mine site will be maintained by the property owner or their successors until such time as the excavation site ceases to become a public hazard as determined by the city commission and/or a court of competent jurisdiction.

__ No material from a sandmine site will be hauled or trucked through any residentially zoned areas, except along the FEC Railroad tracks to Savannah Road.

__ No sandmine will operate more than six days per week and will not operate on Sundays and

PROOFS

~~no sandmining will commence earlier than 6:30 a.m. and will not continue after 5:00 p.m., Monday through Friday and will not commence earlier than 7:30 a.m. and will not continue after 5:00 p.m. on Saturday.~~

~~__ No sandmine site will be dewatered unless and until said dewatering is permitted by the South Florida Water Management District.~~

~~__ Any sandmine operation which continues will post a performance bond with the City of Fort Pierce the amount of which is to be determined by the city engineer estimating the cost of the sloping and other requirements set out herein. Said performance bond is not to exceed ten thousand dollars ($10,000.00).~~

~~__ All existing sandmines will be adequately posted with "No Trespassing" notices or signs.~~

~~__ *Procedure.* An application for a one-year extension of additional time within which to continue operation shall be considered in accordance with the procedure prescribed in section 22-58(f).~~

~~__ *Performance bond.* No approval of a permit for continued operation as prescribed in this section shall be effective until the city engineer shall have first estimated the cost of implementing any operating practices and reclamation plans proposed by the applicant and the applicant shall have furnished a performance bond for such estimated cost.~~

~~(Code 1983, § 9-352; Ord. No. I-168, § 1, 8-18-1986; Ord. No. I-195, §§ 4, 6, 12-15-1986)~~

**Secs. 16-110--16-131. Reserved.**

## ARTICLE V. FERTILIZER*

***State law reference**—Protection of Urban and Residential Environments and Water Act, F.S. § 403.9335 et seq.

**Sec. 16-132. Definitions.**

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

*Administrator* means the city manager, or any other city official designated by the city manager.

*Application* or *apply* means the actual physical deposit of fertilizer to turf or landscape plants.

*Applicator* means any person who applies fertilizer on turf and/or landscape plants in the city.

*Board* or *governing board* means city commission.

*Best management practices* mean turf and landscape practices or combinations of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

*City-approved best management practices training program* means a training program approved per F.S. § 403.9338, or any more stringent requirements set forth in this article, that includes the most current version of the state department of environmental protection's Florida-Friendly Best Management Practices for Protection of water Resources by the Green Industries, 2008, as revised and approved by the city manager.

*Code enforcement officer, official* or *inspector* means any designated employee or agent of the city whose duty is to enforce codes and ordinances enacted by the city.

*Commercial fertilizer applicator*, except as provided in F.S. § 482.1562(9), means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

*Damaged turf or landscape plants* means turf or landscape plants that have been deleteriously affected by environmental or biotic stress. Environmental stresses are a result of prolonged exposure to shade drought, nutrient deficiency, the effects of vehicle and foot traffic salinity and occasional cold temperatures. Biotic stresses result from living organisms such as insects, diseases or nematodes.

PROOFS

*Fertilize*, *fertilizing*, or *fertilization* means the act of applying fertilizer to turf, specialized turf, or landscape plants.

*Fertilizer* means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

*Guaranteed analysis* means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

*Heavy rain* means rainfall greater than or equal to two inches (50 millimeters) in a 24-hour period.

*Impervious surfaces* mean a constructed surface such as sidewalks, roads, parking lots or driveways covered by water impenetrable materials such as asphalt, concrete, brick, pavers, stone and/or highly compacted soils.

*Institutional applicator* means any person, other than a private, non-commercial or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. The term "institutional applicators" means and includes, but is not limited to, owners, managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

*Landscape plant* means any native or exotic tree, shrub or groundcover (excluding turf).

*Lawncare and maintenance* or *landscaping* means and includes, but is not limited to, mowing, trimming, pruning, edging, liming, fertilizing, mulching, seeding and aerating of turf and/or landscaping plants.

*Low maintenance zone* means an area a minimum of ten feet wide adjacent to water courses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

*Non-commercial applicator* means any person other than a commercial or institutional applicator who performs lawn care and maintenance on turf and/or landscape plants in the city, such as an individual owner or tenant of a single-family residential unit.

~~*Person* means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.~~

*Prohibited application period* means June 1 through September 30 or the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of the city, issued by the National Weather Service, or if heavy rainfall is likely.

*Saturated soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the purpose of this section, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

*Slow release*, *controlled release*, *timed release*, *slowly available* or *water insoluble nitrogen* means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

*Turf*, *sod*, or *lawn* means a piece of grass-covered soil held together by the roots of the grass.

*Urban landscape* means pervious areas on residential, commercial, industrial, institutional, highway right-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this article, the term "agriculture" has the same meaning as in F.S. § 570.02.

(Code 1983, § 17-122; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-133. Findings.**

As a result of impairment to the city's surface waters caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface and/or ground water within the aquifers or springs within the boundaries of the city, the city commission has determined that the use of fertilizers on lands within the city creates a contributing risk that adversely effects surface and/or ground water which ultimately flows to the Indian River Lagoon.

(Code 1983, § 17-120; Ord. No. 14-014, § 1, 5-5-2014)

PROOFS

**Sec. 16-134. Purpose and intent.**

This article regulates the proper use of fertilizers by any applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes a prohibition application period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. Such article further requires the use of best management practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on the city's natural and constructed stormwater conveyances, rivers, creeks, canals, springs, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic wellbeing of the city's residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(Code 1983, § 17-121; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-135. Applicability.**

This article shall be applicable to and shall regulate all applicators of fertilizer and areas of application of fertilizer within the city, unless such applicator is specifically exempted by the terms of this article from the regulatory provision of this article. This regulation shall be prospective only, and shall not impair any existing contracts in effect on May 1, 2014.

(Code 1983, § 17-123; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-136. Timing of fertilizer application.**

No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the following prohibited application periods:

(1) June 1 through September 30;

(2) The time period during which the National Weather Service has issued a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning for any portion of the city;

(3) Heavy rains are expected;

(4) Saturated soils.

(Code 1983, § 17-124; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-137. Fertilizer-free zones.**

Fertilizer shall not be applied within ten feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the state department of environmental protection (F.A.C. ch. 62-340) or from the top of a seawall. If more stringent regulations of this Code apply, this provision does not relieve the requirement to adhere to the more stringent regulations. Newly planted turf and/or landscape plants may be fertilized in this zone only for a 60-day period beginning 30 days after planting if need to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.

(Code 1983, § 17-125; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-138. Low maintenance zones.**

A voluntary ten-foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. If more stringent regulations of this Code apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

(Code 1983, § 17-126; Ord. No. 14-014, § 1, 5-5-2014)

PROOFS

**Sec. 16-139. Fertilizer content and application rates.**

(a) No fertilizer containing phosphorous shall be applied to turf or landscape plants in the city, unless a soil or plant tissue deficiency is verified by a University of Florida Institute of Food and Agriculture Sciences (IFAS)-approved testing methodology. In the case that a deficiency has been verified, the application of a fertilizer containing phosphorous shall be in accordance with the rates and directions for the Southern Region of Florida as provided by F.A.C. 5E-1.003. Deficiency verification shall be no more than two years old. However, recent application of compost, manure, or topsoil shall warrant more recent testing to verify current deficiencies.

(b) The nitrogen content of fertilizer applied to turf or landscape plants within the city shall contain at least 50 percent slow release nitrogen per guaranteed analysis label.

(c) Fertilizers applied to an urban lawn or turf within the city shall be applied in accordance with requirements and directions set forth on the label or tag for packaged fertilizer products, or in the printed information accompanying the delivery of bulk fertilizer products, as provided by F.A.C. 5E-1.003(2), Labeling Requirements For Urban Turf Fertilizers. All packaged and bulk fertilizer products sold in the city shall be sold in packages with labels or tags, or, if sold in bulk, be accompanied by printed information, which complies with the requirements of F.A.C. 5E-1.003(2).

(d) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (e.g., wildfire, etc.), or in accordance with the stormwater pollution prevention plan for that site.

(Code 1983, § 17-127; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-140. Application practices.**

(a) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, include wetlands.

(b) Fertilizer shall not be applied, spilled or otherwise deposited on any impervious surfaces.

(c) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.

(d) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.

(e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

(Code 1983, § 17-128; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-141. Management of grass clipping and vegetative matter.**

In no case shall grass clippings, vegetative material, and/or vegetative debris be washed swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable. Grass clippings should be blown back onto lawn areas or removed.

(Code 1983, § 17-129; Ord. No. 14-014, § 1, 5-5-2014 )

**Sec. 16-142. Exemptions.**

The provisions set forth in this article shall not apply to:

(1) Bona fide farm operations, as defined in the Florida Right to Farm Act, F.S. § 823.14;

(2) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;

(3) Any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture;

PROOFS

(4) Golf courses when landscaping is performed within the provisions of the state department of environmental protection document, "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses", these provisions shall be followed when applying fertilizer to golf course practice and play areas;

(5) Athletic fields at public parks and school facilities that apply the concepts and principles embodied in the Florida Green BMPs, while maintaining the health and function of their specialized turf areas;

(6) Vegetable gardens owned by individual property owners or a community, and trees grown for their edible fruit.

(Code 1983, § 17-130; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-143. Training.**

(a) All commercial and institutional applicators or fertilizer within the city, shall abide by and successfully complete the six-hour training program "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries," offered by the state department of environmental protection through the University of Florida Extension "Florida-Friendly Landscapes" program, or an approved equivalent.

(b) Private, noncommercial applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

(Code 1983, § 17-131; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-144. Licensing of commercial applicators.**

(a) All commercial applicators of fertilizer with the city, shall abide by and successfully complete training and continuing education requirements in the "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries," offered by the state department of environmental protection through the University of Florida IFAS "Florida-Friendly Landscapes" program, or an approved equivalent program, prior to obtaining a city local business tax receipt for any category of occupation which may apply any fertilizer to turf and/or landscape plants.

(b) All commercial applicators of fertilizer within the city, shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the state department of agriculture and consumer services as a commercial fertilizer applicator per F.A.C. 5E-14.117(18).

(c) All businesses applying fertilizer to turf and/or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, and multifamily and condominium properties) must ensure that at least one employee has a "Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries" training certificate prior to the business owner obtaining a local business tax receipt. Owners for any category of occupation which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program to the city.

(Code 1983, § 17-132; Ord. No. 14-014, § 1, 5-5-2014)

**Sec. 16-145. Enforcement.**

The provisions of this article may be enforced pursuant to any method provided for by this Code or general law.

(Code 1983, § 17-133; Ord. No. 14-014, § 1, 5-5-2014)

PROOFS

Chapter 17

**RESERVED**

PROOFS

Chapter 18

# FIRE PREVENTION AND PROTECTION

***State law reference**—Municipal Home Rule Powers Act, F.S. ch. 166; explosives, F.S. ch. 552; fire prevention and control, F.S. ch. 633; sale and use of fireworks, F.S. ch. 791; sale of liquefied petroleum gas, F.S. ch. 527; arson and criminal mischief, F.S. ch. 806.

## ARTICLE I. IN GENERAL

~~**Sec. 18-1. Open burning of trash, garbage, etc.**~~

~~It shall be unlawful for any person within the corporate limits of the city to burn or allow the open burning of garbage or trash, as defined in section 30-19, or to burn or allow the open burning of building materials, trees or major parts thereof and similar items, except in an approved type of incinerator or container, meeting the specifications of the local authority having jurisdiction.~~

~~(Code 1960, § 10-6.1; Code 1983, § 7-18)~~

~~**Sec. 7-19. Smoking in public places.**~~

~~No person may smoke a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product or device in a public place or at a public meeting in any area or location except in designated smoking areas as provided by state law.~~

~~(Code 1960, § 10-10.1; Code 1983, § 7-19; Ord. No. I-258, § 2, 2-16-1988)~~

**Sec. 18-2. Storage of flammable liquids aboveground.**

Aboveground storage tanks shall not be located, placed or constructed in the city for use in storing flammable liquids, unless expressly permitted by the building department.

(Code 1960, § 10-14; Code 1983, § 7-20; Ord. No. J-110, §§ 1, 2, 7-19-1994; Ord. No. 19-007, § 1, 3-18-2019)

**Secs. 18-3--18-22. Reserved.**

## ARTICLE II. FIREWORKS*

***State law reference**—Sale and use of fireworks, F.S. ch. 791.

**Sec. 18-23. Definitions.**

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

*Building* means a permanent structure containing no fewer than four outer walls and a roof enclosing said walls, constructed in accordance with the local building code and a duly issued building permit, and for which occupancy is authorized by a duly issued certificate of occupancy. For purposes of this article, the term "building" shall also include a part of the structure, such as a unit or space within the shopping center.

*Commercial structure or building* means a building constructed and used for the purpose of producing income. For ~~purposed~~ of this article, the term "commercial building" shall not include a building design, constructed and used in accordance with the laws for residential occupancy.

~~*Fireworks* shall mean and include any combustible or explosive composition, or any substance or combination of substances, or any article prepared for the purpose of producing a visible and audible effect by combustion, explosion, deflagration, detonation, or shower of sparks, including but not limited to firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, aerial spinners, and other devices of like construction, any devices containing any explosive or flammable compound, and any tablets or other article containing an explosive~~

PROOFS

~~substance.~~

~~Fireworks shall not include auto flares, emergency signalling devices, sparklers, toy paper caps containing not in excess of twenty-five hundredths ( 25/100 ) grain of explosive content per cap; toy pistols, toy games, and toy guns designed to use these caps; novelty and trick noise makers; as defined by the National Fire Protection Association and those items tested and approved as sparklers and listed as such by the state fire marshal's annual listing.~~

*Fireworks* mean and include any combustible or explosive composition or substance or combination of substances or, except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term "fireworks" includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance. The term "fireworks" does not include sparklers approved by the division pursuant to F.S. § 791.013; toy pistols, toy canes, toy guns, or other devices in which paper caps containing 0.25 grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper caps which contain less than 0.20 grains of explosive mixture, the sale and use of which shall be permitted at all times. The term "fireworks" also does not include the following novelties and trick noisemakers:

(1) A snake or glow worm, which is a pressed pellet of not more than ten grams of pyrotechnic composition that produces a large, snakelike ash which expands in length as the pellet burns and that does not contain mercuric thiocyanate.

(2) A smoke device, which is a tube or sphere containing not more than ten grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect.

(3) A trick noisemaker, which is a device that produces a small report intended to surprise the user and which includes:

a. A party popper, which is a small plastic or paper device containing not more than 16 milligrams of explosive composition that is friction sensitive, which is ignited by pulling a string protruding from the device, and which expels a paper streamer and produces a small report.

b. A booby trap, which is a small tube with a string protruding from both ends containing not more than 16 milligrams of explosive compound, which is ignited by pulling the ends of the string, and which produces a small report.

c. A snapper, which is a small, paper-wrapped device containing not more than four milligrams of explosive composition coated on small bits of sand, and which, when dropped, explodes, producing a small report. A snapper may not contain more than 250 milligrams of total sand and explosive composition.

d. A trick match, which is a kitchen or book match which is coated with not more than 16 milligrams of explosive or pyrotechnic composition and which, upon ignition, produces a small report or shower of sparks.

e. A cigarette load, which is a small wooden peg that has been coated with not more than 16 milligrams of explosive composition and which produces, upon ignition of a cigarette containing one of the pegs, a small report.

f. An auto burglar alarm, which is a tube which contains not more than ten grams of pyrotechnic composition that produces a loud whistle or smoke when ignited and which is ignited by use of a squib. A small quantity of explosive, not exceeding 50 milligrams, may also be used to produce a small report.

*NFPA* means the National Fire Protection Association.

*Occupancy* means the purpose for which a building or a portion thereof is used or intended to be used.

*Retailer* means any person engaged in the business of selling f~~ireworks or~~ sparklers to consumers at retail~~, whether such sale is casual, seasonal or a normal and customary part of such person, stock and trade~~.

PROOFS

*Sparkler* means a device which emits showers of sparks upon burning, does not contain any explosive compounds, does not detonate or explode, is handheld or ground based, cannot propel itself through the air, and contains not more than 100 grams of the chemical compound which produces sparks upon burning. Any sparkler that is not approved by the division is classified as fireworks.

*Wholesaler* means any person engaged in the business of selling fireworks or sparklers to a retailer.

(Code 1983, § 7-30; Ord. No. K-142, § 1, 3-18-2002)

**State law reference—**Similar provisions, F.S. § 791.01.

**Sec. 18-24. Manufacture, sale and use of fireworks.**

(a) The manufacture of fireworks in the city is prohibited.

(b) Except as herein provided, it shall be unlawful to sell any fireworks in the city.

(c) It shall be unlawful for any person to possess, use or discharge any fireworks within the city except that possession, use or discharge of fireworks may be permitted at any public assembly, upon issuance of a permit, where there is to be a supervised public display of fireworks. Every such display shall be handled by a competent operator to be approved by the chief of police and county fire district, and shall be of such a character and so located, discharged or fired as in the opinion of the chief of the fire district, after proper inspection, as not to be a hazard to property or endanger any person. Application for a permit under this section shall be made in writing at least 15 days in advance of the date of display, in the manner otherwise provided for by article II of the chapter 28 (parks and recreation). Such application shall be accompanied by a certificate of insurance showing liability insurance coverage available for the proposed event in an amount not less than $1,000,000.00. The city shall be named as an additional insured in such certificate. Alternatively, the applicant may submit a bond in a form satisfactory to the city holding the city harmless from any public liability which may arise from the proposed use of fireworks, in an amount not less than $1,000,000.00. Following issuance of the permit, sale, possession, use and discharge of fireworks for such display shall be lawful for that purpose and occasion only. No permit granted hereunder shall be transferrable.

(d) A registered wholesaler, properly licensed and registered with the state fire marshal at the time, may sell fireworks as provided by state law.

(e) The sale of fireworks, to the extent permitted by F.S. ch. 791 or other provision of state law, or sparklers or other devices which emit showers or sparks upon burning, by a properly authorized retailer or wholesaler may occur only on lands within the city which are zoned for commercial or industrial use and may take place only within a permanent, commercial building. Such building shall be protected with automatic fire sprinklers and fire alarms in accordance with the appropriate NFPA standards for such occupancy hazard. It shall be unlawful to sell fireworks from any other structure, including, but not limited to, tents, open air stands or canopies.

(Code 1983, § 7-31; Ord. No. K-142, § 1, 3-18-2002)

**Sec. 18-25. Seizure and disposal of fireworks.**

(a) The police department shall seize, take, remove or cause to be removed, at the owner's expense, all stocks of fireworks offered or exposed for sale, stored or held in violation of this article.

(b) In the interest of public safety and due to the unavoidable dangers associated with the storage of fireworks, any official seizing illegal fireworks shall arrange for the proper disposal and destruction of said fireworks as soon as possible after their seizure.

(Code 1983, § 7-32; Ord. No. K-142, § 1, 3-18-2002)

**Sec. 18-26. Enforcement and penalties.**

Provisions of this article may be enforced by the city as a civil violation, pursuant to chapter 1, article II, division 2 and 3, or may be enforced by the police department as an offense, ~~misdemeanor,~~ pursuant to F.S. § 162.22.

(Code 1983, § 7-33; Ord. No. K-142, § 1, 3-18-2002; Ord. No. K-427, § 3, 7-3-2006; Ord. No. 17-017, § 5, 6-5-2017)

~~**Sec. 7-34. Severability.**~~

PROOFS

~~If any portion of this article, or application thereof, is declared to be void, unconstitutional or invalid for any reason, such portion or provision, or the application thereof, shall be severed from this article. The remaining portions and provisions of this article, and all applications thereof, shall remain in full force and effect. No void, unconstitutional or unvalid portion or proscribed provision, or application thereof was an inducement to the enactment of this Code.~~

~~(Code 1983, § 7-34; Ord. No. K-142, § 1, 3-18-2002)~~

PROOFS

Chapter 19

**RESERVED**

PROOFS

Chapter 20

# HEALTH*

***State law reference**—Municipal Home Rule Powers Act, F.S. ch. 166; public health, generally, F.S. ch. 381.

## ARTICLE I. IN GENERAL

**Secs. 20-1--20-18. Reserved.**

## ARTICLE II. TOBACCO PRODUCTS*

***State law reference**—Tobacco products, F.S. ch. 569.

### Sec. 20-19. Recitals.

The ~~foregoing~~ recitals to Ordinance No. K-127 are true and correct and incorporated herein by reference as findings of fact and conclusions of law.

(Code 1983, § 9-461; Ord. No. K-127, § 1, 1-22-2002)

### Sec. 20-20. Intent.

This article is intended to prevent the sale and delivery of tobacco products to persons under the age of 18 by regulating the commercial marketing and placement of such products. This article shall not be interpreted or construed to prohibit the sale or delivery of tobacco products, which are otherwise lawful or regulated pursuant to F.S. ch. 569.

(Code 1983, § 9-462; Ord. No. K-127, § 2, 1-22-2002)

**State law reference**—Sales to underage persons, F.S. § 569.101.

### Sec. 20-21. Definitions.

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

*Open display unit* means a case, rack, shelf, counter, table, desk, kiosk, booth, stand, or other surface, which allows direct public access to the product placed therein.

*Restricted access area* means an area reasonably physically confined with access designated by the vendor as limited to the vendor.

*Specialty tobacco store* means an establishment primarily in the business of selling cigars and pipe tobacco.

*Tobacco product* means loose tobacco leaves, and products made from tobacco leaves, in whole or in part, which can be used for smoking, sniffing or chewing, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff or smokeless tobacco and chewing tobacco. The "tobacco products" also includes cigarette wrappers.

*Vendor* means any individual, sole proprietorship, joint venture, corporation, partnership, cooperative association, or other legal entity licensed as a dealer in tobacco products, pursuant to F.S. ch. 569, and any employee or agent of said dealer.

(Code 1983, § 9-463; Ord. No. K-127, § 3, 1-22-2002)

### Sec. 20-22. Placement of tobacco products in open display unit.

No vendor shall place tobacco products in an open display unit unless such unit is located in a restricted access area.

(Code 1983, § 9-464; Ord. No. K-127, § 4, 1-22-2002)

PROOFS

**Sec. 20-23. Exceptions.**

The provisions of this article shall not apply to the following:

(1) An establishment that prohibits persons under 18 years of age on the premises.

(2) Specialty tobacco stores.

(Code 1983, § 9-465; Ord. No. K-127, § 5, 1-22-2002)

**Sec. 20-24. Enforcement.**

The provisions of this article shall be enforced by the police department as an offense, pursuant to section 1-7 ~~any procedure permitted by Chapter 162, Florida Statutes, or other applicable Florida law~~.

(Code 1983, § 9-466; Ord. No. K-127, § 5, 1-22-2002)

PROOFS

Chapter 21

**RESERVED**

PROOFS

Chapter 22

# LICENSES, TAXATION AND BUSINESS REGULATIONS*

***State law reference—**Municipal licenses and regulatory fees, F.S. §§ 166.201, 166.221; local business taxes, F.S. ch. 205.

## ARTICLE I. IN GENERAL

**Secs. 22-1--22-18. Reserved.**

## ARTICLE II. BUSINESS TAX*

***State law reference—**Local business tax, F.S. ch. 205.

### Sec. 22-19. Imposed; term; half year business tax; receipts.

(a) A business tax is hereby imposed upon each business, profession or occupation engaged in or carried on within the corporate limits of the city. Such business tax shall be levied on:

(1) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business within its jurisdiction.

(2) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any profession or occupation within its jurisdiction.

(3) Any person who does not qualify under the provisions of subsection (a)(1) or (2) of this section and who transacts any business or engages in any occupation or profession in interstate commerce where such business tax is not prohibited by section 8 of article 1 of the United States Constitution.

(b) No receipt shall be issued for more than one year and for each receipt obtained between October 1 and April 1, the full tax for one year shall be paid except as hereinafter provided for, and for each receipt obtained between April 1 and September 30, one-half of the full tax for one year shall be paid except as hereinafter provided for. Upon payment of such tax the city clerk shall issue to the person paying the same a receipt or license signed by the city clerk, except that a receipt shall not be issued to a new business, profession or occupation or on a new location for an existing business, profession or occupation, unless the applicant presents documentation that a certificate of occupancy for the building premises has been issued upon a change in use or occupancy. A receipt for a temporary business or occupation may be issued for a period not exceeding 30 days in an amount equal to one-quarter of the fee otherwise provided for in section 22-32; and shall not be issued more than two times in a 12-month period for the same temporary business or occupation. The sale of motor vehicles off of licensed premises taxed under section 22-32 is not permitted as a temporary business or occupation and no receipt may be issued for such sale of motor vehicles.

(Code 1983, § 9-16; Ord. No. L-35, § 3, 8-18-2008)

**State law reference—**Levy of business tax authorized, F.S. § 205.042.

### Sec. 22-20. Events to support charitable, educational or religious purposes.

The provisions of this article, regarding payment of business tax receipt fees or taxes, shall not apply to any dance, exhibition, variety program, entertainment, rummage sales, food sales, memento or souvenir sales given by any local recognized civic, charitable, educational or religious groups, the proceeds of which are solely given to or used for the general welfare of the community as a whole.

(Code 1983, § 9-17; Ord. No. L-35, § 3, 8-18-2008)

~~**Sec. 9-18. Payment; additional day of grace.**~~

~~All business tax receipts shall be sold by the city clerk beginning July 1 of each year and shall be due and~~

PROOFS

~~payable on October 1 of each year and shall expire on September 30 of the succeeding year, providing further, the receipt tax may be paid on the first business day following the last day of the month without penalty, provided the last day of the month falls on a weekend or holiday.~~

~~(Code 1983, § 9-18; Ord. No. L-35, § 3, 8-18-2008)~~

**Sec. 22-21. Business tax receipt—Display.**

The receipt for each business shall be prominently displayed in the office or place of business or on truck, conveyance or other appropriate place.

(Code 1983, § 9-19; Ord. No. L-35, § 3, 8-18-2008)

**Sec. 22-22. Business tax receipt—Transfer.**

No receipt shall be transferred from person to person or place to place or business name or classification be changed, except upon the consent of the city clerk in writing or as provided in this section, and no receipt issued under the provisions of this article shall protect any person from prosecution for transacting any business, trade or profession not covered by such receipt, or shall protect any merchant doing business with a greater stock in trade than covered by such receipt, or any hotel keeper or motel keeper having a greater number of rooms than is covered by such receipt, and any receipt issued upon any false statement made under oath shall be considered as void ab initio and shall not protect the holder thereof from prosecution for transacting business without a receipt. It shall be unlawful for any person to engage in any trade, business, profession or occupation within the city without a receipt as aforesaid, or under a receipt issued upon false statement made by any person engaged in any trade, business, profession or occupation within the city or in their behalf.

~~All business receipts may be transferred to a new owner when there is a bonafide sale of the business upon payment of a nonrefundable transfer fee of up to ten percent of the annual business tax, but not less than three dollars ($3.00) or more than twenty-five dollars ($25.00); and (1) presentation of evidence of the sale and the original receipt; or (2) an affidavit filed with the city clerk certifying that there has been a bona fide sale of the business and the original receipt.~~

~~Upon written request and presentation of the original receipt, any receipt may be transferred from one location to another in the city upon payment of a nonrefundable transfer fee of up to ten percent of the annual business tax, but not less than three dollars ($3.00) or more than twenty-five dollars ($25.00).~~

(Code 1983, § 9-20; Ord. No. L-35, § 3, 8-18-2008)

**State law reference**—Transfer of business tax receipts, F.S. § 205.053.

**Sec. 22-23. Business tax receipt—Students exempt.**

(a) For the purpose of this section, the term "student" ~~as used in this section is defined to mean~~ means any person who is enrolled for study at any elementary school, middle school, high school, junior college, college, university or institution of higher learning, and who attends regularly during the term thereof. This is not to be construed as inclusive of a person who is enrolled for correspondence courses or enrolled for part-time study.

(b) All students who reside in the county and during their off-school hours or during the vacation periods provided them, procure employment, or work or engage in any business or occupation within the corporate limits of the city may do so without being required to pay for a business tax.

(Code 1983, § 9-21; Ord. No. L-35, § 3, 8-18-2008)

**Sec. 22-24. Affidavit as to value of stock or other basis of tax.**

Whenever the amount of the receipt applied for depends upon the amount of stock in trade carried by the applicant, or the number of rooms in a hotel, motel, or any other fact not within the personal knowledge of the city clerk, no receipt shall be issued until the applicant therefor has made and filed with the city clerk an affidavit, duly authenticated, setting forth the amount of his stock in trade, number of rooms in his hotel, motel, or other facts upon which the amount of such receipt depends.

(Code 1983, § 9-22; Ord. No. L-35, § 3, 8-18-2008)

PROOFS

**Sec. 22-25. Information on receipt.**

Every receipt issued under this article shall state:

(1) The number.

(2) The name of the business and the owner.

(3) The location of the place of business.

(4) The amount of business tax paid.

(5) The date of issue and expiration.

(6) Any other data deemed pertinent.

(Code 1983, § 9-23; Ord. No. L-35, § 3, 8-18-2008; Ord. No. 18-013, § 1, 6-4-2018)

**Sec. 22-26. Exemptions.**

The tax levied by this article shall be subject to the exemptions required by law.

~~*Motor vehicles.* Vehicles used for the sale and delivery of tangible personal property at either wholesale or retail from a place of business on which a business tax is paid shall not be construed to be separate places of business, and no business tax may be levied on such vehicles or the operators thereof as salesmen or otherwise, any other law to the contrary notwithstanding.~~

~~Farm, grove, horticultural, floricultural, tropical piscicultural and tropical fish farm products.~~

~~No local business tax shall be required of any natural person for the privilege of engaging in the selling of farm, grove, horticultural, floricultural, tropical piscicultural or tropical fish farm products, or products manufactured therefrom, except intoxicating liquors, wine or beer, when such products were grown or produced by such natural person in the state.~~

~~A wholesale farmers' produce market shall have the right to pay a tax of not more than two hundred dollars ($200.00) for a receipt that will entitle the market's stall tenants to engage in the selling of agricultural and horticultural products therein, in lieu of such tenants being required to obtain individual local business taxes to so engage.~~

~~Cripples, invalids, aged, etc.~~

~~All confirmed cripples or invalids physically incapable of manual labor, widows with minor dependents and persons sixty-five (65) years of age or older, with not more than one employee or helper, and who use their own capital only, not in excess of one thousand dollars ($1,000.00), shall be allowed to engage in any business or occupation in the city without being required to pay for a receipt. The exemption provided by this section shall be allowed only upon the certificate of the county physician, or other reputable physician, that the applicant claiming the exemption is a confirmed cripple or invalid, the nature and extent of the disability being specified therein, and in case the exemption is claimed by a widow with minor dependents, or a person over sixty-five (65) years of age, proof of the right to the exemption shall be made. Any person entitled to the exemption provided by this section shall, upon application and furnishing of the necessary proof as aforesaid, be issued a receipt which shall have plainly stamped or written across the face thereof the fact that it is issued under this section, and the reason for the exemption shall be written thereon.~~

~~In no event under this or any other law shall any person, veteran or otherwise, be allowed any exemption whatsoever from the payment of any amount required by law for the issuance of a receipt to sell intoxicating liquors, malt and vinous beverages; or for the operation of any slot machine, punchboard or any other gaming or gambling device.~~

~~Disabled veterans of any war or their unremarried spouses.~~

~~Any bona fide, permanent resident elector of the city who served as an officer or enlisted person in the United States Air Force or air force reserve, United States Army or Army Reserve, National Guard, United States Navy or Naval Reserve, United States Coast Guard or Coast Guard Reserve, or United States Marine Corps or Marine Corps Reserve, or any temporary members thereof, who~~

PROOFS

have actually been, or may hereafter be, reassigned by the air force, army, navy, coast guard or marines to active duty during any war, declared or undeclared, armed conflicts, crises, etc., since the Spanish-American war, beginning April 21, 1896, who was honorably discharged from the service of the United States, and who at the time of his application for a receipt as hereinafter mentioned shall be disabled from performing manual labor shall, upon sufficient identification, proof of being a permanent resident elector in the city, and production of an honorable discharge from the service of the United States during the aforesaid period of time, respectively:

__ Be granted a receipt to engage in any business or occupation in the city which may be carried on mainly through the personal efforts of the disabled veteran as a means of livelihood and for which the municipal business tax does not exceed the sum of fifty dollars ($50.00) for each without payment of any business tax otherwise provided for by law; or

__ Be entitled to an exemption to the extent of fifty dollars ($50.00) on any receipt to engage in any business or occupation in the city which may be carried on mainly through the personal efforts of the disabled veteran as a means of livelihood when the municipal receipt for such business or occupation shall be more than fifty dollars ($50.00). The exemption heretofore referred to shall extend to and include the right to operate an automobile for hire of not exceeding five passenger capacity, including the driver, when it shall be made to appear that such automobile is bona fide owned or contracted to be purchased by such person and is being operated by him as a means of livelihood and that the proper receipt tax for the operation of such motor vehicle for private use has been applied for and attached to said motor vehicle and the proper fees therefor paid.

__ When any such person shall apply for a receipt to conduct any business or occupation for which the municipal business tax as fixed by law shall exceed the sum of fifty dollars ($50.00), the remainder of such business tax in excess of fifty dollars ($50.00) shall be paid by him in cash.

__ The city clerk shall issue to such persons as may be entitled hereunder a receipt pursuant to the foregoing provision and subject to the conditions thereof. Such receipt when issued shall be marked across the face thereof "Veterans Exempt Receipt" "Not Transferable." Before issuing the same, proof shall be duly made in each case that the applicant is entitled under the conditions of this article to receive the exemption herein provided for. The proof may be made by establishing to the satisfaction of the city clerk by means of certificate of honorable discharge or certified copy thereof that the applicant is a veteran within the purview of this section and by exhibiting:

__ A certificate of government rated disability to an extent of ten percent or more;

__ The affidavit or testimony of a reputable physician who personally knows the applicant and who makes oath that the applicant is disabled from performing manual labor as a means of livelihood;

__ The certificate of the veteran's service officer of the county in which applicant lives, duly executed under the hand and seal of the chief officer and secretary thereof, attesting the fact that the applicant is disabled and entitled to receive a receipt within the meaning and intent of this section;

__ A pension certificate issued to him by the United States by reason of such disability; or

__ Such other reasonable proof as may be required by the city clerk to establish the fact that such applicant is so disabled.

All receipts issued under this subsection shall be in the same general form as other municipal receipts and shall expire at the same time as such other business tax receipts are fixed by law to expire.

__ All receipts obtained under the provisions of this subsection by the commission of fraud upon any issuing authority shall be deemed null and void. Any person who has fraudulently obtained any such receipt, or who has fraudulently received any transfer of a receipt issued to another, and has thereafter engaged in any business or occupation requiring a receipt under color thereof shall be subject to prosecution as for engaging in a business or occupation without having the required

PROOFS

receipt under the ordinances of the city. Such receipt shall not be issued in any county other than the county wherein said veteran is a bona fide resident citizen elector, unless such veteran applying therefor shall produce to the tax collecting authority in such county a certificate of the tax collector of his home county to the effect that no exemption from receipt has been granted to such veteran in his home county under the authority of this section.

(3) In no event under this article or any other ordinance shall any person, veteran or otherwise, be allowed any exemption whatsoever from the payment of any amount required by law for the issuance of a receipt to sell intoxicating liquors, malt and vinous beverages; or for the operation of any slot machine, punchboard or any other gaming or gambling device.

(4) The unremarried spouse of the deceased disabled veteran of any war in which the United States Armed Forces participated will be entitled to the same exemptions as the disabled veteran.

(c) *Religious tenets.* Nothing in this chapter shall be construed to require a business tax receipt for practicing the religious tenets of any church.

(d) *Charitable, etc., organizations; occasional sales, fund raising.* No business tax receipt shall be required of any charitable, religious, fraternal, youth, civic, service or other such organization when the organization makes occasional sales or engages in fund raising projects when the projects are performed exclusively by the members thereof and when the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization.

(e) *Mobile home setup operations.* The city clerk shall not require a duly licensed mobile home dealer or a duly licensed mobile home manufacturer or an employee of such dealer or manufacturer, who performs setup operations as defined in F.S. § 320.822, to be licensed to engage in such operations. However, such dealer or manufacturer shall be required to obtain a local business tax receipt for his permanent business location or branch office, which receipt shall not require for its issuance any conditions other than those required by F.S., Ch. 320.

(Code 1983, § 9-24; Ord. No. L-35, § 3, 8-18-2008)

**State law reference**—Business tax exemptions generally, F.S. § 205.054 et seq.

### Sec. 22-27. Proof of business activity; burden of proof on applicant.

The burden of proof that a business exists and is permanently located shall be on the applicant. The fact that any firm, person, or corporation reports himself or itself as engaged in any business, calling, profession, or occupation for the transaction of which a receipt is required or that said person exhibits a sign or advertisement indicating engagement in such business, calling, profession, or occupation shall be conclusive evidence of the liability of such person, firm, or corporation to pay business tax receipt.

(Code 1983, § 9-25; Ord. No. L-35, § 3, 8-18-2008)

### Sec. 22-28. Failure of employer to comply; employees liable; prima facie violation.

(a) Where the principal, master or employer has complied with the provisions of this article, it shall be unnecessary for his agent, servant or employee to comply herewith, unless otherwise expressly provided for herein. Provided, however, that in the event such principal, master or employer shall not have complied with this article, each of his agents, servants or employees shall be subject to prosecution, and upon conviction, to fine or imprisonment to the same extent as his principal, master or employer.

(b) In any prosecution under this article, the fact that such person did open for business, or advertises that he is in business, shall be prima facie evidence of engaging in such trade, business, profession or occupation, and the burden shall be upon the defendant to rebut the same.

(Code 1983, § 9-26; Ord. No. L-35, § 3, 8-18-2008)

### Sec. 22-29. Failure to obtain business tax receipt; receipt obtained by fraud; enforcement.

(a) All business tax receipts not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid; provided that the total delinquency penalty shall not exceed twenty-five (25)

PROOFS

~~percent of the business tax receipt fee for the delinquent establishment.~~

~~Any person engaging in or managing any business, occupation or profession without first obtaining a local business tax receipt, if required hereunder, shall be subject to a penalty of twenty-five (25) percent of the receipt tax determined to be due in addition to any other penalty provided by law or ordinance.~~

~~In addition to the foregoing a penalties, any person engaged in any trade, business, profession or occupation within the city without a receipt, or under a receipt issued upon false statement made by said person or in his behalf, shall be subject to prosecution and upon conviction thereof shall be punished as provided by section 1-5 of this Code, or may alternatively be prosecuted pursuant to chapter 2, article XIII (municipal code enforcement) or chapter 2, article XIII.5 (supplemental municipal code enforcement procedures). Upon a finding of violation, all utility services to the premises occupied by the business, occupation or profession shall be immediately discontinued until the violator is eligible for and receives a business tax receipt. Any notification that a violation of this section is being charged shall include this statement: "In the event you are found in violation of section 9-27(b) for doing business without a business tax receipt, all utility services to the business premises will be suspended while the violation continues."~~

~~Any person who engages in any business, occupation, or profession covered by this section, who does not pay the required business tax within one hundred fifty (150) days after the initial notice of tax due and who does not obtain the required receipt is subject to civil actions and penalties, including court costs, reasonable attorneys fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to two hundred fifty dollars ($250.00).~~

Any business, profession or occupation that is required by section 22-19 to obtain a business tax receipt and fails to do so, or operates under a receipt issued upon false statement, ~~in addition to the foregoing penalties,~~ shall be subject to municipal enforcement as set forth in chapter 1, article II, divisions 2 and 3. Upon a finding of violation by the special magistrate, all utility services to the premises occupied by the business, occupation or profession shall be immediately discontinued until the violator is eligible for and receives a business tax receipt. Any notification that a violation of this article is being charged shall include this statement: "In the event you are found in violation of section 22-19(a) for doing business without a business tax receipt, all utility services to the business premises will be suspended while the violation continues."

(Code 1983, § 9-27; Ord. No. L-35, § 3, 8-18-2008; Ord. No. 17-017, § 7, 6-5-2017)

**Sec. 22-30. Tax upon professions payable by professional employees.**

The tax provided for in section 22-32 for architects, auctioneers, auditors or accountants, dentists, draftsmen, civil engineers, lawyers, osteopaths, chiropractors, chiropodists, phrenologists, physicians or surgeons, real estate salesmen, or other similar professions, shall be construed to mean that each individual shall pay the tax therein provided, whether practicing by himself or in partnership with or employed by another. The following special provisions apply:

(1) *Veterinary medical practice.* No business tax shall be issued to any person to practice veterinary medicine unless he shall present to the city clerk a valid current receipt issued by the state department of business and professional regulation.

(2) *Pharmacies and pharmacists.* No business tax official shall issue a business tax to operate a pharmacy unless the applicant shall first exhibit a current permit issued by the state board of pharmacy; however, no such business tax shall be required in order to practice the profession of pharmacy.

(3) *Architecture.* Any person applying to the business tax official for a business tax to practice architecture shall, at the time of application, exhibit to the licensing official satisfactory evidence that the applicant possesses a valid certificate of registration, and no business tax shall be granted until such evidence is presented.

(4) *Engineering.* Any person applying to the business tax official for a business tax to practice engineering shall, at the time of application, exhibit to the business tax official satisfactory evidence that the applicant possesses a valid certificate of registration, and no business tax shall be granted until such evidence is presented.

PROOFS

(5) *Land surveying.* Any person applying to the business tax official for a business tax to practice land surveying shall, at the time of application, exhibit to the business tax official satisfactory evidence that the applicant possesses a valid certificate of registration, and no business tax shall be granted until such evidence is presented.

(Code 1983, § 9-28; Ord. No. L-35, § 3, 8-18-2008)

**Sec. 22-31. Refund; suspension or revocation of receipt.**

(a) No business tax collected by the city shall be refunded, except as otherwise provided.

(b) Any receipt issued by the city may be temporarily suspended or absolutely revoked or ~~cancelled~~ by a majority vote of the city commission, when the commission shall have ascertained and determined, in the exercise of its sound discretion, that such action will promote the public peace, health, safety, welfare, harmony or good order of the neighborhood in which the place of business is located; provided, however, in the case of the revocation and cancellation of such receipt, the city shall refund the pro rata unearned or unused portion of the receipt fee.

(c) Any receipt issued by the city to any business which also receives a waiver of distance requirements pursuant to section 4-8, permitting the on-premises sale of beer and/or wine, shall be temporarily suspended or absolutely revoked or ~~cancelled~~ by a majority vote of the city commission, when the city commission shall have ascertained and determined that such business is no longer a bona fide restaurant as provided in such section; provided, further, that in the case of the revocation and cancellation of such receipt, the city shall refund the pro rata unearned or unused portion of the receipt fee.

(Code 1983, § 9-29; Ord. No. L-35, § 3, 8-18-2008)

**Sec. 22-32. ~~Fees~~ Tax.**

The amount which shall be paid by the several persons engaging in or managing their respective businesses, professions or occupations ~~are hereby fixed as follows per annum, unless otherwise provided.~~ shall be in the amount established by resolution.

~~A~~

~~__ ABSTRACTORS of TITLE from PUBLIC RECORDS ..... $133.71~~

~~__ ACCOUNTANTS or AUDITORS (CPA's) (Requires Department of Business and Professional Regulation License) ..... 133.71~~

~~ADULT LIVING FACILITY (See 158 - Nursing Homes)~~

~~__ ADVERTISING:~~

~~__ Agency ..... 66.85~~

~~__ Billboards or sign boards, either by permanent signs thereon or paper pasted on or attached thereto ..... 93.59~~

~~__ Motor vehicles, where charge is made by owners for attaching advertising matter on vehicle, per vehicle ..... 26.74~~

~~__ Publishing or distributing advertising bulletins or handbills, not connected with licensed business ..... 66.85~~

~~__ AGENTS or AGENCIES:~~

~~__ Automobile (See 152 - Motor Vehicles)~~

~~__ Booking (entertainment, shows, etc.) ..... 93.59~~

~~__ Claims and collections other than bankers, lawyers, each ..... 133.71~~

~~__ Credit reporting and mercantile ..... 133.71~~

~~__ Employment ..... 93.59~~

~~__ Equipment ..... 66.85~~

PROOFS

__ Insurance (See 119 Insurance)

__ Labor or emigration (See 128 Labor or Emigrant Agent)

__ Modeling (Requires Department of Agriculture License) ..... 66.85

__ Private detective (See 75 Detective)

__ Real Estate (See 188 Real Estate Agency)

__ Rentals: appliances and equipment (See 190 Rental Business)

__ Stevedoring company ..... 133.71

__ Talent Agency (Requires Department of Agriculture License) ..... 133.71

__ Trailers (See 152 Motor Vehicles)

__ Unclassified and not otherwise specified ..... 66.85

__ ALCOHOLIC BEVERAGE ESTABLISHMENTS (BAR) not doing business as a restaurant, shall be licensed for sale of snacks and cold drinks served in connection herewith. (See chapter 3) ..... 26.74

__ AMUSEMENT MACHINES (See 59 Coin-Operated Machines)

__ ANIMAL GROOMING ..... 66.85

__ ANIMAL HOSPITAL (See 126 Kennels; Veterinarian)

ANSWERING SERVICE (See 222 Telephone Answering Service)

APPRAISER (See 188 Real Estate Agency)

__ ARCADES

__ Amusement Arcade Consisting of 3 49 devices ..... 221.11

__ Arcade Amusement Center Consisting of 50 or more devices ..... 607.75

__ ARCHITECTS, each (Requires Department of Business and Professional Regulation License) ..... 133.71

__ ARTISTS or ART STUDIOS or ART GALLERIES or ARTS AND CRAFTS ..... 33.43

ASSISTED LIVING FACILITY (See 158 Nursing Homes)

ATM'S (See 20 Banks)

__ ATTORNEYS AT LAW (Requires state bar card) ..... 133.71

__ AUCTION SHOP (Requires Department of Business and Professional Regulations License) ..... 133.71

__ AUCTIONEER (Regulations for conducting sales, etc. chapter 9, article III, division 1, section 9-46) ..... 133.71

__ AUDITORS (See 2 Accountants)

__ AUTOMOBILES (See 152 Motor Vehicles)

__ AWNING AND TENT MAKING SHOP (See 141 Manufacturers)

B

__ BABY SITTING

__ Five or less children, non-relatives ..... 40.11

__ More than five children (See 51 Child Care Centers)

__ BAKERY (See 19 Manufacturers)

__ BANKS, state or national, trust companies, persons doing a banking business (Requires Department

PROOFS

of Financial Services License) ..... 267.41

__ ATM's per location, excluding bank locations ..... 133.71

__ Credit Unions ..... 267.41

__ BARBERSHOPS (Requires Department of Business and Professional Regulations License)

__ One chair ..... 25.07

__ Each additional chair ..... 8.36

BARS (See 5 - Alcoholic Beverage Establishments)

__ BEAUTY COLLEGES (See 195 - Schools)

__ BEAUTY SHOPS (Requires Department of Business and Professional Regulations License)

__ Hairdressers and manicurists, one operator ..... 25.07

__ Each additional operator ..... 8.36

__ Electrolysis ..... 25.07

__ Tanning Booths, each ..... 33.43

BED and BREAKFAST (See 149 - Motel and 42 - Cafes, Cafeterias and Restaurants)

__ BEER PARLORS (See 5 - Alcoholic Beverage Establishments)

__ BICYCLES, sales agency, rentals, and/or repairs ..... 66.85

__ BILLIARDS or POOL TABLES, for profit, each table assembled ..... 40.11

__ RESERVED

__ BOATS:

__ Builder (See 141 - Manufacturers)

__ Charter boats, bottom fishing boats, sightseeing boats (Fees and regulations, section 9-1) ..... 46.80

__ For Hire or Rent: canoe, row boat, motorboat, inboard or outboard motor (except as provided in section 9-1), each boat ..... 8.02

__ Boat Repair (See 138 - Machine and Repair Shop)

__ Boat Sales ..... 133.71

__ BONDS, CRIMINAL or BAIL, securing or furnishing for pay (Requires Department of Financial Service License)

__ Each agency, local or otherwise ..... 133.71

__ Each company ..... 8.02

__ BOOKKEEPING SERVICE, manual or computerized ..... 66.85

__ BOOKS AND STATIONERY (See 145 - Merchants)

__ BOOTBLACK STANDS (Location designated by city planner) ..... 13.41

__ BOTTLING WORKS or CARBONATED BEVERAGES:

__ Including one delivery truck ..... 83.57

__ Each additional truck ..... 41.80

__ Wholesale distributors (See 141 - Manufacturers)

__ BOWLING ALLEYS ..... 40.11

__ BROADCASTING STATIONS ..... 93.59

PROOFS

~~__ BROKERS:~~

~~__ Commodities - Includes gold and silver (Requires Department of Revenue License) ..... 401.12~~

~~__ Insurance (Requires Florida Department of Insurance License) ..... 133.71~~

~~__ Lumber and lumber products ..... 133.71~~

~~__ Merchandise ..... 133.71~~

~~__ Mortgages or loans ..... 133.71~~

~~__ Not otherwise specified ..... 133.71~~

~~__ Produce, dealing in fruits and vegetables ..... 200.56~~

~~__ Produce, dealing in fruits or vegetables ..... 133.71~~

~~__ Stocks and bonds ..... 133.71~~

~~__ BUILDERS (See 67 - Contractors)~~

~~__ BUILDING and LOAN ASSOCIATIONS (See 20 - Banks)~~

~~__ BUSINESS SCHOOLS (See 195 - Schools)~~

~~BUY HERE PAY HERE FINANCING (See 148 Money Brokers/Lenders)~~

~~C~~

~~__ CABINET SHOPS (See 141 - Manufacturers)~~

~~__ CABLE TELEVISION SALES OFFICE ..... 93.59~~

~~__ CAFES, CAFETERIAS, and RESTAURANTS (Requires Department of business and professional regulation license)~~

~~__ Minimum - Ten seats or less ..... 16.72~~

~~__ First twenty-five (25) seats, per seat (25 = $40.00) ..... 1.68~~

~~__ Over twenty-five (25) seats, per seat ..... 0.84~~

~~CAMPGROUNDS (See 229 - Trailer or Auto Camps)~~

~~__ CANNING (See 141 - Manufacturers)~~

~~CANOE RENTALS (See 28 - Boats)~~

~~__ CAR WASH, self-service, automatic, mobile and detailing ..... 93.59~~

~~CARPET INSTALLERS (See 236 - Unclassified)~~

~~__ RESERVED~~

~~__ CARTOONISTS (See 11 - Artists)~~

~~__ CATERING, furnishing food and service for social affairs (Requires Department of Business and Professional Regulation License) ..... 93.59~~

~~__ CEMENT BLOCKS (See 141 - Manufacturers and/or 232 - Truck and Vehicles)~~

~~__ CEMETERIES, operated for profit ..... 133.71~~

~~__ CHECK CASHING (Requires Department of Financial Service License) ..... 200.56~~

~~__ CHILD CARE CENTERS, more than five children, non-relatives. See F.S. § 402.301 (Requires Florida Department of Children and Families Certificate) ..... 66.85~~

~~__ CHIROPODISTS, each (Requires Department of Health License) ..... 133.71~~

~~__ CHIROPRACTORS, each (Requires Department of Health License) ..... 133.71~~

PROOFS

~~__ RESERVED~~

~~__ RESERVED~~

~~__ CITRUS FRUIT SHIPPERS, places where orders for fruit are taken and are filled or shipped (excluding packing houses), novelty items may be sold. ..... 66.85~~

~~__ CIVIL ENGINEER (See 83 - Engineers)~~

~~CLAIRVOYANT (See 98 - Fortuneteller, Palmist and Clairvoyant)~~

~~__ CLEANING SERVICE, carpet, janitor, maid, window, house, mobile homes (for automobiles, see Car Wash) ..... 33.43~~

~~CLINIC (See 112 - Hospitals, Sanitariums)~~

~~__ COIN-OPERATED MACHINES or DEVICES~~

~~__ Operator (See section 9-135) ..... 66.85~~

~~__ Automatic music machines (See section 9-131 et seq.) ..... 6.69~~

~~__ Automatic skill and amusement machines (See section 9-131 et seq.) no more than 2 machines ..... 6.69~~

~~__ Game room ..... 93.59~~

~~__ Radio or Television, per unit ..... 3.34~~

~~__ Vending machines, except cigarette and postage stamp machines, the owners of which shall furnish to the city clerk a complete list of the locations and type of each vending machine ..... 6.69~~

~~__ Weighing machines, each ..... 8.36~~

~~__ Transfer coin-operated license sticker from machine to machine. ..... 1.34~~

~~__ Pool table - Not coin operated. (See Billiards or Pool Tables)~~

~~(Where the machine in "f" is a newspaper vending machine, or where the entire receipts from machines in "f" and "g" are used for charitable purposes only, including the purposes of churches and nonprofit organizations, which organization is a local organization and it maintains such machines on its premises, the license and transfer fee per machine shall be exempt upon application and filing of a list of the locations and type of vending machine on the premises with the city clerk.)~~

~~__ COLD DRINKS, CANDIES, MILK, ICE CREAM, CRACKERS, WRAPPED SANDWICHES, BREAD, PASTRIES and SNACKS. ex: bar with snacks~~

~~__ In addition to another license (Requires Department of Agriculture License) ..... 26.74~~

~~__ COLLECTION AGENCY (See 4 - Agents or Agencies)~~

~~__ COMPUTER SERVICE/INTERNET SALES ..... 93.59~~

~~__ Computer programming ..... 133.71~~

~~__ Writing computer software ..... 200.56~~

~~__ Repair ..... 93.59~~

~~__ RESERVED~~

~~__ CONCRETE MIXER TRUCKS, each truck (also See 141 - Manufacturers) ..... 66.85~~

~~__ CONSULTANTS, bonds, business, computer, et al. ..... 133.71~~

~~__ CONSULTING ENGINEER. (See 83 - Engineers)~~

~~__ CONTRACTORS, general or specialty (Requires Department of Business and Professional Regulation License) (See also 80 - Electrical; 103 - Gas; 179 - Plumbing) must present city~~

PROOFS

competency card, section 5-36 ..... 133.71

(67.5) COUNSELORS (See 184 - Professions)

___ CREDIT BUREAUS, persons or agents thereof, operating within the city supplying information or collecting accounts for members or others ..... 133.71

___ COURT REPORTERS ..... 133.71

CPA (See 2 - Accountant)

CREMATIONS (Pet only - See 236 - Unclassified)

D

(69.5) DAIRY PRODUCTS AND DISTRIBUTORS (See 146 - Milk)

___ DANCE HALL ..... 133.71

___ DANCING SCHOOLS or DANCING INSTRUCTION (See 195 - Schools)

___ RESERVED

___ DELICATESSEN and/or TAKE OUT SERVICE (Requires Department of Business and Professional Regulation License) ..... 25.07

DENTAL LABORATORIES (See 129 - Laboratories)

___ DENTISTS, each (Requires Department of Health License) ..... 133.71

___ DETECTIVE, private (Must be duly licensed by the state prior to the issuance of a business tax and said state license must be in full force and effect and upon revocation or suspension of the state license, the city business tax will terminate.) ..... 133.71

___ DIRECTORY, public, for profit ..... 66.85

DISTRIBUTORS (See 208 - Storage, 232 - Trucks, and/or 145 - Merchant; wholesale)

DOJO (See 195 - Schools, Martial Arts)

___ DRAFTSMEN, DRAFTING ENGINEERS (See 83 - Engineers)

DRILLING (See 249 - Well Drillers)

___ DRIVE INS (See 42 - Cafes and Cafeterias; Theaters)

___ DRY CLEANERS ..... 66.85

___ Each pick up station ..... 13.38

E

___ ELECTRICAL CONTRACTORS (Requires Department of Business and Professional Regulation License) ..... 133.71

___ ELECTRICAL LIGHT or POWER COMPANIES, furnishing light and power in the city (By authority of city commission only)

___ ELECTROLYSIS (See 23 - Beauty Shops)

EMPLOYMENT (See 4 - Agents or Agencies)

___ ENGINEERS (Requires Department of Business and Professional Regulation License) ..... 133.71

___ ENGRAVERS, Photo each ..... 133.71

EQUIPMENT (See 4 - Agents or Agencies)

EVENT PLANNER (See 236 - Unclassified)

___ EXERCISE CLUBS and CLINICS (See 111 - Health Studios)

___ RESERVED

PROOFS

__ EXPRESS COMPANIES ..... 267.41

__ EXTERMINATORS: (Requires Department of Business and Professional Regulation License)

__ Including one truck ..... 66.85

__ Each additional truck ..... 33.43

F

__ FILLING STATION:

__ One gasoline nozzle installed ..... 58.51

__ Each additional nozzle (or each grade of gasoline) installed. Accessories incidental to such business permitted without extra charge (See section 9-321 et seq.) Requires Dept. of Environmental Protection License ..... 8.36

__ FINANCE COMPANIES (See 148 - Money Lenders)

__ FIRE and BANKRUPT SALES, etc.

__ For stock less than five thousand ($5,000.00) dollars value ..... 334.27

__ For each additional one thousand ($1,000.00) dollars value ..... 33.43

(For requirement of affidavit of stock, See section 9-22)

__ RESERVED

__ FISH MARKET: (Requires Department of Agriculture License - Seafood Dealer's License Tax - F.S. Ch. 370)

__ Retail ..... 66.85

__ Wholesale ..... 133.71

__ FISH PEDDLER (Requires Florida Fish and Wildlife License (Peddlers and Markets License)) ..... 66.85

__ FISHING, salt water (See 28 - Boats)

__ FLEA MARKET (See section 9-176 et seq.) ..... 267.41

__ Tenant of the flea market operating a stall, unit, section space or booth ..... 20.07

FLOORING, INSTALLERS (See 236 - Unclassified); includes laminate, vinyl, carpet, concrete polishing)

__ FLORIST SHOP (See 145 - Merchants)

__ FORTUNETELLER, PALMIST AND CLAIRVOYANT, etc. ..... 200.56

__ FRUIT PACKING HOUSES (See 163 - Packinghouse and/or 36 - Brokers)

(100) FUNERAL HOME (Requires Department of Business and Professional Regulation License) ..... 133.71

FURNITURE (See 190 - Rental Business or Merchants)

G

(101) GARAGES (See 138 - Machine and Repair Shop)

(102) GARBAGE HAULING, for profit. (By authority of city commission only.) Regulatory provisions see chapter 16.

(103) GAS: (Requires Department of Agriculture License)

__ Contractors, installing containers, piping, fixtures and appliances:

__ Not connected with other business ..... 133.71

PROOFS

~~—— When connected with other business ..... 80.23~~

~~(Not transferable. Liquefied petroleum gas contractors must present state license with application. All applicants must be approved by contractor licensing board as provided in section 8-24)~~

~~—— Distributors:~~

~~—— Not connected with other business. ..... 133.71~~

~~—— When connected with other business. Not transferable. (Must present state license with application. Must be approved by contractor licensing board as provided in section 8-24) ..... 106.96~~

~~(104) GASOLINE, retail (See 89—Filling Stations)~~

~~—— Jobbing or wholesale ..... 300.84~~

~~(105) GOLD, SILVER and NICKEL PLATING (See 141—Manufacturers)~~

~~(106) GOLF:~~

~~—— Driving ranges or practice courses ..... 66.85~~

~~—— Miniature ..... 66.85~~

~~(107) GREASE and OIL SALVAGE COLLECTION (Requires Department of Agriculture License) ..... 133.71~~

~~GROOMERS (See 7—Animal Grooming)~~

~~(108) RESERVED~~

~~GYM (See 111—Health Studios)~~

~~(109) RESERVED~~

~~H~~

~~(110) HANDYMAN (Household repairs not requiring a permit; must comply with Lawn Service Notice Sec. 16-27) ..... 66.85~~

~~(111) HEALTH STUDIOS (See F.S. Ch. 501.012—501.019) (Requires Department of Agriculture License) ..... 93.59~~

~~HOME INSPECTORS (See 184—Professions)~~

~~HOMEMAKER AND COMPANION SERVICES PROVIDER (See 236 Unclassified)~~

~~(112) HOSPITALS, SANITARIUMS, other like institutions operated for profit ..... 133.71~~

~~—— Home Health Care Services ..... 133.71~~

~~—— Medical Clinics, Offices, etc. ..... 133.71~~

~~(113) HOTELS~~

~~(Requires Department of Business and Professional Regulation License—F.S. § 509.271)~~

~~—— Five rooms or less ..... no charge~~

~~—— Six rooms ..... 16.72~~

~~—— Each additional room ..... 0.84~~

~~(Business tax must be taken on all rooms whether used or unused. If operated under European plan, must take restaurant license in addition.)~~

~~(114) HOUSE MOVERS (Must submit city competency card) ..... 93.59~~

~~(Permit must be obtained from city manager before moving house on or across street. Must furnish bond, acceptable to director of finance in amount of one thousand ($1,000.00) dollars)~~

PROOFS

(115) RESERVED

I

(116) ICE:

__ Delivery ..... 26.74

__ Factories and plants. (See 141 - Manufacturers)

__ Sales station (wholesale or retail). Does not include delivery from truck ..... 26.74

(117) ICE CREAM: (Requires Department of Agriculture or DPBR License)

__ Manufacturers, wholesale and retail:

__ Including one truck ..... 83.57

__ Each additional truck ..... 41.80

__ Parlor of soda fountain

__ Not connected with other business ..... 40.11

__ When connected with other business. ..... 26.74

(If plate lunches or hot food is served, a restaurant license is also required. See 42 - Cafes, Cafeterias and Restaurants)

(118) ICE CREAM PEDDLERS: (Requires Department of Agriculture License)

__ Each vehicle ..... 133.71

(It shall be unlawful for any person to engage in or manage the business of vending, hawking, peddling, selling or offering for sale at retail to consumers upon any public street, alley, public place or highway within the city from any vehicle driven by power or otherwise, any ice cream, until he has first obtained a certificate of approval from the health officer of the county, and been issued a receipt by the city clerk.)

(118.5) IMPORT/EXPORT (See 145 - Merchant)

(119) INSURANCE, AGENTS, ADJUSTERS, COMPANIES: (Requires Florida Dept. of Insurance) ..... 66.85

(120) INTERIOR DECORATORS ..... 133.71

INTERNET SALES (See 62 - Computer Services/Internet Sales)

IRRIGATION (See 131 - Landscape Contractor)

(121) ITINERANT MERCHANTS, VENDORS (See section 9-76 et seq.)

J

(122) JANITORIAL SERVICE (See 58 - Cleaning Service)

(123) JEWELRY and WATCH REPAIRING:

__ Not connected with other business ..... 53.49

__ Additional to jewelry store ..... none

(124) JOBBERS, WHOLESALE or MANUFACTURERS:

__ Not local, selling and/or delivering from trucks (See 232 - Trucks)

__ If local, see Merchants or Manufacturers

(125) JUNK SHOPS and DEALERS ..... 200.56

Junk, old trash, rags, metal, rubber, etc. including those gathering about the city in trucks. (Location must be approved by city manager before license is issued) Secondhand goods, see article VI, section 9-151 et seq.

PROOFS

K

(125.5) KARATE: (See 195 - Schools - Martial Arts)

(126) KENNELS - Dog and animal ..... 133.71

KICKBOXING (See 195 - Schools - Martial Arts)

(127) KNIFE and SCISSORS SHARPENER ..... 13.38

L

(128) LABOR or EMIGRANT AGENTS - Including anyone who, as agent for another, solicits or procures (migrant) workers within the city, whether to be employed in the city or elsewhere, except state and federal, also free agencies established by city manager ..... 668.54

(129) LABORATORIES: (Requires Department of Health License)

__ Chemical ..... 133.71

__ Clinical ..... 133.71

__ Dental ..... 66.85

__ Medical ..... 133.71

__ Optical ..... 133.71

(130) LANDSCAPE ARCHITECT, buying, selling, or moving plants, trees or doing general landscape business (Requires Department of Agriculture License) ..... 133.71

(131) LANDSCAPE CONTRACTOR (Requires Department of Agriculture License). General landscaping with irrigation system installation and maintenance. (Must submit city competency card) ..... 133.71

(132) LAUNDRIES:

__ Steam ..... 133.71

__ Automatic or self service ..... 80.23

__ Pick-up stations, each ..... 13.38

(133) LAWN SERVICE and CARE (must comply with Sec. 16-27) ..... 93.59

(134) LAWYERS (See 12 - Attorneys at Law)

(135) LIQUOR and LIQUOR PACKAGE STORES (See 145 - Merchants)

(136) LIVESTOCK DEALERS ..... 133.71

(137) LOCKSMITHS ..... 25.07

LONGSHOREMEN (See 4 - Agents or Agencies)

M

(138) MACHINE and REPAIR SHOPS:

(Individually classified herein and referred to in this subsection, not licensed as an automobile agency, or under any item in this chapter, and permitted to carry stock of parts necessary and to be used only in making repairs in the shop licensed; if any portion of such stock is sold in any other manner, a merchant's receipt is required)

Employing, including owner and operators:

__ Not exceeding three persons ..... 25.07

__ Four persons and not exceeding eight (8) ..... 59.67

__ Nine persons and not exceeding 20 ..... 167.14

__ More than 20 persons ..... 251.00

PROOFS

(138.3) MAIL ORDER BUSINESS (See 236 - Unclassified)

(138.5) MANICURISTS (See 23 - Beauty Shops)

(139) MARINA - SALES of items incidental to boating and service ..... 66.85

(For boat sales, see 28 - Boats. For repair, see 138 - Machine and Repair Shop)

(140) RESERVED

(141) MANUFACTURERS (May need Dept. of Agriculture License)

Factories, classified individually in this article and referred to this subsection; permitted to manufacture and sell the products manufactured, when employing individuals, including owner and operators, actively engaged in such business.

__ Not exceeding three persons ..... 25.07

__ Four and not exceeding eight (8) persons ..... 59.67

__ Nine persons and not exceeding 20 ..... 167.14

__ More than 20 persons ..... 251.00

(142) MARBLE:

__ Monument and stone rutting ..... 66.85

__ Dealer with stock (See 145 - Merchants or 141 - Manufacturers)

(142.5) MARTIAL ARTS STUDIO or SCHOOL (See 195 - Schools)

MASSAGE THERAPISTS (See 184 - Professions)

(143) MASSEURS ..... 66.85

(144) MEAT: (Requires Department of Agriculture License)

__ Wholesale dealer ..... 133.71

__ Markets, fresh, wholesale or retail, forty-four ($0.44) cents per cubic foot of refrigerated or cooled display or storage space or as follows:

__ Minimum charge. ..... 40.11

__ Maximum charge. ..... 93.59

(Not included in merchant's receipt. Must comply with sanitary requirements)

MECHANIC (See 138- Machine/Repair shop)

(144.5) MEDICAL CLINIC: (See 112 - Hospitals)

(145) MERCHANTS: (See also 121 - Itinerant Merchant)

__ Retail or wholesale merchants, one location, with an average value of stock goods carried as follows:

__ Not exceeding ten thousand ($10,000.00) dollars ..... 25.07

__ Over ten thousand ($10,000.00) dollars but not exceeding thirty thousand ($30,000.00) dollars ..... 41.80

__ Over thirty thousand ($30,000.00) dollars but not exceeding fifty thousand ($50,000.00) dollars ..... 83.57

__ Over fifty thousand ($50,000.00) dollars ..... 364.65

(For provisions relating to affidavit as to value of stock, see section 9-22)

(146) MILK and DAIRY PRODUCTS DISTRIBUTORS:

__ Wholesale or retail, one truck ..... 83.57

PROOFS

__ Each additional truck ..... 41.80

(For regulations on production and sales, see F.S. Ch. 502)

MINIATURE GOLF (See 106—Golf)

(147) MOBILE HOME PARKS:

__ Minimum ..... 150.42

__ Per mobile home space ..... 1.34

(See F.S. § 205.043)

(147.5) MOBILE REPAIR (See 191—Repair and Service Men)

MODELING (See 4—Agent)

(148) MONEY BROKERS or LENDERS (Requires Department of Financial Service License)

__ Loaning or advancing money for real or personal property; such as lending or advancing money on motor vehicles ..... 275.05

__ Salary buyers, and all persons (except banks or bankers) taking, buying or selling assignments of or contracts for the purchase, sale, transfer or assignment of wages or salaries, earned or to be earned in the future, by any other person. ..... 300.84

(149) MOTELS/SHORT TERM RENTALS: (Requires division of hotel/motel, F.S. Ch. 509.271)

__ Ten units or less ..... 41.80

__ Each additional unit ..... 5.03

(150) MOTION PICTURE and VIDEO RENTAL LIBRARY ..... 66.85

(151) MOTOR CYCLE/MOTOR SCOOTER, sales and service ..... 66.85

(152) MOTOR VEHICLES: (Requires state dealership license)

__ Dealers in automobiles, trucks or tractors carrying in stock repair pads to serve lines or makes handled, dealing in secondhand cars taken in exchange on sales of new cars and conducting a repair shop including upholstering, painting metal body and fender straightening and other such service, any or all, or a combination of such services:

__ Conducted from one location ..... 133.71

__ For each additional location for sale of cars taken in exchange on sales of new cars ..... 83.57

__ Each auto wrecking service truck in excess of one ..... 16.72

__ Rental service (See 190—Rental Business)

__ Secondhand dealers, trading, buying and selling secondhand autos, trucks or tractors, for each location ..... 133.71

__ Trailers, dealers or sales agencies ..... 133.71

__ Wrecker service: (See provisions article IX)

__ One truck ..... 58.51

__ Each additional truck ..... 16.72

__ For the following auto service shops, see 138—Machine and Repair Shops: Machine shop, painting, radiator repair, tire and tube repairing, top and upholstery.

MUSIC SCHOOLS (See 195—Schools)

(153) MUSIC STUDIOS, recording, productions, practice ..... 133.71

N

PROOFS

(154) NATUROPATHS, each (Requires Department of Health License) ..... 133.71

(155) NEWSPAPERS:

__ Published less than six times per week ..... 133.71

__ Published six or more times per week ..... 267.41

__ Circulation agency ..... 66.85

(156) NEWSSTANDS (See 145 - Merchants)

NURSE (See 184 - Professions)

NURSE REGISTRY (See 112a - Home Health Agency)

(157) NURSERY - shrubs, trees, plants, sod, etc. (Requires Department of Agriculture License) ..... 106.96

(158) NURSING HOMES (Requires Department of Children and Families Certification) - If meals are served, a restaurant receipt is required. See 42 - Cafes, Cafeterias, and Restaurants) ..... 93.59

__ Assisted living facility or adult congregate living facility ..... 133.71

O

(159) OFFICE SUPPLIES and FURNITURE (See 145 - Merchants)

OPTICAL LABORATORY (See 129 - Laboratories)

(160) OPTICIANS, each (Requires Department of Health License) ..... 133.71

(161) OPTOMETRISTS, each (Requires Department of Health License) ..... 133.71

(162) OSTEOPATHS, each (Requires Department of Health License) ..... 133.71

P

(163) PACKINGHOUSE, VEGETABLES, MEAT, etc. ..... 300.84

(Must comply with all sanitary regulations of the city and state and be open for inspection at all reasonable times)

(164) PAINTERS (See 67 - Contractors)

PAINTING, auto body (See 138 - Machine and Repair Shops)

(165) PALMISTS (See 98 - Fortunetellers)

(165.5) PAPERHANGERS (See 67 - Contractors)

(166) PARALEGAL SERVICE ..... 100.29

(167) PARCEL DELIVERY ..... 93.59

(168) PARKING LOTS:

__ One to ten cars ..... 16.72

__ Eleven to 30 cars ..... 58.51

__ Thirty-one (31) to 60 cars ..... 83.57

__ Sixty-one (61) to 100 cars. ..... 125.36

__ One hundred one (101) cars and over ..... 167.14

(169) PAWNBROKERS (Requires Department of Agriculture License) (Not transferable; subject to certain police regulations; see article VI of this chapter) ..... 300.84

(170) PEANUT VENDOR, on street, resident (must have permission from city manager) ..... 26.74

(171) PEDDLERS, SOLICITORS and VENDORS (Section 9-76 et seq.) ..... 133.71

PROOFS

(172) PHOTO ENGRAVERS (See 84 - Engravers)

(173) PHOTOGRAPHERS, FERRO TYPES, CRAYON ARTISTS. See also artists. Any person soliciting orders for above shall also comply with the provisions of section 9-76 et seq. relating to peddlers, solicitors and canvassers ..... 133.71

(174) PHOTOGRAPHERS' SUPPLIES (See 145 - Merchants)

(175) RESERVED

(176) PHYSICIANS and SURGEONS, each (Requires Department of Health License) ..... 133.71

PHYSICIANS ASSISTANT (See 184 - Professions)

(177) PIANO TUNERS ..... 53.49

(178) PIPE FITTING (See 179 - Plumbers)

(179) PLUMBERS: (See chapter 5, article V)

__ Master ..... 133.71

__ Journeyman ..... 93.59

(180) POLYGRAPH TESTING ..... 93.59

(181) RESERVED

POOL CLEANING (See 236 - Unclassified)

(182) POOL TABLES (See 26 - Billiards)

(182.5) PRESSURE CLEANING (See 236 - Unclassified)

(183) PRINTING and/or PUBLISHING:

__ Not connected with other business ..... 66.85

__ In addition to another receipt ..... 26.74

PRIVATE DETECTIVE (See 75 - Detective)

(184) PROFESSIONS - As individually classified in this chapter:

__ One person ..... 133.71

__ Each additional person ..... 133.71

(Provided, no receipt shall be issued until lawful certificate, if required by state law, is presented to the city clerk)

(185) PROPERTY MANAGEMENT (See 188 - Real Estate)

(186) PSYCHOLOGIST or PSYCHIATRIST (Requires Department of Business and Professional Regulation License) ..... 133.71

R

(187) RAILROAD COMPANIES, Whose track extends into or through the corporate limits of the city ..... 501.41

(188) REAL ESTATE AGENCY or REAL ESTATE BUSINESS or AGENCY:

__ Real Estate Office (must submit state license of qualifying broker) ..... 83.57

__ Reserved

__ Reserved

__ Land development management office or property manager, sales and rental (DBPR - CAM/CAB License Required) ..... 58.51

__ Appraisers ..... 133.71

PROOFS

RECREATIONAL VEHICLE PARKS (See 229 - Trailer or Auto Camp)

(189) REDUCING SALONS. (See 111 - Health Studios)

(190) RENTAL BUSINESS:

__ Cars, trucks, and recreational vehicles (Includes limousines, vans and heavy equipment) ..... 133.71

__ Appliances, furniture, household equipment, etc. ..... 66.85

(191) REPAIR and SERVICE MEN (See also 110 - Handyman)

__ With shop (See 138 - Machine and Repair Shop)

__ Without shop ..... 66.85

(192) RESTAURANTS (See 42 - Cafes, Cafeterias and Restaurants)

(193) RESERVED

RV SALES (See 152 - Motor Vehicles)

S

(194) SANITARIUMS (See 112 - Hospitals)

(195) SCHOOLS:

__ Beauty college ..... 133.71

__ Business ..... 66.85

__ Colleges and universities ..... 133.71

__ Dance. ..... 66.85

__ Martial arts ..... 66.85

__ Music ..... 66.85

__ Private ..... 127.34

__ Any other school facility not specified above ..... 66.85

(196) SCISSORS SHARPENERS (See 127 - Knife and Scissors Sharpener)

(197) SECONDHAND GOODS (See 145 - Merchants)

(198) SECRETARIAL SERVICES ..... 40.11

(199) SECURITY SYSTEMS or SERVICE: (Requires Department of Agriculture License)

__ Sales and service of systems ..... 66.85

__ Security guard service ..... 93.59

(200) SEPTIC TANK CLEANING, contractor (Equipment to comply with health department requirements; disposal shall be approved by city manager) ..... 133.71

(200.5) SERVICE STATIONS (See 89 - Filling Stations)

(201) SEWING, DRESSMAKING, ALTERATIONS and MENDING ..... 13.41

(202) SHOE REPAIR SHOP (See 138 - Machine and Repair Shop)

SHORT TERM RENTALS (See 149 - Motel)

(203) SHOWS, events at civic center, amphitheater, auditoriums, etc. ..... 93.59

(204) SIGN PAINTERS (See 67 - Contractors)

(205) SKATING RINK (Prohibited in first fire district as provided in section 5-93) ..... 133.71

(206) SOLICITORS (See 171 - Peddlers, Solicitors, and Vendors)

PROOFS

SPAS (See 111—Health Studio)

(207) STEVEDORING COMPANY, agency (See 4—Agents or Agencies)

(208) STORAGE—Warehouses alone or with other business ..... 66.85

(209) STUDIO (See 11—Artists; 195—Schools; 153—Music Studio)

(210) SUBCONTRACTORS (See 67—Contractors)

(211) SURETY COMPANIES (See 119—Insurance)

(212) SURGEONS (See 176—Physicians)

(213) SURVEYORS, each (Requires Department of Business and Professional Regulation License) ..... 133.71

(214) SWIMMING POOL—Operated for profit (Fee to be set by commission; for construction provisions, see section 5-281 et seq.)

SWIMMING POOL CLEANING (See 236—Unclassified)

T

(215) TAILOR (See 141—Manufacturers)

(216) TAKE OUT SERVICE (See 73—Delicatessen)

(216.5) TANNING SALON (See 23—Beauty Shop)

(217) TATTOOING (Requires Department of Health License) ..... 133.71

(218) TAX CONSULTANTS ..... 133.71

—Income tax services ..... 133.71

(219) TAXICABS and VEHICLES FOR HIRE (Requires Permit and Background Check see 9-221 to 9-266):

—Vehicle designed to carry 15 or fewer passengers ..... 66.85

—Vehicle designed to carry 16 or more passengers including the driver ..... 80.23

(For regulations relating to operators and drives, see article VIII of this chapter)

(220) TAXIDERMIST, if stock carried is in excess of five hundred ($500.00) dollars, merchants receipt is also required. ..... 133.71

(221) TELECOMMUNICATIONS—Includes cellular phone and beeper relay ..... 133.71

(222) TELEPHONE ANSWERING SERVICE ..... 93.59

(222.5) TELEPHONE SOLICITATIONS (See section 9-76 et seq.) (See 171—Peddler)

(223) TELEMARKETING BUSINESS (Requires Department of Agriculture License) ..... 233.99

(224) TELEPHONE SYSTEMS (Must comply with plans of city for underground distribution) (See F.S. § 205.043(1)(b)) ..... 334.27

(225) TELEVISION ANTENNA and SATELLITE DISHES, sale and installation, or installation only ..... 93.59

(226) THEATERS or MOVING PICTURES: (See F.S. § 205.043)

—Indoor theater:

—Minimum ..... 125.36

—Per seat ..... 0.25

—Drive-ins:

—Minimum ..... 125.36

PROOFS

—— Per seat ..... 0.25

(227) RESERVED

(228) TINSMITH and SHEET IRON WORKER ..... 66.85

TIRE and TUBE REPAIR (See 138 - Machine and Repair Shop)

(229) TRAILER or AUTO CAMPS:

—— Minimum ..... 125.36

—— Per trailer space ..... 0.18

(230) TRAVEL AGENCIES. (Requires Department of Agriculture License in accordance with F.S. § 559.927) ..... 133.71

(231) TREE TRIMMING (Must comply with 16-27) ..... 133.71

(232) TRUCKS and VEHICLES:

—— Doing business either wholesale or retail by the delivery of rented, processed or serviced goods, wares and merchandise (including linen, towels or laundry supply business) except as specifically licensed.

—— One vehicle ..... 83.57

—— Each additional vehicle ..... 41.80

—— Concrete mixer truck, each truck ..... 66.85

(233) TURKISH BATHS (See 143 - Masseurs)

TUTORS (See 236 - Unclassified)

(234) TYPEWRITER REPAIRS (See 138 - Machine and Repair Shops)

U

(235) U-DRIVE-IT CARS, TRUCKS and RECREATIONAL VEHICLES (See 190 - Rental Business)

(236) UNCLASSIFIED ..... 93.59

Any person engaged in any lawful business, profession or occupation within the corporate limits of the city, not mentioned or covered by this Code or other ordinance shall pay an annual business tax, except as to temporary occupations or businesses, the tax may be fixed by the city clerk for a period of time not exceeding 30 days.

UNIVERSITIES (See 195 - Schools)

(237) UPHOLSTERERS (See 138 - Machine and Repair Shops)

(238) UTILITY COMPANIES (See 81 - Electric Light or Power Companies; 224 - Telephone Systems)

UTILITY TRAILERS (See 152 - Motor Vehicles)

V

VACATION RENTALS - (See 149 - Motel)

(239) VEGETABLES and FRUITS (See 171 - Peddler; section 9-111)

(240) VEHICLES FOR HIRE (See 219 - Taxicabs; 190 - Rental Business)

(241) VENDING MACHINES (See 241 - Coin-Operated Machines)

(242) VENDORS (See 171 - Peddlers, Solicitors and Vendors)

(243) VETERINARIAN, each (Requires Department of Business and Professional Regulation License) ..... 133.71

(244) VIDEO RENTALS (See 150 - Motion Picture and Video Library)

PROOFS

~~W~~

~~(245) WAREHOUSE (See 208—Storage)~~

~~WATCH REPAIR (See 123—Jewelry and Watch Repairing)~~

~~(246) WATER COMPANY, selling bottled water:~~

~~—One truck ..... 83.57~~

~~—Each additional truck ..... 41.80~~

~~(247) RESERVED~~

~~(248) WELDER:~~

~~—Not in connection with garage or machine shop ..... 40.11~~

~~—See Contractor if it involves building construction~~

~~(249) WELL DRILLERS ..... 133.71~~

~~WHOLESALE DISTRIBUTORS (See 208—Storage and/or 232—Trucks and Vehicles)~~

~~(250) WINDOW TINTING BUSINESS ..... 93.59~~

~~(251) WRECKER SERVICE (See 152—Motor Vehicles)~~

(Code 1983, § 9-30; Ord. No. L-35, § 3, 8-18-2008; Ord. No. L-121, § 1, 6-7-2010; Ord. No. L-219, § 2, 9-19-2011; Ord. No. L-223, § 1, 12-5-2011; Ord. No. L-256, § 2, 5-21-2012, eff. 7-1-2012; Ord. No. 14-015, §§ 1, 2, 6-2-2014; Ord. No. 16-021, § 1, 10-17-2016; Ord. No. 18-013, § 1, 6-4-2018)

**State law reference**—Authority to levy business tax by resolution, F.S. 205.042.

### Sec. 22-33. Business tax application and renewal.

(a) All applicants for business tax receipts under this article shall file a written application on forms to be furnished by the city clerk. The application shall state the name, location, nature or kind of activity to be conducted, and the owner of the business or profession, and any other data deemed pertinent. A nonrefundable application fee ~~of fifteen dollars ($15.00)~~ in the amount established by resolution shall be assessed upon submittal of the application. No person shall be issued a receipt to conduct any business at a location not permitted under the zoning ordinances of the city.

(b) Any renewal of a receipt issued under this article shall be assessed a nonrefundable renewal fee ~~of five dollars ($5.00)~~ in the amount established by resolution upon renewal of the receipt.

(Code 1983, § 9-31; Ord. No. L-35, § 3, 8-18-2008)

### Secs. 22-34--22-54. Reserved.

## ARTICLE III. ADULT ENTERTAINMENT

### DIVISION 1. GENERALLY

### Sec. 22-55. Title.

This article shall be known and may be cited as the "adult entertainment code."

(Code 1983, § 11.5-1; Ord. No. J-420, § 1, 4-20-1998)

### Sec. 22-56. Definitions.

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

*Adult bookstore, adult novelty store,* or *adult video store* means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form or consideration any one or more of the following:

PROOFS

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representatives which are categorized by the depiction or description of specified sexual activities or specified anatomical areas; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(3) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being so categorized as long as one of the principal business purposes remains the offering for sale or rental for consideration the specified materials which are categorized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult entertainment establishment* means an adult theater, an adult bookstore, an adult performance establishment, a commercial physical contact parlor or an escort service operated for commercial or pecuniary gain, regardless of whether such establishment is permitted under this article. Whether or not an adult entertainment establishment is operated for commercial or pecuniary gain shall not depend upon actual profit or loss. An establishment which has a permit issued through this article shall be presumed to be operated for commercial or pecuniary gain. An establishment with an adult entertainment permit shall be presumed to be an adult entertainment establishment.

*Adult material* means any one or more of the following, regardless of whether it is new or used:

(1) Books, magazines, periodicals, other printed matter, photographs, films, motion pictures, video tapes, slides, computer digital graphic recordings, visual representations, tape recordings or other audio matter which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

(2) Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding bona fide birth control devices.

*Adult motel* means any motel, hotel, boardinghouse, roominghouse or other place of temporary lodging which includes the word "adult" in any name it uses or otherwise advertises the presentation of films, motion pictures, video tapes, slides or other photographic reproductions, which have as their primary or dominate theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. The term "adult motel" is included within the definition of the term "adult theater."

*Adult performance establishment* means:

(1) An establishment where any worker:

a. Engages in a private performance, acts as a private model, or displays or exposes any specified anatomical areas to a customer, regardless of whether the worker engages in dancing or any particular activity;

b. Displays to a customer any covering, tape, pasty or other device which simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas, regardless of whether the worker actually engages in performing or dancing;

c. Offers, solicits or contracts to dance or perform with a customer and accepts any consideration, tip, or compensation from or on behalf of that customer; or

d. Dances or performs with or within three feet of a customer and accepts any consideration, tip, or compensation from or on behalf of that customer.

(2) An adult performance establishment shall not be deemed a place provided or set apart for the purpose of exposing or exhibiting a person's sexual organs in a manner contrary to the first sentence of F.S. § 800.03, the state's indecent exposure statute, as set forth in the decision of the supreme court of the state in the case of Hoffman *v.* Carson, 250 So.2d 891, 893 (Fla. 1971), app. dism. 404 U.S. 981 (1971).

PROOFS

*Adult theater* means any establishment which has adult booths, where adult materials may be viewed or any establishment which has an auditorium, rooms, or an open air area where persons may view films, motion pictures, video cassettes, slides, or other photograph reproductions which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. Adult motels and adult booths or peep show arcades are considered to be adult theaters.

*Alcoholic beverage* is as defined in section 4-1.

*Commercial physical contact* means:

(1) To manipulate, wash, scrub, stroke or touch for commercial pecuniary gain another person's body tissue directly or indirectly or through a media using any object, instrument, substance or device.

(2) Exception. It is an affirmative defense to an alleged violation of this article, regarding engaging in commercial physical contact or operating a commercial physical contact parlor, if the alleged violator, business or establishment can establish membership in one of the following classes of persons or businesses in the activity alleged to be commercial physical contact as part of the bona fide practice of the profession or business of the person which overlaps into the field regulated by this article:

a. Persons permitted as a massage therapist or apprentice massage therapist pursuant to F.S. ch. 480, if provided massage services only in a massage establishment permitted under F.S. ch. 480;

b. Persons permitted under state law to practice medicine, surgery, podiatry, or persons permitted as a physician's assistant or holding a drugless practitioner's certificate;

c. Registered nurses under state law;

d. Barbers or beauticians permitted under state law;

e. Cosmetologists permitted under state law;

f. Persons performing services in any hospital, nursing homes or sanitarium permitted under state law;

g. Instructors, coaches, or athletics trainers employed by or on behalf of any bona fide professional, Olympic or sanctioned amateur athletic team, governmental entity or any bona fide state, county or private educational institution;

h. Physical therapist permitted under state law.

*Commercial physical contact parlor* means a business, establishment or place operated for commercial or pecuniary gain, or where any worker engages in commercial physical contact, or any business or establishment for which any portion is set aside advertised or promoted as a place where commercial physical contact occurs or as a body scrub salon, or as relaxation salon.

*Department* means the city ~~department of building and code enforcement~~ ~~code compliance division~~.

*Escort* means any person who, for commercial or pecuniary gain, compensation or tips agrees to, offers to go, or goes to any place, including a business, hotel, motel, residence, or conveyance to do any of the following acts:

(1) Act as a companion or date for, or converse with, a customer;

(2) Engage in physical contact with another person;

(3) Provide private adult entertainment;

(4) Engage in private modeling or lingerie modeling;

(5) Display specified anatomical areas, strip naked, or go topless; or

(6) Engage in any specified sexual activity.

Nothing in this article shall be construed to legalize prostitution or other conduct prohibited by this article or other law.

*Escort service* or *escort agency* means a person, business, establishment or place operated for commercial or pecuniary gain which does any of the following:

PROOFS

(1) Advertises as an escort service or escort agency or otherwise offers or advertises that it can furnish escorts, private dancers or private models;

(2) Offers or actually provides, arranges, dispatches, or refers workers to act as an escort for a customer;

(3) Exception. It is an affirmative defense that a business is not an escort service if the person seeking to invoke this defense can demonstrate that the business is a bona fide dating or matching service which arranges social matches for two persons who each wish to meet a compatible companion when neither of said persons solicits, accepts or receives any financial gain or any monetary tip, consideration or compensation for the meeting or date.

*Establishment* means any place, site or premises or portion thereof, upon which any person corporation or business conducts activities or operations for commercial or pecuniary gain, including any place, site or premises from which an escort service dispatches or refers workers to other locations or at which an escort service receives business calls from customers.

*Nudity* means to display or expose at an adult entertainment establishment less than completely and opaquely covered:

(1) Human genitals or pubic regions;

(2) The cleavage of the human buttocks; or

(3) The areola or the nipple of a human female breast.

*Operated for commercial or pecuniary gain* means any business or attempt to generate income and shall not depend upon actual profit or loss. An establishment which has a permit issued under this chapter shall be presumed to be operated for commercial or pecuniary gain.

*Operator* means any person who engages in or performs any activity necessary to, or which facilitates, the operation of an adult entertainment establishment, including, but not limited to, the permittee, manager, owner, doorman, bouncer, bartender, disc jockey, sales clerk, ticket taker, movie projectionist, dispatcher, receptionist or attendant.

*Partial nudity* means the showing of the human male or female buttocks or any portion thereof with less than a full opaque covering; the showing of the female breasts with less than a full opaque covering of any portion thereof; or the depiction of covered male genitals in a turgid state.

*Permittee* means any person, partnership or corporation whose application for an adult entertainment establishment under this article has been granted and who owns, operates or controls the establishment.

*Private model* means any person who, for commercial or pecuniary gain, offers, suggests or agrees to engage in a private performance, modeling, or display of male or female lingerie, bathing suits, undergarments, lingerie, or specified anatomical areas to the view of a customer.

*Private performance* means modeling, posing or the display or exposure of any specified anatomical area by a worker of an adult entertainment establishment to a customer, while the customer is in an area not accessible during such display to all other persons in the establishment or, while the customer or worker is in an area which is private or in which the customer or worker is totally or partially screened or partitioned during such display from the view of persons outside of the area.

*Sexually oriented business* means a commercial physical contact establishment or escort service regardless of whether such business is permitted under this article. It shall also mean any business defined in this article.

*Specified anatomical areas* means:

(1) Less than completely and opaquely covered:

a. Human genitals or pubic regions; or

b. Any part of the human buttocks; or

c. That portion of the human female breast encompassed within an area below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). The term "specified anatomical areas" includes the entire lower portion of the

PROOFS

human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

(2) Human male genitals in an erect or turgid state, even if completely and opaquely covered.

(3) Any simulation of the foregoing.

*Specified criminal act* means:

(1) As violation of this article;

(2) Any offense under the F.S. ch. 794, regarding sexual battery; F.S. ch. 796, regarding prostitution; F.S. ch. 800, regarding lewdness and indecent exposure; and F.S. ch. 847, regarding obscene literature; or

(3) An offense under an analogous statute of a state other than the state, or an analogous ordinance of another county or city.

*Specified sexual activity* means:

(1) Human genitals in a state of sexual stimulation, arousal, erection;

(2) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

(3) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masturbation, masochism, necrophilia, pederasty, pedophiliages, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, or urolagnia; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

*Straddle dance, lap dance, face dance,* or *friction dance* means either of the following acts at an establishment:

(1) The use by a worker of any part of his body to touch the genital or pubic area of another person, or the touching of the genital or pubic area of any worker to another person. ~~It~~ Such acts shall be a straddle dance regardless of whether the touch or touching occurs while the worker is displaying or exposing any specified anatomical area. ~~It~~ Such act shall also be a straddle dance regardless of whether the touch or touching is direct or indirect; or

(2) The straddling of the legs of any worker over any part of the body of another person at the establishment regardless of whether there is a touch or touching.

*Worker* means any person who works, performs or provides services at an adult entertainment establishment or who is an escort irrespective of whether said person is paid a salary or wage, and shall include, but is not limited to, employees, independent contractors, subcontractors, lessees, or sublessee who work or perform at an adult entertainment establishment.

(Code 1983, § 11.5-7; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-57. Authority.**

This article is enacted under the home rule power of the city in the interest of the health, safety, peace and general welfare of the people of the city and under the authority of the city to regulate the sale and consumption of alcoholic beverages under the 21st Amendment to the United States Constitution.

(Code 1983, § 11.5-2; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-58. Purpose.**

It is the purpose of this article to regulate sexually oriented businesses as to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose or intent of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, or other aspects of constitutionally protected speech. It is not the intent of the city commission to legislate with respect to matters of obscenity in this article, as those matters are regulated by federal and state law, including, particularly, F.S. chs. 800 and 847. Similarly, it is not the intent or

PROOFS

effect of this article to restrict or deny access by adults to sexually oriented materials protected by the first amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this article to condone or legitimize the distribution of obscene material.

(Code 1983, § 11.5-3; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-59. Findings of fact.**

Based upon evidence and testimony presented at public hearings before the city commission and proceedings before the city planning board, and based upon the findings incorporated in studies conducted by other governmental units, including, but not limited to, the City of Indianapolis, Hillsborough County, City of Tallahassee, Pinellas County, City of Tampa, City of St. Mary's and abstracts of additional community studies together with information and reports available to, and provided by, the city police department, the county sheriff's department and the state attorney's office detailing the potential for criminal activities associated with adult uses, and on the findings incorporated in City of Renton *v.* Playtime Theaters, Inc., 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed. 2d 29 (1986); Young *v.* American Mini-Theaters, Inc., 427 U.S. 50, 96 S. Ct. 2440, 49 L. Ed. 2d 310 (1975); Bonnell, Inc. *v.* Board of Adjustments, 791 P.2d 107 (Okl. App. 1989) and considering such other public input, research and legal analysis which the city commission believes to be relevant to problems associated with adult uses, the city determines that the enactment of a time, place and manner ordinance regulating and addressing the adverse secondary effects of adult entertainment uses is an appropriate exercise of the municipal home rule power in the interest of the health, peace, safety, morals and general welfare of the people of the city. Specifically, the commission finds and determines, based upon the foregoing, as follows:

(1) Sexually oriented activities, including the sale of adult entertainment material and nude, semi-nude or topless dancing gives rise to prostitution, pandering, solicitation for prostitution, lewd behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances and violent crimes against persons or property;

(2) When the sexually oriented activities described in subsection (1) of this section are competitively exploited in commercial establishments, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote the particular crimes described above, and ultimately force residents and businesses to move to other locations;

(3) The activities described in subsection (1) of this section sometimes occur in establishments concurrent with the sale and consumption of alcoholic beverages, which concurrence leads to a further increase in criminal activity, unsafe activity and disturbances of the peace and order of the surrounding community and creates additional hazards to the health and safety of customers and workers and further depreciates the value of adjoining real property harming the economic welfare of the surrounding community and adversely affecting the quality of life, commerce and community environment;

(4) In order to preserve and safeguard the health, safety, property values and general welfare of the people, businesses and industries of the city it is necessary and advisable for the city to regulate the sale and consumption of alcoholic beverages at establishments where the aforedescribed activities occur;

(5) In order to preserve and safeguard the health, safety and general welfare of the people of the city, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, workers, entertainers, performers and customers at establishments where the aforesaid activities occur;

(6) The potential dangers to the health, safety and general welfare of the people of the city posed by permitting establishments at which the activities described in subsection (1) of this section occur to operate without first meeting the requirements for obtaining a permit under this article are so great as to require the permitting of such establishments prior to their being permitted to operate;

(7) Requiring operators of establishments at which the activities described in subsection (1) of this section occur to keep records of information concerning workers and certain recent past workers will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects, and by making it difficult for minors to work in such establishments;

(8) Prohibiting establishments at which the activities described in subsection (a) occur from operating within

PROOFS

said distances of educational institutions, religious institutions, residences, area zoned or designated for residential use, and parks, at which minors are customarily found, will serve to protect minors from the adverse effects of the activities that accompany such establishments;

(9) Straddle dancing, unregulated private performances or physical contact or touching within sexually oriented businesses poses a threat to the health of both customers and employees and promotes the spread of communicable and social diseases. Straddling dancing is deemed primarily conduct rather than communication or expression;

(10) Sexually oriented businesses involve activities which are pure conduct engaged in for the purpose of making a profit, wherein speech or expressive activity is non-existent or incidental thereto, and are therefore subject to and require increased regulation to protect the health, welfare and safety of the community.

(11) Physical contact or touching within establishments at which the activities described in this section occur between workers exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases and physical contact or touching between workers of sexually oriented businesses and customers thereof poses a threat to the health of both and promotes the spread of communicable and sexually transmitted diseases.

(Code 1983, § 11.5-4; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-60. Enforcement.**

The provisions of this article may be enforced by:

(1) A suit brought by the city commission in the circuit court to restrain, enjoin or prevent a violation of this article;

(2) Enforcement proceedings by the city special magistrate; or

(3) Criminal prosecution as provided by the state statutes.

(Code 1983, § 11.5-6; Ord. No. J-420, § 1, 4-20-1998; Ord. No. 17-017, § 10, 6-5-2017)

**Sec. 22-61. Appeals.**

Any decision of the department either granting or denying a permit under this article ("permitting") may be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.

(Code 1983, § 11.5-7; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-62. Notice.**

Any notice required under this article shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the permit which shall be considered the correct address for service unless the department has been otherwise notified in writing, or by personal service or delivery to the applicant or permittee.

(Code 1983, § 11.5-8; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-63. Consent to enter upon premises.**

The owner of any establishment or sexually oriented business permitted pursuant to this article shall be deemed to have consented to entry onto the premises by any employee or law enforcement officer of the city when such employee or law enforcement officer is acting within the scope of authority conferred through this article.

(Code 1983, § 11.5-9; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-64. Construction.**

This article shall be liberally construed to accomplish its purpose of licensing, regulating and dispersing adult entertainment and related activities. Unless otherwise indicated, all provisions of this chapter shall apply equally to all persons, regardless of sex. ~~Words used in the singular number shall include the plural number, unless the contents suggest otherwise.~~ The provisions of ~~Chapter 11.5~~ this article are in addition to, and not in place of, provisions

PROOFS

otherwise imposed by this Code.

(Code 1983, § 11.5-10; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-65. Severability.**

If any portion of this article, or any application thereof is declared to be void, unconstitutional or invalid for any reason, such portion or provision, or the application thereof, shall be severable from this article. The remaining portions and provisions of this article, and all applications thereof shall remain in full force and effect. No void, unconstitutional or invalid portion or proscribed provision, or application thereof, was an inducement to the enactment of this article.

(Code 1983, § 11.5-11; Ord. No. J-420, § 1, 4-20-1998)

**Secs. 22-66--22-88. Reserved.**

DIVISION 2. PERMIT

**Sec. 22-89. Permit required; classifications.**

(a) *Requirement.* No adult entertainment establishment shall be permitted to operate without having been first granted an adult entertainment permit by the department under this division.

(b) *Classifications.* Adult entertainment establishment permits referred to in this division shall be classified as follows:

(1) Adult bookstore;

(2) Adult performance establishments;

(3) Adult theaters;

(4) Commercial physical contact parlor; or

(5) Escort service.

(c) *Single classification of permit.* An adult entertainment permit for a particular adult entertainment establishment shall be limited to one classification of permit.

(Code 1983, § 11.5-20; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-90. Application for permit; application fee; consent by applicant.**

(a) *Required.* Any person desiring to operate an adult entertainment establishment shall file with the department a sworn permit application on standard application forms supplied by the department.

(b) *Contents of application.* The completed application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, the individual shall state such individual's legal name and any alias and submit satisfactory proof that such individual is at least 18 years of age or older;

b. A partnership, the partnership shall state its complete name, the names and residential addresses and residential telephone numbers of all partners, whether general or limited, the residential address of at least one person authorized to accept service of process, and provide a copy of any existing partnership agreement;

c. A corporation, the corporation shall state its general name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacities of all officers and directors, and the name and address of the registered corporate agent for service of process, the name, residential address and residential telephone number of the person making the application for the corporation and provide a copy of its articles of incorporation; or

d. A limited liability company, created pursuant to F.S. ch. 605, the company shall state its general name, the date of its organization, provide evidence that it is in good standing, and state the names

PROOFS

and capacities of all managers, managing members, officers, employees and agents, the name and address of the registered agent for service of process, the name, residential address and residential telephone number of the person making the application for the limited liability company and provide a copy of its articles of organization. In the event such company is a member-managed company the identity of all members shall be disclosed.

(2) All business names and telephone numbers to be used by the establishment. If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name registration under F.S. § 865.09;

(3) Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has, within the five-year period immediately preceding the date of the application, been convicted of a felony of any state or of the United States or any specified criminal act, and, if so, the specific crime involved, the date of conviction and the place of conviction;

(4) Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has had a previous permit under this chapter suspended or revoked, including the name and location of the establishment for which the permit was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (b)(1) of this section has been partner in a partnership or an officer, director or principal stockholder of a corporation whose permit under the code has previously been suspended or revoked, including the name and location of the establishment for which the permit was suspended or revoked, as well as the date of the suspension or revocation;

(5) Whether the applicant or any other individuals listed pursuant to this subsection (b) holds any of the permits under this division, and if so, the names and locations of such other permitted establishments;

(6) The single classification of permit for which the applicant is filing;

(7) The location of the proposed establishment, including a legal description of the property site, a legal street address, the name and address of the real property owner of the site, and a notarized statement of consent to the specific proposed adult entertainment use from the owner of the property;

(8) The applicant's mailing address, business address, residential address, and all business and residential telephone numbers; and

(9) A site plan drawn to appropriate scale of the proposed establishment, including, but not limited to:

a. All property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways;

b. All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar stands;

c. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase of floor size.

(10) A recent photograph of the applicant;

(11) The applicant's ~~social security number~~ or employer's tax identification number and either the applicant's driver's permit number or the number of a state or federally issued identification card;

(12) A notarized statement that the owner of the real property has approved of the proposed adult entertainment use, if the applicant is not the title owner.

(c) *Nonrefundable fee.* Each application shall be accompanied by a nonrefundable fee established by the city commission by resolution. Such application fee shall be used to defray the costs and expenses incurred by the various departments in reviewing applications.

(d) *False, incorrect or incomplete application.* If the department determines or learns that the applicant has falsely or incorrectly completed an application, or has not properly completed the application, for a proposed establishment, the department may notify the applicant of such fact and the applicant will be allowed 20 days to

PROOFS

complete the application. The revised application shall then be promptly forwarded to the appropriate departments for further review. The time period for granting or denying a permit under this division shall be stayed during the period in which the applicant is allowed such an opportunity to properly complete the application. Upon receipt of a completed application the 30-day time period for granting or denying a permit is extended by the additional time needed by the applicant to submit a revised application, such addition not to exceed 20 days.

(e) *Consent.* By applying for a permit under this division, the applicant shall be deemed to have consented to the provisions of this division and to the exercise of their responsibilities under this division by the departments, employees, or law enforcement officers of the city.

(Code 1983, § 11.5-2~~2~~1; Ord. No. J-420, § 1, 4-20-1998; Ord. No. K-118, §§ 1, 2, 12-3-2001; Ord. No. L-86, § 2, 7-20-2009)

**Sec. 22-91. Processing of application; investigation; findings.**

(a) *Processing.* Upon receipt of a complete application properly filed with the department and upon payment of the nonrefundable application fee, the department shall immediately stamp the application with the date it was received and shall immediately thereafter send photocopies of the application and all attachments to the police department, the building department, and the planning department.

(b) *Investigation.* Each department shall promptly conduct an investigation of the applicant, application and the proposed establishment, within such department's respective area of responsibility, to determine whether false, incomplete or incorrect information was given on the application or whether the proposed establishment will be in violation of any provision of this division or of any building, fire, health or zoning provision, code, ordinance, regulation or court order.

(c) *Findings.* After investigation, each department shall promptly report its findings in writing and shall prepare a report and forward its findings to the ~~department of building and code enforcement~~ and shall state whether the department finds that false, incomplete or incorrect information was given on the application or whether the proposed establishment will be in violation of any provision of this division or any applicable building, fire, health or zoning provision.

(Code 1983, § 11.5-22; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-92. Grant; denial; rejection.**

(a) *Time period for granting or denying permit.* Except as time may be extended by section 22-90(d), the department shall grant or deny an application for a permit under this division within 30 days from the date of its proper filing. In the event the department fails to timely grant or deny the application, the department shall be deemed to have approved the application and the applicant may then immediately obtain a permit upon payment of the appropriate annual permit fee required in this division. Granting of a permit under this section shall not be in place of necessity for obtaining a certificate of occupancy or completion where otherwise required nor shall it be in place of any other requirement imposed by this Code.

(b) *Granting of application for permit.* If none of the departments have made a finding that would require that the application be denied, the department shall a grant the application, notify the applicant within seven days of the granting, and issue the permit to the applicant upon payment of the appropriate annual permit fee required in this division.

(c) *Denying of application for permit.*

(1) The department shall review the findings reported by the departments and deny the application for any of the following reasons:

a. The application contains materially false information or is incomplete;

b. The applicant has failed to comply with F.S. ch. 607 regarding corporations, F.S. ch. 620 regarding partnerships, or F.S. § 865.09 regarding fictitious names;

c. The granting of the application would violate a statute or ordinance, deed restriction, lease or an order from a court of law which prohibits the applicant from obtaining an adult entertainment establishment permit;

d. The applicant or any other individual listed pursuant to section 22-90(b)(1) has had a permit under

PROOFS

this chapter suspended or revoked by the department heretofore;

(2) If the application is denied, the department shall, within seven days. notify the applicant of the denial and the reasons for the denial.

(d) *Rejection of application.* If a person applies for a permit at a particular location within a period of nine months from the date of denial of a previous application for a permit at the location, and there have been no intervening changes in the circumstances which would lead to a different decision regarding the former reasons for denial, the application shall be rejected.

(e) *Stay of rejection.* In the event there is a timely appeal of a rejection of the application then the rejection shall be abated during the pendency of such appeal until such time as the appeal is withdrawn, dismissed or denied.

(Code 1983, § 11.5-24; Ord. No. J-420, § 1, 4-20-1998; Ord. No. K-118, § 3, 12-3-2001)

**Sec. 22-93. Permits; terms; renewals; expiration; cancellation; reports; consent.**

(a) *Contents.* An adult entertainment permit shall state the name of the permittee, the name of the establishment, the street address of the establishment, the classification of the permit, the date of issuance and the date of expiration.

(b) *Term.* All permits issued under this division shall be issued for a term of one year. It shall be renewed upon completion of all procedures required for original issuance, subject to all provisions relating to such original issuance and upon payment of a ~~three-hundred-dollar~~ permit renewal fee in the amount established by resolution.

(c) *Reports and records.* Each permittee shall keep such records and make such reports as may be required by the department and the departments so as to implement this division and to carry out its purpose. Whenever the information required by or provided on the application under section 22-90(b) has changed, the permittee shall promptly report in writing to the department the changed information.

(d) *Consent.* By holding a permit under this division, the permittee shall be deemed to have consented to the provisions of this division and to the exercise by the departments of the city their responsibilities under this division.

(Code 1983, § 11.5-24; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-94. Fees regulatory.**

The annual permit fees collected under this division are declared to be regulatory fees which are collected for the purpose of examination and inspection of sexually oriented businesses under this division and the administration thereof. These fees are in addition to and not in lieu of the ~~occupational permit~~ business taxes which may be imposed by other ordinances.

(Code 1983, § 11.5-25; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-95. Transfer of permits.**

(a) *Requirements.* An adult entertainment permit is not transferrable to another person or entity by surrendering possession, control or operation of the permitted establishment. An adult entertainment permit may be transferred to another person or entity only upon satisfaction of the following requirements:

(1) A transferred permit is applied for to the department by filing an application setting forth the information called for under section 22-90, the application is processed and investigated pursuant to section 22-91 and the application has been reviewed by the departments specified by section 22-92; and

(2) Satisfactory proof is provided that control of the establishment has been or will be transferred through a bona fide sale, lease, rental or other transaction; and

(3) A transfer fee of ten percent of the annual permit fee is paid.

(b) *Effect of suspension or revocation procedures.* No permit may be transferred pursuant to subsection (a) of this section when the department has notified the permittee of pending suspension or revocation proceedings against the permit.

(c) *No transfer to different location.* The permittee shall not transfer such permit to another location.

(d) *Attempted improper transfer void.* Any attempt to transfer of a permit either directly or indirectly in

PROOFS

violation of this section is hereby declared void.

(Code 1983, § 11.5-26; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-96. Suspension and revocation of permits.**

(a) *Suspension for illegal transfer.* In the event the department learns or finds upon sufficient cause that a permittee engaged in a permit transfer contrary to section 22-95, the department shall forthwith notify the permittee of the pending suspension of the permit. If the suspension becomes effective, the suspension shall remain in effect until documents which satisfy the requirements of section 22-95 are filed with the department and a transferred permit has been issued.

(b) *Suspension for violation of building, fire, health or zoning provision, code, ordinance or regulation.* In the event a permittee is found, pursuant to section 22-60, to be in violation of a building, fire, health or zoning provision, code, ordinance or regulation, whether federal, state or local, including section 22-149, and such permittee fails to cure the violation within such time as might be specified by the special magistrate or court, the department shall promptly notify the permittee that the permit is suspended, such suspension to remain in effect until the department determines that the violation has been corrected.

(c) *Suspension for illegal conduct at establishment.*

(1) *Two convictions.* In the event two or more violations of specified criminal acts occur at an adult entertainment establishment within a two-year period, and convictions result from at least two of the violations, the department shall, upon receiving evidence of the two convictions, notify the permittee of an immediate suspension of the permit for a period of 30 days.

(2) *Additional conviction following suspension.* In the event one additional violation of any specified criminal act occurs at the same establishment within a period of two years from the date of the last violation from which the conviction resulted for which the permit was suspended for 30 days under subsection (c)(1) of this section, but not including any time during which the permit was suspended for 30 days, and a conviction results from the violation, the department shall, upon receiving evidence of the additional conviction after previous suspension, notify the permittee of immediate suspension of the permit for a period of 90 days.

(d) *Revocation for repeat convictions following two suspensions.* In the event one or more additional violations of any specified criminal act occurs at an adult entertainment establishment which has had a permit suspended for a period of 90 days pursuant to subsection (c)(2) of this section and the violation occurs within a period of two years from the date of the last violation from which the conviction resulted for which the permit was suspended for 90 days, but not including any time during which the permit was suspended for 90 days, the department shall, upon receiving evidence of a conviction for the subsequent violation after two suspensions, forthwith notify the permittee of the immediate revocation of the permit.

(e) *Revocation for false information.* In the event the department receives evidence that a permit was granted, renewed or transferred based upon false information, misrepresentation of fact or mistake of fact, the department shall forthwith notify the permittee of the pending revocation of the permit.

(f) *Transfer or renewal.* The transfer or renewal of a permit pursuant to this division shall not defeat a suspension or revocation of a permit or related proceedings.

(Code 1983, § 11.5-~~29~~28; Ord. No. J-420, § 1, 4-20-1998; Ord. No. 17-017, § 11, 6-5-2017)

**Sec. 22-97. Suspension and revocation proceedings.**

(a) *Challenge to suspension or revocation.* If the department notifies a permittee in writing of the suspension or revocation of a permit, then in such event the suspension or revocation shall become final and effective 20 days after mailing to the permittee's record address, or 15 days after actual delivery of the notice to the permittee, unless prior to the expiration of such period the permittee files with the department a written response stating the reasons why the suspension or revocation is alleged to be an error or inappropriate and files a written notice of intent to challenge the suspension or revocation with request for a hearing.

(b) *Hearing on suspension or revocation.* When a permittee files a written response and notice of intent to challenge a suspension or revocation, then a public hearing to determine if the suspension or revocation will become

PROOFS

effective and final shall be held before the special magistrate in accordance with section 1-74. The permittee shall be given reasonable notice of such hearing and appeal may be made from the special magistrate's decision~~, in accordance with section 1-74~~.

(c) *Effective date of suspension or revocation.* The suspension or revocation of a permit shall take effect:

(1) After the period has elapsed which was available to file a notice of challenge with the department, in the event such notice was not filed; or

(2) The day following entry of a written order by the special magistrate denying the challenge but such suspension or revocation shall be abated during any appeal from the special magistrate's decision.

(d) *Effect of final revocation.* If a permit is revoked, the permittee of the adult entertainment establishment shall not be allowed to obtain another adult entertainment permit for a period of one year, and no adult entertainment permit shall be issued to any other person for the location upon which the adult entertainment establishment was situated.

(Code 1983, § 11.5-29; Ord. No. 17-017, § 11, 6-5-2017)

**Secs. 22-98--22-122. Reserved.**

DIVISION 3. ZONING AND DISTANCE RESTRICTIONS

**Sec. 22-123. Permitted locations.**

(a) *Zoning.* Notwithstanding any other provision of chapter 125, business establishments subject to this chapter may not be permitted in any area of the city except that such establishments are permitted as a semi-restricted use in the General Commercial Zone (C-3) as provided by sections 125-187 and 125-200.

(b) *Distance minimums.* In addition to the foregoing, an adult establishment shall not be permitted to open, operate or be enlarged so as to come within the following distances:

(1) 1,000 feet of a preexisting adult entertainment establishment;

(2) 1,000 feet of a preexisting commercial establishment that in any manner sells or dispenses alcoholic beverages for on-premises consumption;

(3) 1,000 feet of a preexisting religious institution;

(4) 1,000 feet of a preexisting educational institution;

(5) 500 feet of an area zoned within the city for residential use;

(6) 500 feet of an area designated as residential on the future land use map of the city's comprehensive plan;

(7) 500 feet of the property line of a preexisting residence; or

(8) 1,000 feet of a preexisting park.

(c) *Supplemental alcoholic beverage regulations.* The zoning and distance requirements of this section are independent, of, and do not supersede, the distance requirements for alcoholic beverage establishments as are provided by chapter 4.

(Code 1983, § 11.5-30; Ord. No. J-420, § 1, 4-20-1998)

**State law reference—**Prohibition of adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school, F.S. § 847.0134.

**Sec. 22-124. Measurement of distance.**

The distance from a proposed or existing adult entertainment establishment to a preexisting adult entertainment establishment, religious institution, or educational institution, or areas zoned for residential zone or designated on the future land use map of the comprehensive plan as residential, preexisting residential, a preexisting park or a preexisting commercial establishment that sells or dispenses alcohol for consumption on or off the premises, shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the preexisting adult entertainment establishment, preexisting religious institution, or educational institution, or areas zoned for residential use, or areas designated on the future land use

PROOFS

map of the comprehensive plan as residential, preexisting residential, a preexisting park or a preexisting commercial establishment which sells or dispenses alcohol for on- or off-premises consumption.

(Code 1983, § 11.5-31; Ord. No. J-420, § 1, 4-20-1998)

~~**Sec. 11.5-32. Nonconforming uses.**~~

~~An adult entertainment establishment in existence at the time this chapter became effective and is located in violation of this chapter, may continue to operate for a period of one year from the date this chapter became effective and shall cease operation immediately upon the expiration of such period.~~

~~An adult entertainment establishment becoming operational after the effective date of this chapter which had legal rights vesting with respect to such establishment's location arising from a judicial declaration construing any ordinance in effect prior to or after the adoption of this chapter, may operate for a period of one year, notwithstanding that it may be located in an area otherwise prohibited by section 11.5-30(a) of this chapter. The adult entertainment establishment shall cease operation at the end of the one-year period.~~

~~When a nonconforming use of an adult entertainment establishment has been discontinued for 90 consecutive days or more, the nonconforming use shall be deemed abandoned and the future use of the premises or site shall revert to only those uses permitted on the site on which the establishment is located.~~

~~(Code 1983, § 11.5-32; Ord. No. J-420, § 1, 4-20-1998; Ord. No. K-118, § 4, 12-3-2001)~~

**Sec. 22-125. Variances prohibited.**

Neither the board of adjustment nor city commission may vary those distance restrictions imposed by section 22-123.

(Code 1983, § 11.5-33; Ord. No. J-420, § 1, 4-20-1998; Ord. No. 19-044, § 2, 11-4-2019)

**Secs. 22-126--22-148. Reserved.**

DIVISION 4. CONSUMPTION OF ALCOHOL

**Sec. 22-149. Nudity, sexual conduct prohibited.**

(a) No person shall expose to public view his genitals, pubic area, vulva, anus, anal cleft, or cleavage, or any portion of the foregoing specified anatomical areas, or any simulation thereof in any establishment at which alcoholic beverages, beer or wine are offered for sale or consumption on the premises.

(b) No female person shall expose to public view any portion of her breasts encompassed within an area below the horizontal line one would have to draw to intersect a point above the top of the areola, or any portion of the areola, or any simulation thereof in any establishment at which alcoholic beverages, beer or wine are offered for sale or consumption on the premises. This ~~definition~~ area shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts, exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed.

(c) No person maintaining, owning or operating an establishment at which alcoholic beverages, beer or wine are sold or offered for sale for consumption on the premises shall suffer or permit any person to expose to public view the anus, anal cleft or cleavage, or any portion of the foregoing specified anatomical areas, or simulation thereof, within any establishment at which alcoholic beverages, beer or wine are offered for sale or consumption on the premises.

(d) No person maintaining, owning or operating an establishment at which alcoholic beverages, beer or wine are sold or offered for sale for consumption on the premises shall suffer or permit any female person to expose to public view any portion of her breasts encompassed within an area which falls below the horizontal line one would have to draw to intersect a point immediately above the top of the areola or any portion of the areola, or any simulation thereof, within any establishment at any establishment at which alcoholic beverages, beer or wine are offered for sale or consumption on the premises. This ~~definition~~ area shall include the entire lower portion of the human female breasts, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, providing the areola is not so exposed.

(e) No person shall engage in and no person maintaining, owning or operating an establishment at which

PROOFS

alcoholic beverages, beer or wine are offered for sale or consumption on the premises shall suffer or permit any specified sexual activity or the simulation thereof, within any establishment at which alcoholic beverages, beer or wine are sold or offered for sale or consumption on the premises.

(f) It shall be unlawful to suffer, permit or display partial nudity in any alcoholic beverage establishment~~, as defined in this chapter,~~ unless the following is provided by the establishment:

(1) It shall have a stage provided for the display or exposure of partial nudity by an employee or a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet; and

(2) The exposure by an employee or other individual of partial nudity or simulation thereof, to public view shall be restricted to the stage described in subsection (f)(1) of this section, and non-employees or patrons shall not be allowed closer than four feet to the stage edge when an employee or other individual is partially nude.

(Code 1983, § 11.5-40; Ord. No. J-420, § 1, 4-20-1998)

**Secs. 22-150--22-166. Reserved.**

DIVISION 5. GENERAL OPERATIONAL RULES

**Sec. 22-167. General requirements for all adult entertainment establishments.**

Each adult entertainment establishment is subject to all of the following general requirements and shall:

(1) Conform to all applicable building, fire, health, zoning and land use statutes, codes, ordinances and regulations, whether federal, state or local;

(2) On the first Monday of each month provide the police department with a report of all persons who are workers, or who were workers at the establishment or for the adult entertainment business during the previous month, which report shall contain the actual legal name, the date of birth, residential address, ~~social security number,~~ position and stage name, if any, for each such worker or employee;

(3) Keep the adult entertainment permit posted in a conspicuous place at the establishment available for inspection by the police at all times;

(4) Cover opaquely each window or other opening through which a person outside the establishment may otherwise see inside the establishment;

(5) Maintain all exterior walls and surfaces of the establishment, excluding signs, a single achromatic or light pastel color, and shall maintain all awnings, canopies, window shutters, window treatment, or other trim the same color or a slightly different shade of the same achromatic or light pastel color. The trim color shall not exceed 20 percent of the entire exterior of the surface of the building. Nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment such as brick or stone;

(6) Install, construct, keep, maintain or allow only those signs at the establishment which comply with the city's sign ordinances and the provisions of this subsection:

a. No sign shall contain any flashing lights, photographs, silhouettes, drawings or representations except for the logo of the establishment, provided that the logo does not depict any specified anatomical areas, or any portion of a male or female form at or below the clavicle;

b. No sign shall contain in the name or logo of the establishment or otherwise any words or materials which depict, describe, reference or infer in any manner, sexual activities, specified anatomical areas, or the display of specified anatomical areas;

(7) Each entrance and exit shall remain unlocked when any customer is inside.

(Code 1983, § 11.5-50; Ord. No. J-420, § 1, 4-20-1998)

PROOFS

**Sec. 22-168. Adult theaters.**

In addition of the general requirements for an adult entertainment establishment set forth in section 22-167, an adult theater shall comply with each of the following requirements:

(1) If an adult theater contains a hall or auditorium, the area shall have:

a. Individual separate seats, not couches, benches or the like, to accommodate the number of persons allowed to occupy the area;

b. A continuous main aisle along each side of the seating areas in order that each person seated in the areas shall be visible from the aisles at all times;

c. A sign posted in a conspicuous place at or near each entrance to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area;

d. Sufficient illumination so that persons in all areas of the auditorium can be seen.

(2) If an adult theater contains adult booths, each adult booth shall have:

a. A sign posted in a conspicuous place at or near the entrance which states the maximum number of persons allowed to occupy the booth, which number shall correlate with the number of seats in the booth;

b. A permanently opened entrance not less than 32 inches wide and not less than six feet high, which entrance shall not have any curtain rods, hinges, rails, or the like which would allow the entrance to be closed or partially closed by any curtain, door or other partition;

c. Individual, separate seats, not couches, benches or the like, which correlate with the maximum number of persons who may occupy the booths;

d. A well-illuminated continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times;

e. Except for the entrance, walls, or partitions of solid construction without any holes or openings in any such walls or partitions;

f. Illumination by a light bulb of no less than 25 watts.

(3) If an adult theater is permitted and is designed to permit outdoor viewing by customers seated in automobiles, it shall have a motion picture screen so situated, or the perimeter of the establishment so fenced, so that the material to be seen by those customers may not be seen by other persons from any public right-of-way, properly zoned for residential use, a religious institution, an educational institution, or a park.

(Code 1983, § 11.5-51; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-169. Adult performance establishments.**

In addition to the general requirements for an adult entertainment establishment contained in section 22-167, an adult performance establishment shall comply with each of the following special requirements:

(1) Have a stage provided for the use by any worker or individual who is displaying or exposing any specified anatomical area to a customer, consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet;

(2) Any area in which a private performance occurs shall:

a. Have a permanently opened entrance not less than 32 inches wide and not less than six feet high, which entrance shall not have any curtain rods, hinges, rails or the like which would allow the entrance to be closed or partially closed by any curtain, door, or other partition;

b. Have a wall to wall, floor to ceiling partition of solid construction without any holes or openings, which partition may be completed or partially transparent and which partition separates the worker

PROOFS

or other individual from the customer viewing the private performance.

(Code 1983, § 11.5-52; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-170. Adult bookstores.**

In addition to the general requirements for an adult entertainment establishment set forth in section 22-167, an adult bookstore shall not display merchandise or adult material in a manner which allows such merchandise or adult material to be visible from outside of the structures at the establishments.

(Code 1983, § 11.5-53; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-171. Sexually oriented business.**

In addition to the general requirements for an adult entertainment establishment contained in section 22-167, a sexually oriented business (commercial physical contact parlor or escort service) shall comply with the following special requirements:

(1) Post in an open and conspicuous place and file with the police department a list of services provided by the sexually oriented business described in readily understandable language with specifications of the cost of such services. Actual services and prices offered or provided shall be limited to those listed;

(2) Provide each customer, in advance, with a separate written customer contract setting forth and specifying services to be rendered, the cost of such services, the actual full legal name of the worker or employee to provide said services, and the actual name, address and telephone number of the customer to which the services are rendered. Actual services and prices offered or provided shall be limited to those specified;

(3) Maintain a daily register recording all transactions on a form provided by the police department, containing records of all customers with names, addresses, time expended, services purchased and mode of payment and names of all workers or employees who provided services together with a copy of each customer contract;

(4) Not increase the incentive or temptation for workers to engage in prostitution or lewdness by allowing any worker or employee of the sexually oriented business to accept any tips or gratuities received directly from a customer in addition to the service fees amount specified in the customer contract.

(Code 1983, § 11.5-54; Ord. No. J-420, § 1, 4-20-1998)

~~**Sec. 11.5-55. Reserved.**~~

**Sec. 22-172. Escort services.**

In addition to the general requirements for an adult entertainment establishment contained in section 22-167 and the general requirements for a sexually oriented business contained in section 22-171, an escort service shall comply with the following special requirements:

(1) If offering or providing escorts within the city, an escort service must notify the department of an authorized physical commercial location, which may or may not be within the city from where the escort service operates and dispatches escorts;

(2) Include in all advertising or promotional literature posted, placed, published or distributed within the city the number of valid adult entertainment establishment/escort service permit issued by the department unless the escort service does not refer, send, or dispatch escorts to any location within the jurisdictional limits of the city;

(3) Ensure that every escort and worker of an escort service is provided or obtains, carries while working as an escort, and displays upon the request of any law enforcement officer, an occupational permit to engage in the occupation of escort within the city. Exception: An escort or worker of an escort service who is a paid employee for whom taxes and social security payments are withheld and paid by the escort service and who is not an independent contractor, may substitute and carry a copy of the adult entertainment escort service permit of the employing escort service.

(Code 1983, § 11.5-56; Ord. No. J-420, § 1, 4-20-1998)

PROOFS

**Sec. 22-173. Records and inspection of records.**

(a) An adult entertainment establishment shall maintain a worker record for each worker who currently works or performs at the establishment and for each former worker who worked or performed at the establishment during the preceding one-year period:

(1) The worker record shall contain the current or former worker's full legal name, including any alias, date of birth, residential address, residential telephone number~~, social security number~~, driver's permit number or state or federally issued identification card number, and a recent photograph of the worker;

(2) The worker record shall also describe the status of each worker, whether each worker is a paid employee for whom income taxes are withheld or was a lessee, sublessee, independent contractor, or subcontractor who is allowed to work or perform at the establishment;

(3) The worker record shall also contain a copy of a valid city occupational entertainment permit for any lessee, sublessee, independent contractor, or subcontractor who is not an employee and is allowed to work or perform at the establishment;

(b) The original, or true and exact photocopy of each required worker record, customer contract and daily registry as required by this division shall be kept available for inspection at the establishment at all times.

(c) Each operator of the establishment shall be responsible for knowing the location of the original, or true and exact photocopies, of each of the required worker record, customer contract, and daily registry records.

(d) Each operator of the establishment shall, upon the request by a law enforcement officer when the establishment is open for business, immediately make available for inspection the original, or a true and exact photocopy of each of the required worker record, customer contract and daily registry of records.

(Code 1983, § 11.5-57; Ord. No. J-420, § 1, 4-20-1998)

**Secs. 22-174--22-199. Reserved.**

DIVISION 6. VIOLATIONS AND PROHIBITED ACTS

**Sec. 22-200. Penalty.**

Whoever violates any section of this article may be punished as provided in F.S. § 162.22.

(Code 1983, § 11.5-60; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-201. Operation without valid adult entertainment permit.**

It shall be unlawful for any person to be an operator of an adult entertainment establishment when:

(1) The establishment does not have a valid adult entertainment permit for each applicable classification;

(2) The permit of the establishment is under suspension;

(3) The permit of the establishment has been revoked or canceled; or

(4) The establishment has a permit which has expired.

(Code 1983, § 11.5-61; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-202. Working at unlicensed establishment.**

It shall be unlawful for any person to act as a worker or employee of an adult entertainment establishment that the worker or employee knows or should know does not have a valid permit under this article or which has a permit which is under suspension, has been revoked or canceled, or has expired, or which does not have each applicable adult entertainment permit conspicuously displayed.

(Code 1983, § 11.5-62; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-203. Operation contrary to certain provisions.**

It shall be unlawful for any person to be an operator of an adult entertainment establishment:

(1) Which does not satisfy all of the general requirements set forth in section 22-167(3), (4), (5) or (6);

PROOFS

(2) Which is an adult theater and does not satisfy all of the special requirements of section 22-168;

(3) Which is an adult performance establishment and does not satisfy all of the special requirements of section 22-169;

(4) Which is an adult bookstore and which does not satisfy all of the special requirements of section 22-170;

(5) Which is a sexually oriented business which does not satisfy all of the special requirements of section 22-171;

(6) Which is an escort service and does not satisfy all of the special requirements of section 22-172;

(7) While the entrance or exit to the establishment is locked when a customer is inside the establishment.

(Code 1983, § 11.5-63; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-204. Prohibited acts.**

It shall be unlawful for a worker or employee of an adult entertainment establishment to commit any of the following acts or for an operator of an adult entertainment establishment to knowingly or with reason to know, permit, suffer or allow any worker to commit any of the following acts:

(1) Engage in a straddle dance with a person at the establishment;

(2) Offer, contract or otherwise agree to engage in a straddle dance with a person at the establishment;

(3) Engage in any specified sexual activity at the establishment;

(4) Engage in nudity, as defined in section 22-56 at the establishment;

(5) Display or expose at the establishment specified anatomical areas while such worker is not continuously positioned at least three feet away from all other persons or while such worker or employee is not in an area described in section 22-169(1);

(6) Display or expose specified anatomical areas at an establishment where alcoholic beverages are sold, offered for sale or consumed;

(7) Display or expose any specified anatomical areas while simulating any specified sexual activity with any other person at the establishment;

(8) Engage in a private performance unless such worker or employee is in an area which complies with the requirements of section 22-169(2);

(9) Intentionally touch any person at the adult entertainment establishment, while engaged in the display or exposure of any specified anatomical area;

(10) Intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person; or

(11) Exception. Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any worker, employee or operator of an adult entertainment establishment to expose any specified anatomical area during the worker's, employee's or operator's bona fide use of restroom, or bona fide use of a dressing room which is used and occupied only by other workers, employees or operators.

(Code 1983, § 11.5-64; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-205. Touching of workers or employees prohibited.**

(a) It shall be unlawful for any person in an adult entertainment establishment to intentionally touch a worker or employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.

(b) It shall be unlawful for any person in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of a worker, or to touch the clothed or unclothed body of a worker at any point below the waist and above the knee of the worker.

(c) The entertainment establishment shall prominently display a sign for the benefit of patrons notifying them of the prohibitions set forth in subsections (a) and (b) of this section.

PROOFS

(Code 1983, § 11.5-65; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-206. Advertising prohibited activity.**

It shall be unlawful for an operator of an adult entertainment establishment to advertise, encourage or promote any activity prohibited by this article or any applicable state statute or ordinance.

(Code 1983, § 11.5-66; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-207. Minors prohibited.**

It shall be unlawful for a worker, employee or operator of an adult entertainment establishment to knowingly or with reason to know, permit, suffer, or allow a person under 18 years of age to:

(1) Enter or remain in the establishment;

(2) Purchase goods or services at the establishment; or

(3) Work or perform at the establishment as a worker or employee.

(Code 1983, § 11.5-67; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-208. Failure to maintain required records and permits.**

(a) It shall be unlawful to be an operator of an adult entertainment establishment at which the permit required by division 2 of this article and each record required by division 4 of this article, including every worker record, customer contract and daily registry, have not been compiled, or not maintained, or are not made available for inspection by a law enforcement officer upon request when the establishment is open for business.

(b) It shall be unlawful to be a worker or employee of an adult entertainment establishment who fails to obtain, carry and display upon demand of a law enforcement officer, while working in the adult entertainment occupation, an occupational permit for the adult entertainment occupation in which the worker is engaged.

(c) Exception: It is an affirmative defense of and subsection (b) of this section does not apply to a worker of an adult entertainment establishment who is a paid employee for whom taxes and Social Security payments are withheld and paid to the federal government by the adult entertainment establishment, and who is not an independent contractor, except any employee or is an escort working away from the establishment premises who shall then be required to obtain, carry, and display to law enforcement officers, upon demand, a copy of the adult entertainment permit of the employing escort service.

(Code 1983, § 11.5-68; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-209. Exceeding occupancy limit of adult booth.**

It shall be unlawful for any person to occupy an adult booth in which booth there are more people than are specified on the posted sign required by section 22-168.

(Code 1983, § 11.5-69; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-210. Hours of operation.**

It shall be unlawful between the hours of 2:00 a.m. and 9:00 a.m. of any day for:

(1) An operator of an adult entertainment establishment to allow such establishment to remain open for business, or to allow, suffer or permit any worker or employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service;

(2) A worker or employee of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service.

(Code 1983, § 11.5-70; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-211. Alteration of permit.**

It shall be unlawful for any person, except the department, to alter or otherwise change the contents or appearance of an adult entertainment establishment permit.

(Code 1983, § 11.5-71; Ord. No. J-420, § 1, 4-20-1998)

PROOFS

**Sec. 22-212. False or misleading statement in required documents.**

(a) It shall be unlawful for any person applying for an adult entertainment establishment permit pursuant to division 2 of this article to make a false or misleading statement or provide false or misleading information which is intended to facilitate the issuance of the permit on the application required by section 22-90.

(b) It shall also be unlawful for any person to provide false or misleading information in the monthly reports as required by section 22-167 or in the worker record as required in section 22-173, or the customer contract and daily registry records required by section 22-171.

(Code 1983, § 11.5-72; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-213. Solicitation or personal advertising.**

It shall be unlawful for any worker of an adult entertainment establishment while situated outside any structure of the adult entertainment establishment, or other place that the adult entertainment establishment where the worker is visible from any public right-of-way or sidewalk, to display or expose specified anatomical areas or to engage in personal advertising, pandering or solicitation, whether passive or otherwise, on behalf of the worker, and the other worker, or the adult entertainment establishment. The term "personal advertising," for the purpose of this section, means encouraging or enticing, by whatever direct or indirect means, potential customers beyond the adult entertainment establishment to enter the adult entertainment establishment. Additionally, it shall be unlawful for an operator or any worker or employee to suffer, permit or allow any door that is visible from a public right-of-way or sidewalk to be opened or to be remained opened except when a person is entering or exiting the establishment.

(Code 1983, § 11.5-73; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-214. Allowing customers to engage in specified sexual activity.**

It shall be unlawful for a worker of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer, entice or allow a customer to engage in any specified sexual activity at the establishment while remaining in the presence of the worker or employee.

(Code 1983, § 11.5-74; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-215. Prohibited acts by customers at sexually oriented businesses.**

It shall be unlawful for any customer of a sexually oriented business to do any of the following acts or for a worker or operator of a sexually oriented business to knowingly suffer, permit, aid, assist or allow a customer to do any of the following acts:

(1) Touch, massage, or manipulate directly, or indirectly, the body of any worker or employee of the sexually oriented business, or other customers;

(2) Touch, massage, or manipulate, display or expose any of the customer's own specified anatomical areas; or

(3) Engage in any specified sexual activity while in the presence of a worker or employee of the sexually oriented business.

(Code 1983, § 11.5-75; Ord. No. J-420, § 1, 4-20-1998)

**Sec. 22-216. Prohibited acts by escort service workers.**

It shall be unlawful for a worker of an escort service to commit any of the following acts or for an operator of an escort service to knowingly or with reason to know, permit, suffer, aid, assist or allow any employee or escort service worker to commit any of the following acts:

(1) Enter a hotel, motel or other transient place of lodging for the purpose of meeting or serving a customer without immediately meeting with the front desk or reception area personnel and doing each of the following:

a. Provide the time of arrival and the estimated time of departure;

b. Present a copy of the escort services adult entertainment permit and the escort's occupational permit;

PROOFS

c. Identify himself, identify the escort service that sent him, state the name of the customer he is meeting or servicing, and the location of the meeting, including any applicable room number, and notify the front desk or the reception area personnel upon departing the premises;

(2) Distribute, place, post or leave any unsolicited business cards, advertisement, or promotional material on or within the premises of any other business;

(3) Begin a meeting or service with a customer between 10:00 p.m. any day of the week and 9:00 a.m. of the following day;

(4) Begin a meeting or service with a customer without first meeting said customer in a public place such as a bar or a restaurant before accompanying the customer to any place which is not opened and occupied by the public, such as a hotel room or residence;

(5) Display or expose specified anatomical areas to a customer of an escort service;

(6) Require, entice or solicit a customer to remove any item of clothing;

(7) Solicit a tip or gratuity from a customer in exchange for a promise or suggestion of any act or enhanced service.

(Code 1983, § 11.5-76; Ord. No. J-420, § 1, 4-20-1998)

**Secs. 22-217--22-240. Reserved.**

## ARTICLE IV. LATE NIGHT RETAIL STORES

**Sec. 22-241. Definitions.**

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

*Employee* means the person or persons, corporation, partnership, joint venture or group enterprise legally responsible for the day-to-day operation of the late night retail store.

*Late night retail store* means a business establishment that:

(1) Derives 50 percent or more of its gross income from the sale on the premises of goods, merchandise, fuel, or other article of value in their original containers; or

(2) Offers to walk-in customers a limited quantity and variety of food, household and sundry items, or gasoline; and

(3) Is open for business to the public at any time between the hours of 11:00 p.m. and 7:00 a.m.

*Owner* means the person, corporation, partnership, joint venture or other group enterprise having lawful possession of the premises upon which the late night retail store is operated.

(Code 1983, § 9-366; Ord. No. I-329, § 1, 6-5-1989)

**Sec. 22-242. Penalties.**

(a) Violation of any of the sections of this article is subject to the powers of the special magistrate.

(b) The city may obtain injunctive relief to restrain or prohibit any violation of this article.

~~(c) The occupational license for any establishment may be revoked by the city commission upon proof of willful violation of this article.~~

(Code 1983, § 9-371; Ord. No. I-329, § 6, 6-5-1989; Ord. No. 17-017, § 8, 6-5-2017)

**Sec. 22-243. Regulations.**

All late night retail stores as defined above shall comply with the following regulations:

(1) During the hours from 11:00 p.m. until closing or 7:00 a.m., whichever event occurs first, there shall be a minimum of two employees who are continuously on duty on the premises.

(2) No sign, display, merchandise, or window tinting shall be placed on or adjacent to any window which

PROOFS

would interfere with a clear and unobstructed view of the interior of the establishment from the outside and of the cash register from the street.

(3) A silent alarm system shall be installed and in operation. Said system shall be able to be activated by an employee without detection by another person. Such system shall be able to notify the 911 communications center of trouble by generating a signal at the 911 communications center.

(4) The cash register area for recording sales transactions shall be in the front of the store so that the clerk and customers are clearly visible from the street at the time of the sales transaction.

(5) At least one conspicuous sign shall be posted in the front window or door which states that the cash register has $50.00 or less in it.

(6) No more than $50.00 cash shall be available and readily accessible to any employee.

(7) A drop safe or time-release safe shall be on the premises and be bolted to the floor, installed in the floor, or weigh at least 500 pounds.

(8) A conspicuous sign shall be posted which states that there is a safe in the store and that it is not accessible to employees.

(9) The entire outside area of the late night retail store utilized by customers for parking shall be lighted and maintained at two footcandles per square foot. The level of light shall be measured five feet above the surface of the parking area.

(10) A security camera, of a type and number approved by the chief of police, shall be installed and in operation. Said camera must be capable of producing a retrievable image on film or tape that can be made a permanent record and that can be enlarged through projection or other means. Cameras meeting the requirements of this subsection shall be maintained in proper working order at all times and shall be subject to periodic inspection by the police department or code enforcement officer.

(11) Any owner or employee who works between the hours of 11:00 p.m. and 7:00 a.m. in a late night retail store shall complete a course of program in robbery prevention certified by the city police department within 90 days after commencement of employment.

(Code 1983, § 9-367; Ord. No. I-329, § 2, 6-5-1989)

**Sec. 22-244. Inspections and compliance.**

A city police officer and/or a city code enforcement officer shall have the right to inspect all late night retail establishments subject to this article to determine compliance. The police officer and/or code enforcement officer may take appropriate action for any establishment not in compliance.

(Code 1983, § 9-368; Ord. No. I-329, § 3, 6-5-1989)

**Sec. 22-245. Self-contained pay booths.**

In lieu of meeting the requirements of section 22-243, subject retail establishments may construct self-contained pay booths which shall contain the following:

(1) Bullet-resistant windows;

(2) Bullet-resistant walls;

(3) Bullet-resistant doors;

(4) Bullet-resistant through-the-wall security transaction drawers;

(5) An alarm system as provided in section 22-243(3);

(6) A safe as provided in section 22-243(7);

(7) Telephones;

(8) Restrooms;

(9) Self-contained air conditioning and heating system;

PROOFS

(10) Intercom system linking cashiers with customers at the cashier counter. Bullet-resistant materials are to be approved by the chief of police.

(Code 1983, § 9-369; Ord. No. I-329, § 4, 6-5-1989)

**Sec. 22-246. Audiovisual monitoring systems.**

In lieu of meeting the requirements of section 22-243(1), (3) and (10) or section 22-245, subject retail establishments may install an audiovisual monitoring system which allows security personnel live access to the operation 24 hours a day. Such live access must be capable of being triggered either by an employee or by the remote security monitoring service, without detection by a customer. Such systems shall be maintained in proper working order at all times and shall be subject to approval and periodic inspections by the police department and/or code enforcement officer.

(Code 1983, § 9-370; Ord. No. I-329, § 5, 6-5-1989)

**Secs. 22-247--22-270. Reserved.**

## ARTICLE V. FLEA MARKETS

**Sec. 22-271. Definitions.**

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

~~For the purpose of this division:~~

*Flea market* means any location where an operator rents stalls, units, sections, spaces, booths or other operator designated areas which are utilized by tenants for the purpose of selling, buying, bartering or trading new, used or secondhand articles or tangible personal property. Such location shall be kept in an enclosed building or structure.

*Operator* means any person, partnership or corporation engaged in the business of managing or owning a flea market.

(Code 1960, § 20-26; Code 1983, § 9-176; Ord. No. I-120, § 5, 7-15-1985)

~~**Sec. 9-177. Applicability of certain sec.s.**~~

~~Section 9-164, prohibiting sales on Sundays or at night, shall not apply to flea market operations. All other provisions of this chapter shall apply to flea market operations except as provided otherwise herein.~~

~~Section 22-60(a)(3), Off-street parking and loading, shall apply to flea market operations.~~

~~(Code 1960, § 20-28; Code 1983, § 9-177; Ord. No. I-120, § 6, 7-15-1985; Ord. No. J-109, § 1, 7-19-1994)~~

**Sec. 22-272. License.**

The operator of a flea market shall pay an annual license fee ~~of two hundred dollars ($200.00)~~ in the amount established by resolution. Each tenant of the flea market operating a stall, unit, section, space or booth therein shall obtain ~~a license~~ business tax receipts and shall pay a fee ~~as provided by section 9-30~~ in the amount established by resolution.

(Code 1960, § 20-27; Code 1983, § 9-178; Ord. No. I-120, § 1, 7-15-1985)

**Sec. 22-273. Maintenance of property.**

A flea market operator shall be responsible for policing the area where the flea market is located and maintaining the flea market property in a clean, orderly manner so as not to create or maintain a nuisance. ~~A flea market may be located as a conditional use in the following zones: C-3 and C-4. No accessory uses shall be permitted.~~

(Code 1960, § 20-29; Code 1983, § 9-179; Ord. No. I-120, § 2, 7-15-1985)

~~**Sec. 9-180. Nonconforming flea markets.**~~

~~Where, at the effective date of adoption of this chapter any flea market otherwise lawful is no longer permissible as a result of such adoption or amendment then, in that event, any such flea market will be permitted to~~

PROOFS

~~remain in operation for a period of three years' time from the effective date of the adoption or amendment which made such flea market nonconforming. During the period of permitted nonconformity a flea market may not be changed or expanded in any manner which increases its nonconformity.~~

~~(Code 1983, § 9-180; Ord. No. I-120, § 7, 7-15-1985)~~

**Secs. 22-274--22-294. Reserved.**

## ARTICLE VI. GARAGE SALES

**Sec. 22-295. Definition.**

For the purpose of this article, the term "garage sale" means the sale or offering for sale to the general public of over five items of personal property on any property of a lot in a residential zoning district, within or outside any building.

(Code 1983, § 9-334; Ord. No. I-86, § 1, 11-19-1984)

**Sec. 22-296. Regulation.**

(a) The garage sale will be held only during daylight hours and may not last in excess of three consecutive days.

(b) Goods offered for sale shall be exhibited or displayed no closer than ten feet from the edge of the front street or within ten feet of any property line.

(c) No more than four garage sales during a calendar year is permitted on the same lot or any portion thereof except that one additional sale per year may held if the sale:

(1) Results from the resident of that dwelling or lot moving from that lot to another dwelling or lot; or

(2) Is conducted by or through the estate or legal guardian of the resident of that dwelling unit or lot.

(Code 1983, § 9-332; Ord. No. I-86, § 1, 11-19-1984)

**Secs. 22-297--22-325. Reserved.**

## ARTICLE VII. JUNKYARDS

**Sec. 22-326. Definition.**

For the purpose of this article, the term "junkyard" ~~as used in this article shall be~~ means a place, structure, lot or parcel of land where junk, waste, discarded, salvaged or similar materials, such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are brought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, housewrecking yards and yards or places for storage or handling of salvaged house-wrecking and structural steel materials. The term "junkyard" includes pawnshops and establishments for the sale, purchase or storage of usable secondhand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances, ~~nor shall it~~ shall not apply to the processing of used, discarded or salvaged materials as part of manufacturing operations.

(Code 1960, § 13A-1; Code 1983, § 16-66)

~~**Sec. 16-67. Existing junkyards.**~~

~~*General.* Since it is the intent of this article to minimize the extension of nonconforming uses and to look to their possible eventual elimination, any junkyard existing and operating as a nonconforming use in any district on May 4, 1964, shall be allowed to continue its operations subject to this section and all other applicable provisions of this Code and the city charter.~~

~~*Area.* The area used for the operation of such junkyard shall not be increased at any time or under any circumstances.~~

~~*Buildings.* No additional permanent buildings shall be erected and no presently existing permanent buildings shall be structurally altered to increase their bulk or square footage area.~~

~~*Setback lines.* No automobile not in running order or any other junk or scrap of whatsoever character~~

PROOFS

~~shall at any time be located for storage, dismantling or any other purpose within seventy five (75) feet of any boundary of any residential district, within fifty (50) feet of the front street line, within 30 feet of any side street line, nor within 30 feet of any other property line of the lot being so used. It is the intent of this article that where such autos, junk or scrap are presently so located, the owner or operator of the junkyard must conform to the provisions of this subsection.~~

~~*Screening of premises; erection, maintenance.* The area occupied by the junkyard shall be entirely surrounded by a substantial, continuous masonry fence or wall eight (8) feet in height, or by vegetative screening. The fence shall meet the requirements of subsection 16-69(d), and the procedure there outlined for approval of the plans for such fence shall be followed. It is the intent of this article that the time period allowed for the erection of the fence is reasonable and that the requirement of such fence is necessary to accomplish the purpose of this article.~~

~~(Code 1960, § 13A-3; Code 1983, § 16-67)~~

**~~Sec. 16-68. Junkyards operated as nonconforming use.~~**

~~Within five years from May 4, 1964, junkyards, as defined in this article, which are now being operated as a nonconforming use in any district, shall cease operations.~~

~~(Code 1960, § 13A-4; Code 1983, § 16-68)~~

**Sec. 22-327. Requirements.**

(a) *General.* Junkyards established after May 4, 1964, shall meet the provisions of this section and all other applicable provisions of this Code and the Charter.

(b) *Area.* The minimum area of land to be so used shall not be less than 40,000 square feet and the maximum area shall not exceed 200,000 square feet.

(c) *Setback lines.* No automobile or vehicle not in running order or any other junk or scrap of whatsoever character shall at any time be located for storage, dismantling or any other purpose within 75 feet of any boundary of any residential district, within 50 feet of the front street line, within 30 feet of any side street line nor within 30 feet of any other property line of the lot or parcel of land to be so used.

(d) *Screening of premises; erection, maintenance.*

(1) The area to be occupied by the junkyard shall be entirely surrounded by a substantial, continuous masonry fence or wall eight feet in height, or by vegetative screening. Such fence or wall shall be of similar composition, construction and color throughout, and shall be constructed without openings, except for one entrance and one exit, such entrance and exit to be equipped with unpierced gates. Such gates shall be closed and securely locked at all times, except during business hours. Plans for such fence or wall shall be submitted to the city planning board, which shall determine whether or not the proposed fence will meet the requirements of this article. No building permit shall be issued for the construction of such fence or wall until the approval of the planning board has been secured. Such fence shall be maintained in good order and shall not be allowed to deteriorate.

(2) If vegetative screening is to be substituted for such fence or wall, plans for such screening shall be submitted to the planning board. Such vegetative screening shall consist of a greenbelt strip not less than 20 feet wide where it adjoins another lot line, nor less than ten feet wide where it adjoins a street line. The greenbelt shall be composed of at least one row of deciduous or evergreen trees and one or two rows of shrubs. The planning board shall approve or disapprove such request for vegetative screening. The vegetative screening shall be cared for and maintained in a husbandman-like manner by the operator of the junkyard.

(Code 1960, § 13A-2; Code 1983, § 16-69)

PROOFS

**Secs. 22-328--22-357. Reserved.**

## ARTICLE VIII. VENDORS, SOLICITORS AND CANVASSERS

### DIVISION 1. GENERALLY

**Sec. 22-358. Definitions.**

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

~~As used in this article:~~

*Canvasser, vendor* or *solicitor* means any individual soliciting or traveling either by foot, or conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at said time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

*Commissary* means a state-approved facility that provides support services for specific required functions to any mobile food vendor, including, but not limited to, a mobile food vehicle or a mobile food cart. Services required of the commissary are based upon the food sold and the mobile food vendor type. A private residence may not be used as a commissary.

*Forcible felony* means treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing or discharging of a destructive device or bomb, and any other felony which involves the use ~~of~~ threat of physical force or violence against an individual. See F.S. § 776.08.

*Itinerant retail produce vendor* means any person going from place to place who engages in a business, by selling or offering for sale to consumers, any seafood, peanuts, fruit, vegetables, or other garden produce, which are sold in their whole, natural and unaltered state.

*Mobile food dispensing vehicle (MFDV)* means a vehicle-mounted public food service establishment, self-propelled or otherwise movable from place to place. Such vehicles must be self-sufficient for utilities (e.g., gas, water, electricity, and liquid waste disposal). Each MFDV is required to have a state approved commissary that they report to at least once a day. MFDVs may also be referred to as mobile food establishments.

*Hot dog carts* mean MFDVs that limit food preparation to hotdogs and sausages only and the sale of limited pre-packaged food.

*Ice cream vendors* mean MFDVs that limit food sales to pre-packaged individually portioned frozen novelties, soft served or hand dipped frozen dairy products or frozen water based products.

*Lunch trucks* mean MFDVs that are transient in nature and specifically authorized to cater to customers on private commercial or industrial property for a short period of time not to exceed 60 minutes.

*Mobile food carts* mean any non-motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.

*Mobile food vehicles* mean any motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.

*Mobile merchant sales* mean and include any vendor selling non-food products.

*Mobile merchant vehicle* means any vehicle mounted establishment, which is self-propelled or otherwise movable from place to place, utilized for mobile merchant sales.

*Place of business* means and includes any mixed use districts, industrial or commercial zoned off-street location, lot, or premises where any truck, wagon, automobile, trailer, cart, or vehicle is parked, with written permission from the property owner, wherein there shall be kept for sale, or to be offered for sale, any prepared food, beverages, fruit, vegetable, or garden produce.

*Seasonal sales vendor* means outside vendors of products traditionally associated with seasonal sales or

PROOFS

holidays.

(Code 1983, § 9-76; Ord. No. 14-019, § 1, 9-15-2014; Ord. No. 17-004, § 1, 2-21-2017)

**Sec. 22-359. Penalties.**

(a) Unless otherwise stated, violations of this article are class II violations as defined in section 1-106 and shall be addressed as provided for in chapter 1, article II, division 3.

(b) Permits issued under the provisions of this article may be revoked by the city clerk after notice for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for permit;

(2) Fraud, misrepresentation or false statement made in the course or conduct of a business or activities for which the city has issued a permit under this article;

(3) Two or more violations of this article;

(4) Operating outside vending locations approved under the permit issued;

(5) Conducting the business of soliciting, canvassing or vending in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public; or

(6) Failure to comply with any conditions included in the permit.

(Code 1983, § 9-95; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-360. Duty to enforce.**

It shall be the duty of any police officer or code enforcement officer of the city to enforce the provisions of this article against any person found to be violating the same.

(Code 1983, § 9-77; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-361. Records.**

All violations of this article shall be reported to the code ~~enforcement department, who~~ compliance division, which shall maintain a record for each permit issued and record the reports of violations therein.

(Code 1983, § 9-78; Ord. No. 14-019, § 1, 9-15-2014)

~~**Sec. 9-79. Prohibited acts.**~~

~~It shall be unlawful for any person to enter upon any private premises without permission or invitation from the occupant or homeowner.~~

~~It shall be unlawful for any solicitor, canvasser or vendor to refuse or fail to leave any private premises in the city upon being requested by the owner, occupant or person in charge thereof.~~

~~No solicitor, canvasser or vendor shall enter in or upon any house, building or other structure or upon any land or property, without the prior consent of the owner or occupant thereof, where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not desire persons engaged in such or similar activity to enter upon the premises.~~

~~No solicitor, canvasser or vendor shall conduct themselves or their business in an unlawful manner or in such manner as to constitute a breach of peace, offensive to public decency or menace to the health, safety or general welfare of the public in violation of F.S. § 877.03.~~

~~(Code 1983, § 9-79; Ord. No. 14-019, § 1, 9-15-2014)~~

PROOFS

**Secs. 22-362--22-380. Reserved.**

DIVISION 2. PERMIT

**Sec. 22-381. Permit.**

(a) It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right-of-way or private property in the city, without first securing a permit and paying the annual permit fee, such fee to be set by resolution of the city commission. Such fees and the maximum number of permits for commercial zoned districts to be set by resolution of the city commission.

(b) Permits shall be for a term of 12 months, beginning on October 1 and expiring on September 30 of the following year.

(c) Existing businesses, otherwise in compliance with all state and local code, are eligible for a single reduced fee vendor permit, to be utilized in the same name as it currently operates under.

(d) Violations of this section shall be a Class III violation.

(Code 1983, § 9-80; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-382. Application.**

Applicants for permit under this article must file with the city clerk a sworn application in writing which shall give the following information:

(1) Name of the applicant.

(2) Permanent home address and valid telephone number of the applicant.

(3) A brief description of the nature of the business and the goods, food or beverages to be sold.

(4) E-mail address of the applicant.

(5) The address of the planned vending site, including the property owner's name and telephone number.

(6) For mobile food dispensing vehicles:

a. Copy of current license from the state department of business and professional regulation or department of agriculture.

b. Copy of the vehicle or unit plans as submitted to the state department of business and professional regulation or department of agriculture.

c. Copy of the notarized commissary agreement as submitted to the state department of business and professional regulation or department of agriculture.

(7) For mobile merchant sales, submit a plan of the proposed vehicle or unit.

a. The plan does not need to be drawn by a professional, but must be to scale and clear for review.

b. The plan should show both a top view and front view of the vehicle or unit.

c. The plan should include, but is not limited to, all equipment, shelving, windows, wheels, umbrellas, or awnings.

(8) Copy of a valid vehicle registration for any motorized unit.

(9) For use of any private mixed use district, industrial or commercial property, a limited site plan must be submitted.

a. The plan does not need to be drawn by a professional, but must be to scale and clear for review. A general survey or sketch will be acceptable. For large properties, only a drawing of the immediate area is required.

b. The plan must show all existing structures or significant features.

c. Diagram of all available parking, identifying both required parking and additional parking spaces and proposed location of unit.

PROOFS

d. Identify appropriate setbacks for accessory structures.

e. A notarized affidavit of permission to vend from the property owner, if different from the applicant.

(10) For door-to-door solicitors or vendors:

a. If employed, the name and address of the employer, together with credentials establishing the exact relationship.

b. The length of time for which the right to do business is desired.

c. Minors conducting home solicitation sales under the supervision of an adult, or solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or other nonprofit organization are exempt from this section.

(11) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(12) Photographs of the vehicle or unit, showing front, side and back views.

(13) A sworn affidavit as to whether or not the applicant has been convicted of any felony and the nature of the offense.

(14) Proof of general liability insurance, such proof in a form acceptable to the city, issued by an insurance company that is licensed to do business in the state, protecting the applicant from all claims for damages to property or bodily injury, including death, which may arise from operations under or in connection with mobile vending.

(15) For all motorized mobile vending units, proof of auto liability insurance, such proof in a form acceptable to the city, issued by an insurance company that is licensed to do business in the state, protecting the applicant from all claims for damages to property or bodily injury, which may arise from the use of a motor vehicle in connection with mobile vending and shall be in an amount no less than $500,000.00 per occurrence.

(16) Any permit application and/or review fee that may be assessed by resolution of the city commission.

(Code 1983, § 9-91; Ord. No. 14-019, § 1, 9-15-2014; Ord. No. 17-004, § 2, 2-21-2017)

**Sec. 22-383. Issuance.**

(a) The city clerk may revoke, suspend, or deny the issuance of any vendor's ~~license~~ permit if it is determined that an applicant has:

(1) Been convicted of a felony within two years prior to the date of application.

(2) Has ever been convicted of a "forcible felony," child abuse or any sexual offense.

(3) Has been placed on the state's sexual offenders or sexual predators lists.

(4) Has obtained a permit by fraud, false statement, misrepresentation, or failure to truthfully answer any question in the required permit application.

(5) Has failed to obtain required approvals from the state or obtain a city business tax receipt.

(6) Has failed in any material respect to comply with the provision of section 22-382.

(b) Not later than 30 days after the filing of a completed application for a vendor's license, the applicant shall be notified by the city clerk's office of the decision on the issuance or denial of the license. If the issuance of the license is approved, the city clerk shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be entered in writing on the application. Failure of the city clerk to place notification of said decision in the mail or personally notify the applicant with acknowledgment shall require immediate issuance of the requested license to the applicant.

(Code 1983, § 9-92; Ord. No. 14-019, § 1, 9-15-2014)

PROOFS

**Sec. 22-384. Fees.**

(a) All fees required for permit application review and the annual permit fee shall be established by resolution by the city commission.

(b) Permit fees collected under this article are fees paid for the purpose of defraying the cost of administration of this article and are declared to be regulatory fees in addition to and not in lieu of the business tax receipt imposed by section 22-19. The payment of a permit fee under this article shall not relieve any person of liability for and the responsibility of paying a business tax where it is required by section 22-19 and for doing such acts and providing such information as may be required by this article.

(Code 1983, § 9-93; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-385. Exhibition of permit.**

Approved vendors of food or merchandise are required to exhibit their permits at all times in a prominent location, no lower than 40 inches and no higher than 65 inches above the ground. Approved canvassers or solicitors must show their permit upon the request of any person being solicited or by any representative of the city.

(Code 1983, § 9-94; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-386. Appeal.**

Any person aggrieved by the denial or revocation of a permit as provided in this article shall have the right to appeal to the city manager. Such appeal shall be taken by filing with the city manager's office, within 14 days after notice of the action complained of has been mailed to such person's last-known address, a written statement setting forth specifically the ground of the appeal. The city manager shall set a date and the time and place of hearing of such appeal. Such notice shall be mailed, postage prepaid, to the licensee at his last-known address at least five days prior to the date set for hearing. The decision and order of the city manager on such appeal shall be final and conclusive.

(Code 1983, § 9-96; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-387. Request for waiver.**

Any person who wishes to obtain a mobile vending permit that does not comply with subsection 22-418 of this article must petition the city commission for a waiver.

(1) Application for a waiver shall be made by the owner of the property and applicant where the waiver is requested by filing an application on a form prescribed by the city and submitted to the city clerk's office.

(2) The applicant is responsible for submitting the waiver request fee, which shall be set by resolution as well as all advertising costs.

(3) The city commission shall hold a public hearing prior to acting on the waiver request.

(4) Before consideration of a request for waiver by the city commission, public notice shall be given as follows:

   a. At least 15 days prior to public hearing, notice thereof shall be given in a newspaper having general circulation in the city.

   b. Notice by mail. Before a public hearing required by this article takes place for a waiver, notice by mail shall be given to each owner of the property located, or having any part thereof situated within 500 feet of any point of the property for which the request has been made and to the owner of the property for which the request has been made.

   c. All notices by mail shall contain the legal description of the affected property, an indication of the nature of the request, and time and place of any public hearing which has been scheduled concerning the request.

(5) In permitting a waiver, the city commission may impose, in addition to those standards and requirements expressly specified in this article, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

PROOFS

(Code 1983, § 9-97; Ord. No. 14-019, § 1, 9-15-2014; Ord. No. 17-004, § 3, 2-21-2017)

**Secs. 22-388--22-417. Reserved.**

DIVISION 3. MOBILE VENDING

**Sec. 22-418. General regulations.**

(a) The telephone number included on the permit application must remain valid and active at all times. The vendor is responsible for notifying the city of any changes to their contact information.

(b) Mobile vending units must comply with the following minimum distance requirements, which shall be measured from the approved vending location to the nearest point of an established property line:

(1) 300 feet from a school, church, or any city or county park.

(2) 1,000 feet from an approved special event.

(c) Mobile vending units must comply with the following requirements:

(1) May not block the ingress/egress to any property, sidewalk or street.

(2) May not block or impede pedestrian or vehicular traffic.

(3) May only operate at the approved location, clearly identified on the permit.

(4) ~~May have one advertisement sign with a maximum size of 16 square feet. Such sign may not be free standing, illuminating, moving, flashing or utilizing neon color typically reserved for emergency services. Such restriction to be separate from any business name, decal or logo professionally installed on any motorized MFDV.~~

(5) May have one menu sign with a maximum size of nine square feet.

(6) No amplified sounds, music or other loud noises, except as provided for in section 22-420, ice cream vendors.

(7) A trash receptacle must be provided and must be removed by the operator daily. Trash may not be placed within public street side trash receptacles.

(8) Mobile vendors are responsible for picking up all litter and waste within 25 feet of their unit.

(9) No wastewater leakage or any other leakage is allowed.

(10) A single umbrella is permitted provided it is maintained in good condition and does not impede traffic or block clear vision areas.

(11) ~~It shall be unlawful to place any chair, table, box, crate, stand, counter or shelving independent from the approved~~ mobile vending unit.

(12) No mobile vending unit shall remain at approved location for more than three consecutive days.

(13) A temporary use permit, pursuant to section 125-320, shall not be required if a vendor permit under this article is issued.

(Code 1983, § 9-111; Ord. No. 14-019, § 1, 9-15-2014; Ord. No. 17-004, § 4, 2-21-2017; Ord. No. 19-042, § 1, 10-21-2019)

**Sec. 22-419. Itinerant retail produce vendor.**

(a) Every person who engages in the business of an itinerant retail produce vendor within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to this division.

(b) A business tax receipt is not required for itinerant retail produce vendors.

(c) All products and produce offered for sale under this article must be clean, wholesome and in good sanitary condition and their state and condition shall comply with the pure food laws of the state.

(d) Itinerant retail produce vendors are permitted to vend from any truck, wagon, automobile, trailer or other vehicle provided that the vehicle is properly registered with the state. A copy of such registration shall be submitted

PROOFS

with the permit application.

(e) All other regulations as outlined in section 22-418 shall apply.

(Code 1983, § 9-112; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-420. Ice cream vendors.**

(a) *General.* The rules in this section shall apply to each person lawfully permitted as an ice cream vendor.

(b) *Prohibited sales.* It shall be unlawful for any ice cream vendor to sell or attempt to sell any commodity:

(1) By means of any outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than 300 feet, or when passing a hospital, church or other place of worship during the hours when services are being held.

(2) Within 500 feet of any school during the school year.

(c) *Noise—Vehicle stopped.* It shall be unlawful for any such vendor to use, play or employ the use of any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loudspeaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale.

(d) *Noise—Hours.* The use by the vendor of any such noise, instrument or device which emits a loud sound shall be prohibited before the hours of 9:00 a.m. on weekdays and 1:00 p.m. on Sundays, or after 7:00 p.m. on any day.

(e) *Traffic.* It shall be unlawful for any vendor to:

(1) Exceed a speed of 15 miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale.

(2) Stop anywhere within 25 feet of an intersection when making a sale or attempting to make a sale.

(3) Double-park, or park in any manner contrary to any ordinance relating to parking, when attempting a sale or when making a sale.

(4) Make a U-turn on any block in a residential zone.

(5) Drive his vehicle backwards to make or attempt to make a sale.

(6) Sell to any person who is standing in the street.

(7) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant.

(8) Remain standing or stopped at any place for a period of time exceeding five minutes.

(9) Sell or attempt to sell along any particular route more than one time during a 24-hour period.

(Code 1983, § 9-113; Ord. No. 14-019, § 1, 9-15-2014)

**Sec. 22-421. Seasonal sale vendors.**

The rules of this section shall apply to each person lawfully permitted as a seasonal sales vendor.

(1) Every person who engages in the business of seasonal sales within the corporate limits of the city, before engaging in such business, shall apply for and obtain a mobile vending permit from the city pursuant to this division.

(2) Tents or canopies larger than 900 square feet or as required under section 103-2 are prohibited, unless a supplemental tent permit is obtained. Application for such permit shall be made with the building department. A sketch of the property showing the location of the tent or canopy on the property and a certificate of flame resistance shall be required to be submitted with the application.

(3) Seasonal sales permits will be issued no sooner than 30 days prior to the associated holiday and shall expire seven days following the holiday.

(Code 1983, § 9-114; Ord. No. 14-019, § 1, 9-15-2014; Ord. No. 17-004, § 5, 2-21-2017)

PROOFS

**Secs. 22-422--22-440. Reserved.**

## ARTICLE IX. VEHICLES FOR HIRE

### DIVISION 1. GENERALLY

**Sec. 22-441. Definitions.**

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

~~The following words and phrases when used in this article shall have the meanings set out herein:~~

*Applicant* means an individual, partnership, association, or corporation who applies for a permit, pursuant to the terms of this article. In the case of partnerships, associations, and corporations, the term "applicant" also means each individual with a partnership interest, each associate and the corporate officers and director.

*Certificate* means the written authority granted by the city commission or city clerk, to the holder thereof, to engage in providing public transportation services in the city.

*Chauffeur* means a duly licensed driver registered with the city to operate a motor vehicle.

*Compensation* means a return in money, property, or anything of value.

*Motor carrier* means an individual, partnership, association, corporation, or other entity that owns, controls, operates, exercises dominion over, or manages any motor vehicle, as defined herein, and which holds itself out as engaged in the business of providing passenger transportation services to the public for compensation.

*Motor vehicle* or *vehicle* means every vehicle or machine of 15-passenger capacity or less, excluding the driver, propelled by other than muscular motive power, used upon the public streets for public passenger transportation, including, but not limited to:

*Limousine* means any motor vehicle that is engaged for the exclusive use of the passenger, which provides seating accommodations for not less than six and not more than eight passengers, exclusive of the driver, and where the route or destination is controlled by the passenger.

*Taxicab* means a motor vehicle designated to accommodate not more than five passengers, exclusive of the driver, operated for compensation and the route or destination is controlled by the passenger therein.

*Van* means any motor vehicle which provides seating accommodations for not less than nine and not more than 15 passengers, exclusive of the driver, operated for compensation, and the route or destination is controlled by the passenger therein.

*Operator* means the holder of a permit or certificate of transportation issued pursuant to this article.

*Street* means any public street, avenue, road, boulevard, alley, lane, highway, sidewalk, public park, viaduct, or other public place located within the city limits.

(Code 1960, § 27-1; Code 1983, § 9-221; Ord. No. 16-021, § 2, 10-17-2016)

**Secs. 22-442--22-465. Reserved.**

### DIVISION 2. CERTIFICATION

**Sec. 22-466. Certificate of transportation.**

(a) It shall be unlawful for any motor carrier to use, drive, or operate or to cause or permit any person to use, drive, or operate any motor vehicle upon the streets within the city limits without first obtaining a certificate of transportation pursuant to the provisions of this division; provided, however, that this section shall not apply to the following:

(1) Discharge of any passenger picked up outside the city limits, provided that the pickup and carriage of such passenger was legally authorized.

(2) Operation under a valid certificate of public convenience issued by the interstate commerce commission.

PROOFS

(3) Operation of a limousine by licensed embalmers, morticians, or funeral directors, or their employees, for purposes directly related to funerals.

(4) Operation of privately-owned buses engaged in intercity transportation, but only to the extent required by F.S. § 341.102.

(5) Operation of a motor vehicle under a valid certificate of public convenience and necessity issued by the city.

(6) Motor vehicles owned, or operated through contract, by the city providing local or special public transit services.

(7) Ambulances and other emergency vehicles operated by the county fire district for purposes of medical transport.

(8) Ambulances and other vehicles required to be licensed under the provisions of F.S. ch. 401~~ and/or chapter 121~~.

(9) Federal, state, county, or municipal vehicles when operated by a government employee providing transportation services without compensation.

(10) Motor vehicles used for the transportation of passengers between the vicinity of their respective residences and the vicinity of their respective places of work when driven by a person travelling between his residence and his place of work in an arrangement commonly referred to as a carpool or vanpool.

(11) Vehicles operated by a governmental agency.

(12) Vehicles owned and operated by hotels and motels which provide transportation services for their guests only, for which the guest does not incur a separate charge.

(b) There are hereby created two classes of certificates of transportation.

(1) *Class A.* A Class A certificate of transportation shall be required for any individual, partnership, association, corporation, or other entity that owns, controls, operates, exercises dominion over, or manages any motor vehicle which holds itself out as engaged in the business of providing passenger transportation services to the public for compensation.

(2) *Class B.* A Class B certificate of transportation shall be required for any individual employed or contracted as a chauffeur by an individual, partnership, association, corporation, or other entity that owns, controls, operates, exercises dominion over, or manages any motor vehicle which holds itself out as engaged in the business of providing passenger transportation services to the public for compensation.

(c) Any certificate issued pursuant to the provisions of this division shall be valid for one year only and shall expire on September 30 of each year.

(Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-467. Application; contents; investigation.**

(a) Application for Class A certificate of transportation. Every application for a Class A certificate of transportation, and every application for amendment to a Class A certificate of transportation hereunder, shall be in writing, signed and sworn to by the applicant, and shall be filed with the city clerk as provided for herein. The application shall be on a form provided by the city clerk and shall contain the following:

(1) General.

a. If an individual, name, address and date of birth of the applicant, and names and addresses of all management personnel.

b. If a partnership or association, names, addresses and dates of birth of all partners or associates, and names and addresses of all management personnel.

c. If a corporation, name of corporation, date and state of incorporation, verified copy of registration to do business in the state, address of corporate headquarters in the state, or name and address of resident agent if a foreign corporation, names, addresses and date of birth of all corporate officers,

PROOFS

directors, and management personnel.

d. All previous addresses for the five years preceding the date of application for all individuals, partners, corporate officers, directors and management personnel.

(2) A description of the type of transportation service which the applicant desires to furnish, including whether taxicab, limousine, or other; a brief description of the number, kinds and types of vehicles to be used; seating capacity of the vehicles; a statement indicating whether each vehicle is accessible for persons with disabilities and a description of the accessibility features of each vehicle; and the state motor vehicle license number of each vehicle.

(3) The trade name under which the motor carrier service will be operated.

(4) A statement indicating whether the applicant has paid its current annual state license tax on motor vehicles for hire for all motor vehicles to be used by the applicant and whether appropriate license tax is affixed to each such vehicle.

(5) Evidence of insurance as required in section 22-470.

(6) Two current passport-type photographs of the applicant. In the case of partnership, association or corporation, this information shall be obtained from all partners, associates, corporate officers and directors.

(7) A record of all vehicular and pedestrian accidents involving property damage and/or personal injury that the applicant has been directly involved in, which have occurred within five years of the date of the application, including an identification of all final judgments and/or criminal findings, along with any other pertinent information.

(8) A certified copy of a criminal background investigation disclosing a record of all crimes (excluding traffic) of which the applicant has been convicted within five years preceding the date of the application. In the case of partnership, association or corporation, this information shall be obtained from all partners, associates, corporate officers and/or directors.

(9) A list of all motor carrier certificates, permits, or authorizations granted or denied to the applicant by a governmental entity within the preceding three years, and a list of all failures by the applicant to perform on a motor carrier contract, franchise, or license within six years preceding the date of application. Partnership, association, or corporate applicants shall provide this information for all partners, associates, corporate officers and directors.

(10) A description of the geographic area proposed to be served by the applicant. This should be expressed as either a 50- or 200-mile radius out from the applicant's base of operations.

(11) Each original application, application for amendment, or application for certificate transfer shall be accompanied by a fee in the amount prescribed by resolution of the board. All such fees are nonrefundable.

(b) Application for Class B certificate of transportation. Every application for a Class B certificate of transportation and every application for amendment to a Class B certificate of transportation hereunder shall be in writing, signed and sworn to by the applicant, and shall be filed with the city clerk as provided for herein. The application shall be on a form provided by the city clerk and shall contain the following:

(1) Name, address and date of birth of the applicant.

(2) The name of the individual, partnership, association, corporation, or other entity that owns, controls, operates, exercises dominion over, contracts for or manages the motor vehicles which will be operated by the applicant to provide passenger transportation services to the public for compensation.

(3) Copy of current state driver's license.

(4) Two current passport-type photographs of the applicant.

(5) A record of all vehicular and pedestrian accidents involving property damage and/or personal injury that the applicant has been directly involved in, which have occurred within five years of the date of the

PROOFS

application, including an identification of all final judgments and/or criminal findings, along with any other pertinent information.

(6) A certified copy of a criminal background investigation disclosing a record of all crimes (excluding traffic) of which the applicant has been convicted within five years preceding the date of the application.

(7) A list of all motor carrier certificates, certificate of transportation, or authorizations granted or denied to the applicant by a governmental entity within the preceding three years.

(8) Each original application or application for an amendment shall be accompanied by a fee in the amount prescribed by resolution of the board. All such fees are nonrefundable.

(Code 1983, § 9-257; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-468. Review of application.**

(a) *Review of Class A certificates of transportation.*

(1) Upon the filing of any application for a Class A certificate of transportation, the city clerk, or his designee, shall review the application for completeness. The city clerk may require additional information as may be necessary to adequately review an application for a Class A certificate of transportation.

(2) The city clerk or shall determine whether the submitted application is complete within ten working days of the date the application is filed with the director. Upon a showing of good cause, the city clerk may extend this review period one time for ten additional working days. If the city clerk does not certify the application as complete, return the application as incomplete, or notify the applicant that the review period is being extended for an additional ten-day period, the application for Class A certificate of transportation shall automatically be granted provisional status, subject to the provisions of subsection (a)(4) of this section.

(3) If the city clerk determines the application for Class A certificate of transportation to be incomplete and/or inconsistent with the standards of review set forth in section 22-469, the city clerk shall return the application to the applicant, noting the items which are not complete or have been determined to be inconsistent with the standards of review. The applicant will then have 60 days from the date of transmittal to submit a revised/corrected application for certificate of transportation. Any application that has been returned for correction and is not resubmitted to the city clerk within the described 60-day period shall be considered withdrawn and all filing fees forfeited.

(4) Once the city clerk determines an application for a certificate of transportation to be complete, the city clerk shall, based upon the standards of review set out in section 22-469, approve, approve with conditions, or deny the application.

(5) The city clerk shall issue a Class A certificate of transportation if the city clerk determines that the application complies with the requirements of this division and that the issuance of a certificate is consistent with the requirements of this division.

(b) *Review of Class B certificates of transportation.*

(1) Upon the filing of any application for a Class B certificate of transportation, the city clerk, or his designee, shall review the application for completeness. The city clerk may require additional information as may be necessary to adequately review the application for a Class B certificate of transportation. Such review shall be a part of the record from which the city clerk makes his decision.

(2) The city clerk shall determine whether the submitted application is complete within ten working days of the date the application is filed. Upon a showing of good cause, the city clerk may extend this review period one time for ten additional working days. Good cause may include, but is not limited to, failure to receive the applicant's required driving record from the state department of highway safety and motor vehicles. If the city clerk does not certify the application as complete, deny the application, return the application as incomplete, or notify the applicant that the review period is being extended for an additional ten-day period, the application for Class B certificate of transportation shall automatically be granted provisional status.

PROOFS

(3) If the city clerk determines the application for Class B certificate of transportation to be incomplete, the city clerk shall return the application to the applicant, noting the items which are not complete. The applicant will then have 60 days from the date of transmittal to submit a revised/corrected application for a certificate of transportation. Any application that has been returned for correction and is not resubmitted to the community development director within the described 60-day period shall be considered withdrawn and all filing fees forfeited.

(4) Once the application is complete, the city clerk shall approve, approve with conditions, or deny the application based on the standards of review set forth in section 22-469.

(5) If the city clerk approves the application, the clerk shall issue a Class B certificate of transportation. One of the photographs submitted with the application shall be affixed to the certificate. The certificate shall be prominently displayed in the motor carrier vehicle during all times of operation by the applicant.

(6) Except as provided for under section 22-475, any applicant for a Class B certificate of transportation who has his application denied is prohibited from applying for any further certificates of transportation until such time as all requirements are met by the applicant.

(Code 1983, § 9-259; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-469. Standards of review.**

The following standards of review shall apply to both Class A and Class B certificates of transportation application:

(1) Any permit holder or applicant for a certificate shall meet all of the following requirements:

a. Be at least 18 years of age on the date of application.

b. Hold a valid state driver license of the appropriate classification for the vehicle driven.

c. Have no conviction ~~or plea of nolo contendere~~ within the preceding five years ~~to any~~ of the following:

1. Any crime involving the sale or possession of controlled substances as defined in F.S. § 893.02.

2. Any crime defined by F.S. ch. 796, related to prostitution.

3. Any offense relating to driving under the influence of controlled substances or alcohol as set forth in F.S. § 316.193.

d. Have no conviction, or plea of guilty or ~~nolo contendere, to~~ any criminal offense or felony involving the use of deadly weapons unless the civil rights of the applicant or certificate holder have been restored.

e. Have no revocation or suspension within the preceding three years of a state driver, chauffeur or commercial driver license.

f. Have no more than two traffic infractions resulting in accidents in the preceding three years.

g. Have no more than four convictions of moving traffic violations in the preceding eight years.

h. Meet the insurance requirements set forth in section 22-470, if required.

(2) Failure to comply with the provisions of this section shall result in denial of a certificate, revocation or suspension of a certificate, a denial of a renewal of a certificate, or other such remedies available to the city.

(Code 1983, § 9-260; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-470. Certificate—Insurance requirement.**

(a) All applicants for Class A and Class B certificates of transportation are required to maintain insurance coverage. A Class B chauffeur in the employ of an individual, partnership, association or corporation who is covered under the insurance policies of the individual, partnership, association or corporation shall not be required to comply

PROOFS

with the provisions of this section, so long as the individual, partnership, association or corporation employing him meets the requirements of this section and the individual, partnership, association or corporation employing him has a valid Class A certificate of transportation issued in accordance with the provisions of this division.

(b) Before any certificates are issued to conduct operations, the motor carrier shall file evidence of insurance with the city clerk providing for public liability and property damage coverage on each motor vehicle to be operated in the following amounts:

(1) *Taxicab.* Not less than $25,000.00 per person and $50,000.00 per incident as to public liability, and property damage coverage in an amount not less than $25,000.00.

(2) *Limousine.* Not less than $50,000.00 per person and $100,000.00 per incident as to public liability, and property damage coverage in an amount not less than $50,000.00.

(3) *Van.* Not less than $100,000.00 per person and $300,000.00 per incident as to public liability, and property damage coverage in an amount not less than $100,000.00.

(c) Evidence of insurance shall be executed and filed with the city clerk by the insurance carrier in a form acceptable to the city clerk. The insurance carrier or company shall qualify as an insurance company authorized to transact business in the state. At a minimum, the evidence of insurance shall show:

(1) The type and amount of coverage;

(2) The effective date of the coverage; and

(3) The effective radius of the coverage.

(d) The insurance coverage required hereunder shall be effective throughout the area served by the applicant. No certificate shall be issued prior to the effective date of the coverage. Such insurance shall be kept in full force and effect by the certificate holder at all times. Failure to have same in full force and effect shall immediately and automatically suspend all certificates issued hereunder, until evidence of compliance with this section has been filed in the proper form and amounts as herein provided. Such insurance shall provide that the certificate holder's insurance coverage may neither expire nor be canceled prior to 30 days after the city receives written notice of the expiration or cancellation from the insurance carrier.

(e) A motor carrier may qualify for a portion of the required insurance under this section in an amount not to exceed $50,000.00 by obtaining a certificate of self-insurance from the state department of highway safety and motor vehicles, pursuant to F.S. ch. 324. Copies of the self-insurance certificate and all reports required by the state department of highway safety and motor vehicles shall be delivered by the motor carrier to the board.

(Code 1983, § 9-261; Ord. No. 16-021 , § 2, 10-17-2016)

**Sec. 22-471. Certificate—Revocation.**

(a) The city clerk shall revoke any certificate issued under this article for failure of the certificate holder to meet any requirement of this division or any rule or regulation adopted by the city or the state. Notice of the city clerk's intent to revoke a certificate for failure to meet any of the requirements of this division shall be sent to the certificate holder by certified mail. If evidence of corrective measures is not presented to the city clerk within 21 days of the date the notice is sent, the certificate shall be deemed revoked. If evidence of corrective measures is presented timely, the city clerk shall determine whether that evidence is credible and whether it indicates full compliance with all governing requirements. Failure to present credible evidence of full compliance with all governing requirements shall be grounds for revoking the certificate.

(b) Any certificate revoked pursuant to this section may only be reinstated through the filing of a new application for a certificate of transportation or through appeal as set forth in section 22-475.

(Code 1983, § 9-262; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-472. Renewal of certificate; evidence of continuing compliance.**

(a) Renewal of a Class A certificate of transportation. After September 1 of each year, but before October 1 of each year, every holder of a Class A certificate of transportation issued pursuant to this division shall submit the following for renewal of the certificates and as evidence of continuing compliance with the provisions of this

PROOFS

division:

(1) Evidence of insurance in the amount and coverage required by section 22-470.

(2) A list of all chauffeurs employed by the holder of the certificate after the date of issuance of the current certificate and employed on the date of application for renewal of the certificate.

(3) A renewal fee in the amount prescribed by resolution of the city commission.

(b) Renewal of a Class B certificate of transportation. After September 1 of each year, but before October 1 of each year, every holder of a Class B certificate issued pursuant to this division shall submit the following for renewal of certificates and as evidence of continuing compliance with the provisions of this division:

(1) Evidence of insurance in the amount and coverage required by section 22-470, if required.

(2) A renewal fee in the amount prescribed by resolution of the city commission.

(c) The certificate shall be renewed only if a certificate holder demonstrates continuing compliance with the provisions of this division. Otherwise, the certificate shall be subject to revocation as set forth in section 22-471.

(Code 1983, § 9-263; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-473. Authority of city commission to promulgate rules and regulations.**

The city commission is hereby authorized to establish, by resolution, such rules and regulations concerning the operation and maintenance of any taxicab or limousine service permitted pursuant to this division as they may deem necessary to protect the public health and safety of the citizens of the city. Any failure by a certificate holder to meet and comply with such rules and regulations shall be grounds for permit revocation as provided in section 22-471.

(Code 1983, § 9-264; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-474. Transfers; assignability.**

(a) No certificate of transportation issued pursuant to this division may be transferred or assigned without the prior written approval of the city clerk.

(b) The city clerk shall not approve any transfer or assignment of any certificate unless the proposed transferee or assignee submits a new application for the appropriate certificate of transportation which demonstrates complete compliance with all provisions of this division.

(Code 1983, § 9-265; Ord. No. 16-021, § 2, 10-17-2016)

**Sec. 22-475. Appeals.**

(a) An applicant or certificate holder may appeal any decision made by the city clerk to the city commission by filing a petition of appeal with the city manager within 30 calendar days of the date of rendition of the decision. The board shall review the petition at a public meeting within 30 calendar days from the date of filing of the appeal. The petitioner shall be provided with notice of the time, date and place of the public meeting by certified mail, return receipt requested, and invited to attend. Testimony at the public meeting shall be limited to ten minutes per side, unless an extension of time is granted by the commission. The commission's decision shall be final for the purpose of administrative appeals. The commission's review of the petition shall be limited to the record and facts which were available to the city clerk at the time of rendition of the decision appealed. The commission shall revoke the decision of the city clerk if there is competent substantial evidence in the record that the decision fails to comply with this division.

(b) Any person desiring to appeal a decision of the commission under this section may apply for judicial relief by writ of certiorari to the circuit court in the nineteenth judicial circuit in and for the city within 30 days after rendition of the decision by the commission. Review shall be governed by the Florida Rules of Appellate Procedure.

(Code 1983, § 9-266; Ord. No. 16-021, § 2, 10-17-2016)

PROOFS

Chapter 23

**RESERVED**

PROOFS

Chapter 24

# NUISANCES*

***State law reference—**Municipal Home Rule Powers Act, F.S. ch. 166; public nuisances, generally, F.S. ch. 823; health nuisances, F.S. § 386.01 et seq.

## ARTICLE I. IN GENERAL

**Secs. 24-1--24-18. Reserved.**

## ARTICLE II. PROPERTY NUISANCES GENERALLY

### Sec. 24-19. Maintenance of nuisance on property prohibited.

No person in charge of or in control of any object or condition within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any such object or condition defined as a nuisance by this article to remain on any private or public property within the city, nor shall the owner or person in control of real property within the city allow such condition or object on the property, except that this article shall not apply to any object which is kept out of sight in a fully enclosed building or where the object or condition is on the property of a business which has a specific and licensed purpose consistent with the storage, maintenance or display of such object or condition and which is being operated lawfully as provided by this Code.

(Code 1983, § 16-46; Ord. No. J-517, § 1, 8-2-1999)

### Sec. 24-20. Removal of nuisance.

Prompt removal or abatement of any nuisance which is stored, maintained or displayed on property within the city is declared essential to the public health, safety, esthetics, general welfare and good order of the city.

(Code 1983, § 16-47; Ord. No. J-517, § 1, 8-2-1999)

### Sec. 24-21. Definitions.

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

*Department* means the ~~Department of Code Enforcement~~ code compliance division.

*Motor vehicle* means any vehicle or conveyance which is self-propelled and designed to travel along the ground. The term "motor vehicle" includes, but is not limited to, automobiles, buses, mopeds, motorcycles, trucks, tractors, trailers, go-carts, golf carts, motor homes and recreational vehicles.

*Nuisance as a condition* means a certain state of being or situation located on property which:

(1) Injures or endangers the comfort, repose, health or safety of any person;

(2) Offends decency;

(3) Is offensive to the senses;

(4) Interferes with, obstructs or renders dangerous for passage on any public or private street, alley, highway, right-of-way, easement, sidewalk, stream, ditch, channel or drainage of any property;

(5) Renders other persons insecure in life or the use of property;

(6) Interferes with the comfortable and quiet enjoyment of life or property;

(7) Tends to or could depreciate the value of property of any persons;

(8) Is declared otherwise by ordinance or statute to be a nuisance, unlawful or prohibited;

PROOFS

(9) Any trash, litter, debris, garbage, bottles, paper, plastic, metals, cans, rags, offal, bricks, concrete, lumber, building materials, or dead or decaying plants, (except for compost piles) or animals of any kind;

(10) Any condition which provides, or could provide, harborage for rats, mice, snakes, insects or other vermin;

(11) Any noises or vibrations, including animal noises, which disturb the peace of the surrounding area or are otherwise unlawful;

(12) Any foul, offensive or unlawful emissions, odors or stenches and the causes thereof;

(13) The pollution of any well, body of water or drainage system by sewage, dead animals, industrial wastes, debris or other substances;

(14) Dense smoke, noxious or lethal fumes, lethal gas, soot or cinders;

(15) Any condition constituting a fire hazard;

(16) Blocking of drainage inlets, pipes, ditches, swales, channels, culverts or streams;

(17) The accumulation of garbage and trash in violation of section 30-26; or

(18) Any landscaping element that is not well-maintained, including, but not limited to, lawns, hedges, bushes and trees. Such landscaping elements shall be kept trimmed and free from becoming overgrown and unsightly where exposed to public view and where the same may constitute a blighting factor thereby depreciating adjoining property.

*Nuisance as an object* means one of the following:

(1) Junk, consisting of unsightly, worn-out or discarded material of little or no residual value, including scrap metal, scrap lumber, wastepaper products, discarded building materials, or other debris, the accumulation of which has an adverse effect upon neighborhood or city property values, health, safety or general welfare;

(2) Abandoned property, meaning any personal property, including motor vehicles, left in plain view under circumstances reasonably indicating that the possessor or owner thereof has relinquished any rights of ownership therein;

(3) Wrecked motor vehicle or watercraft, meaning any motor vehicle or watercraft the condition of which is wrecked, dismantled, partially dismantled, incapable of operation by its own power or from which the wheels, engine, transmission or other substantial part thereof is or are removed;

(4) A motor vehicle kept in the front yard of a residence on other than pavement unless parked in a driveway, whether such driveway is paved or unpaved;

(5) Any garbage; rubbish; trash; refuse; cans; bottles; boxes; container; paper; tobacco products; tires; abandoned or inoperative appliance; mechanical equipment or parts; building or construction materials; tools; machinery; wood; vessels; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facilities; or a substance in any form resulting from domestic, industrial, commercial, mining or agricultural operations; or dead or decaying plants (except for compost piles) or exotic animals of any kind;

(6) Any building or structure, or part thereof, which is in a dilapidated, unsanitary or unsafe condition, or which constitutes a fire hazard;

(7) Any building, structure, lot, place or location where any activity in violation of law is conducted, performed maintained or allowed;

(8) Stagnant or insufficiently treated water, in a pool, pond or container of any kind, including water in which algae is allowed to grow or in which mosquitos or other insects are able to breed;

(9) Animal excrement;

(10) Non-operative or unlicensed motor vehicles, located and specifically restricted as follows:

PROOFS

a. All non-operative or unlicensed vehicles wholly or partially within any public right-of-way or on any public property are hereby prohibited, unless specifically authorized by subsection (10)b of this definition;

b. On property for which a current and valid business tax receipt has been issued for any automobile, truck, or motor vehicle business, all non-operative or unregistered vehicles shall be kept, stored, or maintained at least 15 feet from the paved edge of the nearest roadway, at all times;

c. On property having a land use and zoning designation for commercial use, and having a current and valid business tax receipt for a commercial business, all unlicensed vehicles shall be kept, stored or maintained at least 15 feet from the paved edge of the nearest roadway at all times, and no unlicensed vehicle shall be allowed to remain on any property for a period in excess of 30 days in any 90-day period, unless such vehicle is kept, stored or maintained with a fully enclosed building or legally permitted fenced storage area. Any vehicle found on the same property, outside of an enclosed building or fenced storage area, during two separate inspections by the city more than 30 but less than 90 days apart, shall be presumed to have remained on the subject property outside of an enclosed building or fenced storage area for in excess of 30 days in any 90-day period, irrespective of whether said vehicle had been removed during said period;

d. On properties within the city not described by the immediately foregoing subsections, all non-operative or unlicensed vehicles shall be kept, stored or maintained within a fully enclosed building at all times.

(11) Furniture kept or stored outdoors where such furniture is of the kind and sort normally and customarily kept inside such as, for example, upholstered sofas, and where such furniture is not in actual use.

(12) Any operable appliance kept or maintained outside in the open air and not under roof such as a garage or carport.

(13) Graffiti, which includes, but is not limited to, any unauthorized inscription, word, figure, painting or other defacement that is written, etched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of any public or private property by any graffiti implement, including, but not limited to, aerosol paint container, marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

~~*Person* means any natural person, firm, partnership, association, corporation, organization or entity of any kind.~~

~~*Person* or *individual* means any natural person, firm, partnership, association, corporation, organization or entity of any kind.~~

*Private property* means any real property within the city which is privately-owned and is not defined as public property.

*Public property* means lands and improvements owned by the federal government, the state, a county or municipality and includes sovereignties submerged lands located adjacent to the county or municipality, beaches, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and similar public property.

(Code 1983, § 16-48; Ord. No. J-517, § 1, 8-2-1999; Ord. No. J-534, § 2, 12-6-1999; Ord. No. K-143, § 1, 3-18-2002; Ord. No. K-157, § 1, 8-19-2002; Ord. No. K-206, § 1, 2, 3-17-2003; Ord. No. 14-013, § 1, 5-5-2014)

**Sec. 24-22. Procedure for removal of nuisance.**

Any nuisance in violation of this article may be abated or removed according to the procedures set forth herein, at the discretion of the department, in place of the procedures otherwise provided by chapter 1, article II, division 2:

(1) *Notice.*

a. Upon determination by the department that a nuisance exists in violation of this article, the department shall notify in writing the record owner of the property upon which the nuisance is located, and shall demand that such owner cause the condition to be remedied. Notice shall be given

PROOFS

by registered or certified mail, addressed to the owner of the property described as such owner's name and address is shown upon the record of the county tax assessor's office, and the notice shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. In addition, written notice shall be posted in a location on the property where, in the judgment of the department, such sign will be conspicuously visible to passersby. The notice shall be in substantially the following form:

Notice to the owner and all persons interested in the described nuisance. This nuisance, to wit: (setting forth brief description) is unlawfully upon the following property: (setting forth brief location). The owner or other effected individual must either remove or abate the nuisance within ten days or request a hearing pursuant to section 1-74 of the city Code of Ordinances. Failure to either remove the nuisance or to request a hearing will be deemed a waiver of the right to a hearing and the city will then cause an immediate removal or abatement of the nuisance and if removed, will dispose of it in the manner provided for by law. The owner or effected individual will be liable for the costs of removal, abatement, storage, disposition and publication of notice. Such costs will be imposed as a lien on the property if not otherwise paid within 30 days after receipt of the billing. Dated this: (setting forth the date of posting of notice), signed: (setting forth name, title, address, and telephone number of code enforcement official.

b. Such notice shall be not less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. If the nuisance is a motor vehicle, the department shall contact the department of highway safety and motor vehicles, if sufficient information on the vehicle is available so as to permit its identification, in order to determine the name and address of the current owner and any person who has filed a lien on the vehicle as provided in F.S. § 319.27(2) or (3). On receipt of this information, the official shall mail a copy of the notice, both by regular mail and certified mail, return receipt requested, to the owner and to the lien holder, if any, and if different from the owner of the property on which the vehicle was located. If, at the end of ten days after mailing and posting of notice, the nuisance has not been abated or removed from the property, the city itself may abate or remove the nuisance. Unless within such period of time there is filed with the city a request for hearing pursuant to chapter 1, article II, division 2. Officials and employees of the city shall be immune from civil or criminal prosecution for reasonably good faith trespass upon real property in the discharge of duties imposed by this article and for any further liability incident to abatement or removal and disposition of the nuisance. The owner of the property upon which nuisance is located, and, if different, the person responsible for storing, maintaining or displaying such nuisance, shall be liable for all expenses incurred by the city for abatement or removal and disposition of the nuisance and for the costs of publishing notices required by the article.

(2) *Right to hearing.* If the person charged with a violation of this article makes written request for a hearing within the time provided by this section, such hearing will then be conducted all within the manner specified by chapter 1, article II, division 2. Failure to timely request such hearing will be deemed a waiver of the right to a hearing and acknowledgment of the violation as charged, whereupon the department may cause the nuisance to be abated or removed and disposed of as appropriate, as provided by sections 24-23 and 24-24, whether through destruction or sale, with any retained salvage value to be applied against the cost of removal and disposition, unless the cost is paid by the owner or other individual, in which case the salvage value will be remitted to the owner. Any expense borne by the city not voluntarily reimbursed by the owner may be recovered against the owner in the manner provided for by law.

(Code 1983, § 16-49; Ord. No. J-517, § 1, 8-2-1999; Ord. No. J-534, § 1, 12-6-1999)

**Sec. 24-23. Notification of owner and other interested parties following removal by city.**

(a) *Notice.*

(1) Upon taking possession of the nuisance, if an object or thing, the department of code enforcement shall furnish notice in accordance with this section by regular mail to the owner of the property upon which

PROOFS

such nuisance was located and to the owner of the object or thing, if known to be different, at the last known address, on or after ten days of the date when possession of the object or thing was taken. If the nuisance is a motor vehicle, notification of possession or removal shall also be provided to any lien holders. Such notice shall provide the following information:

a. The name and address of the property owner, lien holder, if any, and owner of the object or thing, if known to be different from the owner of the property;

b. A description of the object or thing, and, if a motor vehicle, or vehicle, its year, make, model, serial number, registration number and title registration number, to the extent known;

c. The date such nuisance was removed;

d. The location from which the nuisance was removed;

e. The location where any such object or thing is being stored.

(2) The notice shall also advise the person or persons to whom it is addressed that the object or thing may be reclaimed upon payment to the city of all charges incurred by the city in its removal and storage, including the costs of notification required by this article, except that if such reclamation is not made within 30 days after date of the notice the right to reclaim the object or thing, as well as all right, title and interest of any lien holder, if a motor vehicle or vessel, shall be deemed to be waived and such person shall be deemed to have consented to its disposition or possession by the city.

(b) *Notice by publication.* If the object or thing constituting nuisance is a motor vehicle or vessel and there is inability to identify the current owner, it shall be sufficient notice under this section to publish the notice described above once in a newspaper of general circulation in the city. Such notice by publication may include multiple listings of objects and things.

(c) *Documentation filed with the state.* If the nuisance is a motor vehicle, a copy of any notice required in this section, as well as a copy of any certificate of sale issued hereunder by the city, shall be forwarded to the state division of motor vehicles.

(Code 1983, § 16-50; Ord. No. J-517, § 1, 8-2-1999)

**Sec. 24-24. Removal and disposition of motor vehicles.**

In the event a motor vehicle is declared by the department to be a nuisance in violation of this article, upon notice as provided by section 24-22, and upon an interested party's failure to timely request a hearing before the special magistrate then, in such event, the department may elect, in lieu of exercising procedures specified in section 16-50, to notify the police department. The police department shall then assign a tow truck operator to remove the vehicle all within the manner provided for by chapter 34, article IV, the provisions of which are incorporated within, and adopted for this article.

(Code 1983, § 16-51; Ord. No. J-517, § 1, 8-2-1999; Ord. No. J-534, § 3, 12-6-1999; Ord. No. 17-017, § 12, 6-5-2017)

**Sec. 24-25. Alternative remedies.**

As an alternative to the procedures set forth in this article to the extent such procedures involve abandoned vehicles on public property, F.S. § 705.103 et seq. is hereby incorporated by reference in this article as if fully set forth herein. If the department, in such department's discretion, shall pursue a remedy pursuant to the aforesaid section, the department shall comply completely and fully with its provisions.

(Code 1983, § 16-52; Ord. No. J-517, § 1, 8-2-1999)

**Sec. 24-26. Discarding of object or thing as nuisance.**

It shall be unlawful for any person to discard or abandon any object or thing defined in this article as a nuisance upon a lot or premises not owned or occupied by such person without the consent of the owner thereof or the person occupying the same.

(Code 1983, § 16-53; Ord. No. J-517, § 1, 8-2-1999)

PROOFS

**Sec. 24-27. Penalties.**

Any person who has violated or who has been cited for violation of any of the provisions of this article shall be subject, in addition to the provisions of this article, to all provisions regarding enforcement of ordinances contained in this Code, including, but not limited to, reference of the violator to the special magistrate.

(Code 1983, § 16-54; Ord. No. J-517, § 1, 8-2-1999; Ord. No. 17-017 , § 12, 6-5-2017)

**Sec. 24-28. Enforcement of lien.**

(a) If, following initial notification of violation, no hearing has been timely requested and the nuisance has not been remedied, or a hearing was held and concluded adversely to the property owner, the department may cause the nuisance to be abated as described in this article, at the expense of the property owner.

(b) After abatement of the nuisance, the department shall certify to the ~~director of finance~~ finance director the expense incurred in abating the nuisance and shall include copies of all notices above described and a copy of any order entered by the special magistrate, whereupon such expense shall become payable within 30 days, after which a ~~special assessment~~ lien and charge will be made upon the property, which shall be payable with interest at the rate of six percent per annum from the date of such certification until paid. There shall be included in such assessment an additional charge ~~amounting of one hundred dollars ($100.00)~~ in the amount established by resolution for administrative costs incurred by the city.

(c) Such lien shall be enforceable in the same manner as a tax lien in favor of the city, and shall constitute a first priority assessment lien against the effected property, superior to all liens except any lien for taxes. Said lien may be foreclosed as provided by law. Upon payment of such lien, the clerk of the circuit court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof and notify the tax collector of such satisfaction. Notice of the aforesaid lien may be filed in the office of the clerk of the circuit court and recorded upon the other public records of the city.

(d) The ~~director of~~ finance director shall keep complete records relating to the amount payable for liens above-described and the amounts of such liens shall be included in tax statements for ad valorem taxes thereafter submitted to the owners of lands subject to such liens.

(Code 1983, § 16-55; Ord. No. J-517, § 1, 8-2-1999; Ord. No. 17-017, § 12, 6-5-2017)

**Secs. 24-29--24-59. Reserved.**

## ARTICLE III. DRUG-RELATED, PROSTITUTION-RELATED, OR STOLEN-PROPERTY-RELATED PUBLIC NUISANCES AND CRIMINAL GANG ACTIVITY NUISANCES*

***State law reference**—Local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity, F.S. § 893.138.

**Sec. 24-60. Definitions.**

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

~~The following definitions shall apply in the interpretation and enforcement of this article:~~

*Board* means the nuisance abatement board of the city, which is hereby designated as the ~~city commission~~.

*City attorney* means the legal counselor for the city or any assistant city attorney.

*Clerk* means the person appointed by the local governing body of the city to perform the clerical duties necessary to carry out the activities of the nuisance abatement board.

*Operator* means the tenant, lessee or person having control or possession of the premises.

*Public nuisance* means:

(1) Any place or premises within the city which has been used: ~~on more than two occasions as the site of the unlawful sale or delivery of controlled substances as defined in Chapter 893 of the Florida Statutes.~~

a. On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07;

PROOFS

b. On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

c. On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

d. By a criminal gang for the purpose of conducting criminal gang activity, as defined by F.S. § 874.03;

e. On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 relating to dealing in stolen property; or

f. On two or more occasions within a six-month period, as the site of a violation of F.S. ch. 499.

(2) Any pain management clinic, as described in F.S. § 458.3265 or s. 459.0137, which has been used on more than two occasions within a six-month period as the site of a violation of:

a. F.S. § 784.011, 784.021, 784.03, or 784.045, relating to assault and battery;

b. F.S. § 810.02, relating to burglary;

c. F.S. § 812.014, relating to theft;

d. F.S. § 812.131, relating to robbery by sudden snatching; or

e. F.S. § 893.13, relating to the unlawful distribution of controlled substances.

(Code 1983, § 2-301; Ord. No. I-295, § 1, 9-20-1988)

**Sec. 24-61. Nuisance abatement board.**

There is hereby created and established a nuisance abatement board.~~, which shall be designated as the city commission, to hear evidence relating to the existence of drug-related public nuisances on premises located in the city. Said board shall consist of all members of the city commission.~~ The special magistrate shall serve as the nuisance abatement board under F.S. § 893.138.

(Code 1983, § 2-302; Ord. No. I-295, § 2, 9-20-1988)

**Sec. 24-62. Complaint; request for prosecution; hearing; notice.**

Any employee, officer or resident of the county or of the city may file a complaint and request for prosecution with the ~~city commission~~ special magistrate regarding the existence on premises located in the city of a public nuisance, as defined in this article, after first giving not less than three days written notice of said complaint to the owner of the place or premises complained of at his last-known address. After such complaint and request for prosecution has been received, the ~~city commission~~ special magistrate, based on a reasonable belief that a public nuisance exists on the premises complained of, shall schedule a hearing. Written notice of said hearing shall be sent by certified mail or hand delivered to the owner and operator of the premises complained of at their last-known address at least 14 days prior to the scheduled hearing. If an attempt to reach the owner and operator by hand delivery or certified mail is unsuccessful, notice of the hearing may be by publication as provided in F.S. ch. 49. The notice of hearing shall include:

(1) A statement of the time, place and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes or ordinances involved; and

(4) A short and plain statement summarizing the incidents complained of.

(Code 1983, § 2-303; Ord. No. I-295, § 3, 9-20-1988)

**Sec. 24-63. Rules governing hearings; orders; retention of jurisdiction; permanent injunctions.**

(a) The ~~city commission~~ special magistrate shall adopt rules for the conduct of its hearing. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city attorney shall present all cases. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination

PROOFS

and submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the ~~city commission~~ special magistrate proposed to consider such material, then all parties shall be given an opportunity to cross examine or challenge or rebut it. The ~~city commission~~ special magistrate may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Orders of the ~~city commission~~ special magistrate shall be based on competent and substantial evidence. After considering all evidence, the ~~city commission~~ special magistrate may declare the place or premises to be a public nuisance, as defined in this article, and may enter an order immediately prohibiting:

(1) The maintaining of the nuisance;

(2) The operating or maintaining of the place or premises; or

(3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

(b) ~~All orders of the city commission shall be by motion approved by a majority of those members present and voting, except that at least three members of the city commission must vote in order for the action to be official.~~ An order entered under this section shall expire after one year or at such earlier time as stated in the order. The ~~city commission~~ special magistrate may retain jurisdiction to modify its orders prior to the expiration of said orders. The city ~~commission~~ may bring a complaint under F.S. § 60.05 seeking a permanent injunction against any public nuisance.

(Code 1983, § 2-304; Ord. No. I-295, § 4, 9-20-1988)

**Sec. 24-64. Appeals.**

Any aggrieved party may appeal a final order of the ~~city commission~~ special magistrate to the circuit court of the county. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the ~~city commission~~ special magistrate. An appeal shall be filed within 30 days of the date of the written order appealed from.

(Code 1983, § 2-305; Ord. No. I-295, § 5, 9-20-1988)

**Sec. 24-65. Remedies.**

(a) When any nuisance as defined in F.S. § 823.05 exists, the city attorney or any citizen of the county or city may sue in the name of the state on his relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(b) This article does not restrict the right of any person to proceed under F.S. § 60.05 or similar law against any public nuisance.

(Code 1983, § 2-306; Ord. No. I-295, §§ 6, 7, 9-20-1988)

**Secs. 24-66--24-88. Reserved.**

## ~~ARTICLE IV. LOT CLEANING~~

**~~Sec. 24-89. Generally.~~**

~~The city commission may require property owners or persons having charge of or control over property to clear and clean and remove the same of weeds, undergrowth, rubbish, debris, brush, trees and unsightly and unsanitary matters and conditions, including discarded or old metals or similar products or materials, auto parts or motor vehicle frames, and to fill lots and any and all unsanitary excavations and depressions thereon and to maintain any casuarina tree (Australian pine) now in existence at a height not exceeding 30 feet. When the commission shall determine that any property situated within the city shall be so cleaned or maintained in the manner aforesaid, it shall so declare by resolution giving a description of the property to be improved and fixing a date in the resolution not less than 20 days from the passage thereof, and if the owner or person interested in such property, including lessees, do not comply with any such requirements within the time limited and fixed by the resolution, the city commission shall make or cause said work to be done and make the cost thereof, including advertising and all other~~

PROOFS

~~administration costs, a charge and lien against such property of and to the same extent and character as any lien now granted or which may hereafter be granted to the city by law for special assessments for the cost of local improvements, which charge and lien shall be superior in rank and dignity to all other liens, encumbrances, titles and claims, to or against the real property involved whether or not recorded prior to said lien. Said liens shall be forthwith due and payable, with the same penalties, including all costs of collection and a reasonable attorney fee for representation of the city therein being assessed in favor of the city, through the appellate level, and the same rights of collection and sale to forfeiture as may be provided by law for assessments or local improvements. When used herein, the term "trees" means and has reference to dead or unsightly trees or those that block, hinder or impair the view at street intersections or those which are noxious, constitute a hazard or nuisance or constitute a menace to health and safety.~~

~~(1957 Charter § 14(17))~~

**Secs. 24-90--24-106. Reserved.**

## ARTICLE V. BUILDINGS AND STRUCTURES

**Sec. 24-107. Generally.**

(a) The city commission shall have power to provide by resolution for the removal and/or abatement of any building or structure that constitutes a menace to business, health, or safety, or any building or structure that constitutes a fire hazard or which is unsightly or does not conform in architecture to adjacent or surrounding buildings which are hereby designated and declared to be a nuisance; that the city commission shall have the power to designate other things that may constitute a nuisance. When any such building or structure shall have been declared a nuisance by resolution of the city commission and its removal or destruction required in such resolution as a nuisance and/or menace to business, health, safety, or as constituting a fire hazard or because said building or structure is unsightly or does not conform in architecture to adjacent or surrounding buildings, such resolution shall require the owner, agent or any person, firm or corporation having a lien on or interest in said building or structure, which lien or interest is a matter of record in the public records of the county of such building or structure to show cause, at a time and place to be fixed and named by the resolution, why said building or structure should not be by the city commission condemned and its removal or destruction required. Notice of which hearing shall be made by mailing by registered or certified mail a certified copy of said resolution to the hereinbefore named persons, firms or corporations at least ten days prior to the date of said hearing by the city clerk.

(b) After such hearing if no good and sufficient cause be shown to the contrary the city commission shall pass a resolution requiring the removal or destruction of such building or structure within a reasonable time to be named by the city commission in said resolution.

(c) If such building or structure be not removed or destroyed within the time fixed by said resolution the city commission may:

(1) By order authorize the removal or destruction of the said building or structure in the name of the city. ~~Any person, firm or corporation having any lien on, or interest in the property ordered condemned or removed, shall have the right to appeal from said resolution in the same manner as provided in section 47* of Article V of this act, providing for appeals from judgment of the municipal court, provided, however, such appeal shall not operate as a supersedeas until appeal bond has been filed with the clerk of the circuit court for St. Lucie County, Florida, the amount of which bond shall be set by the judge of the circuit court of St. Lucie County, Florida, in an amount sufficient to cover all costs, attorney's fees and expenses of the City of Fort Pierce, reasonably incurred by the said city in protecting the public from dangers and damages arising from an incident to the building or structure involved in the said appeal. Provided, however, writ of error shall be sued out within three days (Sundays excluded) and made returnable within 15 days from the date of said resolution.*~~

(2) ~~And it is further provided that~~ The cost of the removal and/or destruction of the building or structure hereinbefore referred to shall be charged against the real estate upon which such building or structure shall be located and shall constitute a lien thereon superior in rank and dignity to all other liens, encumbrances, titles and claims to or against the real property involved whether or not recorded prior to the lien herein. The lien thereon shall continue until such costs of removal or destruction, including

PROOFS

interest on such cost, together with all costs reasonably incurred in connection therewith, for the filing, recording, enforcement, foreclosure or otherwise of said lien, including reasonable attorney fees and costs through the appellate level shall have been fully paid off and discharged.

(3) By action in equity in the name of the said city, cause the same to be destroyed or removed in procedure in substantial compliance with the general laws of the state providing for the abatement of nuisances. The final decree of the court in such cause may provide for the removal and/or destruction of such building within a time to be fixed by such decree and may further provide that upon the failure of the parties required to remove and/or destroy such building that the city cause the same to be destroyed and/or removed and that the cost of such removal and/or destruction shall be charged against the real estate upon which such building may be located, and be and constitute a lien thereon until such cost of removal, including interest on such cost and a reasonable solicitor's fee to be fixed by the court, shall have been fully paid off and discharged.

(1957 Charter § 14(9))

PROOFS

Chapter 25

**RESERVED**

PROOFS

Chapter 26

# OFFENSES AND MISCELLANEOUS PROVISIONS

## ARTICLE I. IN GENERAL

~~**Sec. 11-1. State misdemeanors.**~~

~~It shall be unlawful for any person to commit, within the limits of the city, any act which is or shall be recognized by the laws of the state as a misdemeanor, and the commission of such acts shall be punished upon conviction thereof as provided by statute, not to exceed the fines and penalties as provided by section 1-5 of this Code.~~

~~(Code 1960, § 19-43; Code 1983, § 11-1; Ord. No. 14-033, § 1, 12-1-2014 )~~

~~**Annotation**—Ordinance adopting state misdemeanors upheld, *State ex rel. McFarland v. Roberts*, 74 So.2d 88 (1954).~~

### Sec. 26-1. Violations by minors; responsibility of parents.

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

~~The following definitions shall apply in this section:~~

*Criminal acts* mean those acts which violate state statutes or the ordinances of the city and include traffic violations.

*Habitual offender* means one who commits two or more criminal acts, or including four or more moving traffic violations, within a 12-month period.

*Minor* means any person defined as a child under state law.

*Parent* means mother, father, legal guardian and any other person having the care or custody of a minor or such other adult with whom a minor may be found residing.

(b) *Parental neglect.* It shall be unlawful for the parent of any minor to fail to exercise reasonable parental control which results in the minor committing any criminal act or to allow or encourage any minor to commit any criminal act or become delinquent in accordance with the juvenile laws of the state. The parent of a habitual offender may be deemed guilty of parental neglect.

(c) *Notification.* Whenever a minor shall be arrested or detained for the commission of any criminal act within the city, the parent of such minor shall be immediately notified by the police department, advising the parent of such arrest or detention, the reason therefor and his responsibility under this section. A record of such notifications shall be kept by the police department.

(Code 1960, § 19-52; Code 1983, § 11-2)

**State law reference—**Age of minors specified, F.S. § 743.07.

~~**Sec. 11-3. Permit for police equipment.**~~

~~It shall be unlawful for any person to purchase, give away or sell any blackjack, metallic knuckles, handcuffs or other similar equipment used primarily by police officers, within the corporate limits of the city, unless and until a permit shall have first been obtained from the chief of police by the person to whom such articles are to be sold or delivered.~~

~~Each permit shall contain the date of issuance, the name and address of the person to whom issued and the name and address of the person from whom the weapon is acquired, and a description thereof. All permits shall be signed by the chief of police or in his name by his duly authorized subordinate officer.~~

PROOFS

~~(c) Such permits shall be issued in quadruplicate by the chief of police without cost, upon application, only to persons of good character and reputation for good and sufficient cause shown.~~

~~(d) One copy of the permit shall be retained by the applicant and one copy delivered by the applicant to the person from whom the weapon is to be acquired, the other copies being for record purposes.~~

~~(Code 1960, § 19-50; Code 1983, § 11-3)~~

**~~Sec. 11-4. Escape.~~**

~~It shall be unlawful for any person to escape from jail or from the custody of any prison guard or peace officer, whether before or after conviction.~~

~~(Code 1960, § 19-17; Code 1983, § 11-4)~~

**~~State law reference~~**~~—Escapes, F.S. § 944.40.~~

**~~Sec. 11-5. Negligence.~~**

~~It shall be unlawful for any person to injure, by any act of reckless, wanton or culpable negligence, the person or property of another.~~

~~(Code 1960, § 19-27; Code 1983, § 11-5)~~

**~~Sec. 11-6. Sunday restrictions.~~**

~~It shall be unlawful for any person to conduct or participate on Sunday in any business or game, not a necessity, in which loud and boisterous noises or disorderly conduct is caused or permitted to the annoyance of any citizen of the city in his home or church.~~

~~(Code 1960, § 19-45; Code 1983, § 11-6)~~

**~~Sec. 11-7. Disloyalty to federal government.~~**

~~It shall be unlawful for any person to do any act, by sign, gesture or otherwise, or speak, possess, transmit by mail or otherwise, any written or printed matter expressing disrespect or disloyalty to the government of the United States, or its army or navy, or in times of war to its president or other officers, or to incite or advise any strike or disturbance that would injure or delay said government in its preparation or operations when it is at war, or to do or say anything tending to discourage or prevent enlistment, enrollment or performance of duty in the service of the United States government, or in any other way aid or assist any government with which the United States is at war, or to lend aid or comfort to its enemies.~~

~~(Code 1960, § 19-12; Code 1983, § 11-7)~~

**~~Sec. 11-8. Telephone communication for illegal or immoral purposes.~~**

~~(a) It shall be unlawful for any person to willfully communicate by telephone with the intent to annoy, harass, embarrass or insult another person, or to expose such person to hatred, contempt, ridicule or obloquy or disturb the peace of such person by offensive, profane or obscene language or to proposition such person to commit any illicit, illegal or immoral act.~~

~~(b) It shall be unlawful for any person to aid, countenance or assist any other person in the commission of the acts enumerated in subsection (a) of this section.~~

~~(Code 1960, § 19-46.1; Code 1983, § 11-8)~~

**~~State law reference~~**~~—Obscene or harassing telephone calls, F.S. § 365.16.~~

**~~Sec. 11-9. Swimming in certain waters.~~**

~~It shall be unlawful for any person to swim in any pond, lake, slough, canal, ditch, stream or overflowed lands within the city.~~

~~(Code 1960, § 19-46; Code 1983, § 11-9)~~

**Sec. 26-2. Storage of scraps and waste by authorized dealer.**

Where duly licensed businesses exist, scrap metal, scrap lumber, building (to include plumbing and electrical)

PROOFS

materials, inoperative vehicles, worn out tires, rims, household appliances, machinery and machinery parts may be permitted to exist when they are directly connected with the business involved, provided that they are properly screened from public view on all sides of the property. This shall not be interpreted to mean junk and scrap metal may be camouflaged by screening. Such screening shall not be less than six feet when thick vegetative screening is provided. In cases of fences or walls, they shall be either a solid opaque wall or fence or link-weave steel wire or combination thereof. All screening or fencing shall be permanently maintained. ~~The wall or fence shall not contain any poster or advertising of any kind excepting one sign of the licensee.~~

(Code 1960, § 19-37.2; Code 1983, § 11-10; Ord. No. J-406, § 1, 3-16-1998; Ord. No. J-517, §§ 3, 4, 8-2-1999)

**State law reference**—Florida Litter Law of 1971, F.S. § 403.413.

**Sec. 26-3. Storage of commodity in vehicle.**

(a) It shall be unlawful for any person to cause or permit storage of any commodity (to include, but not be limited to, junk metal, lumber, wastepaper products, building materials, motor vehicles or parts, machinery, appliances and tires) in any motor vehicle or part of any motor vehicle to include, but not be limited to, semi-trailers, busses and vans, even though properly licensed and inspected, anywhere within the limits of the city, for a period exceeding ten days except on construction projects in process.

(b) For a good cause, the city commission may waive this requirement for a fixed period of time.

(Code 1960, § 19-37.3; Code 1983, § 11-11)

~~**Sec. 11-12. Sound devices; loud and needless blowing.**~~

~~Loud and needless blowing of locomotive whistles, and automobile sounding devices is forbidden.~~

~~(Code 1960, § 19-41; Code 1983, § 11-12)~~

~~**Sec. 11-12.1. Sounding of train horns and whistles prohibited during certain hours at specific crossings.**~~

~~No railroad train or railroad company operating wholly within the state may emit an audible warning signal between the hours of 10 p.m. and 6 a.m. in advance of any public railroad-highway grade crossing with train-activated automatic traffic control devices, which include flashing lights, bells and crossing gates, within the City of Fort Pierce, Florida. No railroad train or railroad company operating wholly within the state may emit an audible warning signal between the hours of 10 p.m. and 6 a.m. in advance of that certain sidewalk crossing located sixty-eight (68) feet east of the U.S. 1 highway crossing where said U.S. 1 intersects with the Glades Cutoff track located at milepost K-0 + 4900', said sidewalk crossing running along U.S. 1 being equipped with standard fixed signal.~~

~~Signs shall be erected at the crossings involved announcing that railroad train horns and whistles may not be sounded during such hours, and said signs shall be in conformance with the uniform system of traffic control devices as specified in Florida Statutes, section 316.0745.~~

~~(Code 1983, § 11-12.1; Ord. No. I-163, § § 1, 2, 5-5-1986; Ord. No. I-189, § 2, 11-3-1986; Ord. No. I-214, § 2, 3-16-1987)~~

~~**Sec. 11-13. Aircraft; operation, altitude.**~~

~~No aircraft shall take off from or land at any place in the city except at a regularly designated landing field or a place designed for emergency landings, except in case of necessity. No aircraft shall be operated at any time over the streets or territory of the city in a dangerous or reckless manner, or while the driver thereof is unfit. Execution of "stunts," tricks or unusual or unnecessary maneuvers over the territory within the city limits is expressly forbidden.~~

~~No aircraft shall be flown or operated over the territory within the city at an altitude of less than two thousand (2,000) feet except in case of accident or emergency or while taking off or landing under authorized promise of immunity from prosecution.~~

~~The city commission may waive the requirements of subsection (b) upon application to it but such waiver cannot set flight operation of aircraft with less minimum requirements than those established by the federal aviation authority.~~

~~(Code 1960, § 19-3; Code 1983, § 11-13)~~

~~**State law reference**—Operating aircraft while intoxicated or in careless manner, F.S. § 860.13.~~

PROOFS

**Sec. 11-14. Assault.**

It shall be unlawful for any person to commit any assault of any kind upon another person.

(Code 1960, § 19-4; Code 1983, § 11-14)

**State law reference**—Assault, F.S. § 784.011.

**Sec. 11-17. Bomb; false information.**

It shall be unlawful for any person to knowingly give false information to the effect that a bomb will be exploded or that any other serious hazard exists in any public conveyance, church, school, theater, auditorium, assembly hall, factory, warehouse, industrial, commercial or residential building or any other place used for public gatherings.

(Code 1960, § 19-10; Code 1983, § 11-17)

**State law reference**—False reports of bombing, F.S. §§ 790.163, 790.164.

**Sec. 11-19. Loitering for the purpose of engaging in prostitution.**

(a) *Definitions.* The following definitions shall apply in this section:

*Known prostitute or panderer:* A person who within one year previous to the date of arrest for violation of this section has, within the knowledge of the arresting officer, been convicted in any court of the State of Florida of any offense relating to or involving prostitution as defined in the statutes of the State of Florida or the Code of the City of Fort Pierce.

*Prostitution:* To engage in sexual activity for hire, including homosexual or other deviate sexual relations.

*Public place:* An area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(b) *Prohibited.* It shall be unlawful for any person in the city:

(1) To offer to commit or to commit or engage in prostitution.

(2) To solicit, induce, entice or procure another to commit prostitution.

(3) To offer another or offer or agree to secure another for the purpose of prostitution.

(4) To direct, take or transport or to offer or agree to take or transport any person to any place, structure or building or to any other place with the knowledge or reasonable cause to believe that the purpose of such directing, taking or transportation is prostitution.

(5) To keep, set up, maintain or operate any place, structure, building or conveyance for the purpose of prostitution or to permit any person to remain there for such purpose.

(6) To receive or offer or agree to receive any person into any place, structure, building or conveyance for the purpose of prostitution or to permit any person to remain there for such purpose.

(7) To reside in, enter into or remain in any place, structure or building or to enter into or remain in any conveyance for the purpose of prostitution.

(c) *Attempts.* Whoever attempts to commit an offense prohibited by this section and in such attempt does an act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution of the same, commits the offense of criminal attempt and shall be punished as provided in this section.

(d) *Temporary detention—Authorized.* Whenever any law enforcement officer encounters any person under any circumstances which reasonably indicate that such person has committed, is committing or is about to commit a violation of this section, the officer may temporarily detain such person for the purpose of ascertaining the identity of the person temporarily detained, and the circumstances surrounding his presence abroad which led the officer to believe that the person detained had committed, was committing or was about to commit a violation of this section.

PROOFS

___ *Same—Place; duration.* No person shall be temporarily detained under the provisions of subsection (d) hereof longer than is reasonably necessary to effect the purpose of such subsection. Such temporary detention shall not extend beyond the place where it was first effective or the immediate vicinity thereof.

___ *Arrest.* If at any time after the onset of the temporary detention authorized by subsection (d) hereof, probable cause for arrest of that person shall appear, the person shall be arrested. If after an inquiry into the circumstances which prompted the temporary detention, no probable cause for the arrest of the person shall appear, he shall be released.

___ *Circumstances considered.* Among the elements which may be considered by a police officer in determining that a person has committed, or is committing, or is about to commit a violation of this section are the following when, considered in the light of the surrounding circumstances, they would lead the officer to reasonably conclude upon the basis of his experience that a violation of this section has been committed, is being committed, or is about to be committed:

___ That such person is a known prostitute or panderer.

___ That such person repeatedly beckons to, repeatedly stops, repeatedly attempts to stop or repeatedly engages any person passing by in conversation without apparent purpose.

___ That such person repeatedly stops, or repeatedly attempts to stop, motor vehicle operators by hailing, waving of arms or other bodily gestures without apparent purpose.

___ *Prior conviction.* For the purposes of this section, a certified copy of a judgment of conviction shall be deemed prima facie evidence of such prior conviction.

(Code 1960, § 19-53; Code 1983, § 11-19)

**State law reference**—Prostitution, F.S. Ch. 796.

**Sec. 11-20. Lewd or lascivious acts.**

It shall be unlawful for any person to commit any act of fornication or other lewd or lascivious act within the limits of the city.

(Code 1960, § 19-21; Code 1983, § 11-20)

**State law reference**—Adultery and fornication, F.S. Ch. 798.

**Sec. 11-21. Indecent exposure.**

It shall be unlawful for any person to make any indecent exposure of the person at any place within the city.

(Code 1960, § 19-19; Code 1983, § 11-21)

**State law reference**—Similar provisions, F.S. § 800.03.

**Sec. 11-22. Smoke.**

The owner of any boat or locomotive engine, and the person employed as engineer or otherwise, in the working of the engine in such boat or in operating such locomotive, and the proprietor, lessee or occupant of any building, who shall permit or allow dense, black smoke to issue or be emitted from the smokestack of any such boat or locomotive, or the chimney or flue of any building for a period in excess of 30 minutes within the city shall be deemed and held guilty of creating a nuisance, and shall, for each such offense be punished as provided in section 1-5.

(Code 1960, § 19-40; Code 1983, § 11-22)

**Sec. 11-23. Destruction of property—private.**

It shall be unlawful for any person to willfully or maliciously injure or destroy the private or personal property of another unless authorized by law, this Code or ordinance.

(Code 1960, § 19-32; Code 1983, § 11-23)

**State law reference**—Criminal mischief, F.S. § 806.13.

**Sec. 11-24. Same—public.**

PROOFS

It shall be unlawful for any person to willfully tear up, mutilate or damage any pavement, sidewalk, park or the poles, trees and plants thereon, or any other public property of any kind, or to cause or permit it to be done in any manner whatsoever.

(Code 1960, § 19-35; Code 1983, § 11-24)

**Sec. 11-25. Unlawful use of property.**

It shall be unlawful for any person to use any building or property for any unlawful purpose or permit its use for such purpose.

(Code 1960, § 19-33; Code 1983, § 11-25)

**Sec. 26-4. Advertising matter; distribution.**

It shall be unlawful for any person to distribute or cause to be distributed any poster, handbill or other advertising matter by scattering same in the streets or by depositing or leaving same in or on doorways, automobiles or lawns within the limits of the city.

(Code 1960, § 19-1; Code 1983, § 11-26)

**Sec. 11-27. Same—declared nuisance.**

The distribution of posters, handbills or other advertising matter by scattering same in the streets of the city, or by depositing or leaving same in or on doorways, automobiles or lawns, within the limits of the city is hereby declared a nuisance per se tending to annoy and disturb the comfort of a considerable number of persons in the city.

(Code 1960, § 19-2; Code 1983, § 11-27)

**Sec. 11-28. Evading board bills.**

It shall be unlawful for any person to remove one's baggage or other property from any hotel, apartment, dwelling, room, lodging or boardinghouse surreptitiously or without paying the amount of rent or bill due therefor or notifying the owner or agent in advance of inability to pay such bill and intention to move.

(Code 1960, § 19-9; Code 1983, § 11-28)

**State law reference**—Obtaining food and lodging with intent to defraud, F.S. § 509.151; obtaining accommodations with intent to defraud, F.S. § 513.12; theft, F.S. § 812.014.

**Sec. 11-29. Stolen goods.**

It shall be unlawful for any person to take away or steal the property of another or to purchase, sell, conceal or have in his possession any stolen goods of any kind whatsoever, knowing the same to have been stolen.

(Code 1960, § 19-44; Code 1983, § 11-29)

**State law reference**—Dealing in stolen property, F.S. § 812.019.

**Sec. 11-30. Refrigerators and iceboxes; safety requirements.**

It shall be unlawful for any person to leave outside or inside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door, snap lock or other lock which may not be released for opening from the inside of such icebox, refrigerator or container without first removing the lock or doors therefrom.

(Code 1960, §§ 19-36, 19-37; Code 1983, § 11-30)

**State law reference**—Abandonment of containers, F.S. § 823.07.

**Sec. 26-5. Discharging petroleum products into sewer system.**

It shall be unlawful for any person to discharge or dispose of any crude oil or petroleum products into any of the storm sewers or sanitary sewer system of the city.

(Code 1960, § 19-29; Code 1983, § 11-31)

**Sec. 11-32. Threats.**

PROOFS

~~It shall be unlawful for any person to make any serious threats of violence or illegal injury to the person or property of another.~~

~~(Code 1960, § 19-47; Code 1983, § 11-32)~~

~~**State law reference**—Threats, F.S. § 836.05.~~

**~~Sec. 11-33. Blackmail.~~**

~~It shall be unlawful for any person to threaten or promise, either verbally or by written communication or otherwise, to accuse another of any crime or offense, or to commit or cause any injury to the person or property of another with intent thereby to extort money or any pecuniary advantage whatsoever, or to cause any person to do any act against his will which is not required by law, this Code or ordinance, or to refrain from doing any act which is required by law, this Code or ordinance. This provision, however, shall not apply to proper warnings given by any city officer or subordinate.~~

~~(Code 1960, § 19-8; Code 1983, § 11-33)~~

~~**State law reference**—Extortion, F.S. § 836.05.~~

**~~Sec. 11-34. Cruelty to minors.~~**

~~It shall be unlawful for any person to torture, torment, cruelly beat or punish or willfully or negligently overwork or deprive of necessary food, water, shelter or other necessity, any person under the age of 16 years, whatsoever the relationship may be.~~

~~(Code 1960, § 19-11; Code 1983, § 11-34)~~

~~**State law reference**—Assault and battery, F.S. Ch. 784; abuse of children, F.S. Ch. 827.~~

**Sec. 26-6. Public rights-of-way—Planting or maintaining vegetation in.**

It shall be unlawful for any person to plant any vegetation, other than lawn grass, on any public rights-of-way within the city limits. Prior to planting any such lawn grass in the public rights-of-way express, written permission must be obtained from the city manager, or his designee. In no event shall any person disturb, disrupt, or excavate any portion of the surface in the public rights-of-way, except as provided in chapter 32.

(Code 1960, § 19-35.1; Code 1983, § 11-35; Ord. No. K-106, § 2, 10-1-2001)

**Sec. 26-7. Public rights-of-way—Piling sand nearby.**

It shall be unlawful for any person to stack or pile sand to a height of more than ten feet, unless it is within a solid enclosure of not less than three walls, one of which must roughly parallel the road, when said sandpile is located within 150 feet of a public road right-of-way within the city.

(Code 1960, § 19-35.2; Code 1983, § 11-36)

**~~Sec. 11-37. Police—refusal to assist.~~**

~~It shall be unlawful for any person to refuse or fail to assist any police or peace officer in making an arrest or caring for a prisoner when requested by such officer to do so.~~

~~(Code 1960, § 19-30; Code 1983, § 11-37)~~

~~**State law reference**—Neglect or refusal to aid peace officers, F.S. § 843.06.~~

**~~Sec. 11-38. Same—resisting or interfering with.~~**

~~It shall be unlawful for any person to resist or interfere with any officer in the performance of his duty, or to aid or attempt to aid in the escape of a prisoner.~~

~~(Code 1960, § 19-31; Code 1983, § 11-38)~~

~~**State law reference**—Resisting officer, F.S. §§ 843.01, 843.02.~~

**~~Sec. 11-39. Obscene language, pictures and papers.~~**

~~It shall be unlawful for any person to use any obscene, indecent or profane language in any public place, or exhibit any obscene pictures or papers.~~

PROOFS

~~(Code 1960, § 19-28; Code 1983, § 11-39)~~

~~**State law reference**—Obscene literature, profanity, F.S. Ch. 847.~~

~~**Sec. 11-40. Disorderly houses.**~~

~~It shall be unlawful for any person to keep, maintain, operate or occupy for profit any gambling house or house of prostitution in the city.~~

~~(Code 1960, § 19-14; Code 1983, § 11-40)~~

~~**State law reference**—Keeping house of ill fame, F.S. § 796.01; keeping gambling house, F.S. § 849.01.~~

~~**Sec. 11-41. Minors; gambling.**~~

~~It shall be unlawful for any person to gamble with any minor under the age of 16 years or to conduct any gambling game or device at which any minor is permitted to gamble.~~

~~(Code 1960, § 19-23; Code 1983, § 11-41)~~

~~**State law reference**—Permitting minors to gamble, F.S. § 849.04.~~

~~**Sec. 11-42. Begging; mendicant vending.**~~

~~It shall be unlawful for any person to beg or to occupy the city sidewalks, streets or other public places as a mendicant vendor soliciting contributions under the guise or pretext of selling pencils, shoestrings or other trinkets, except, however, that this provision shall not be construed to prevent street musicians of real music of merit from rendering music on the streets in the daytime and taking a collection therefor when so authorized in writing by the city manager.~~

**Sec. 26-8. Begging and soliciting alms.**

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

*Accosting* means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

*Ask, beg* or *solicit* means and includes, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

*Forcing oneself upon the company of another* means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) It shall be unlawful for any person to solicit money or other things of value:

(1) By accosting another; or

(2) By forcing oneself upon the company of another.

(Code 1960, § 19-7; Code 1983, § 11-42)

~~**Sec. 11-44. Disorderly conduct.**~~

~~Disorderly conduct is defined as follows: Any person who is engaged in any illegal occupation or business; any prostitute; any window peeper; any person who shall engage in any indecent or obscene conduct in any public place; any vagrant; any person who is found begging in a public place; any person found loitering in a house of ill fame or prostitution, or place where prostitution or lewdness is practiced, encouraged or allowed; any person who shall loiter in and about any police station, police headquarters building, county jail, city jail, hospital, court building or any other place or public building, scene of an accident, crime or disaster, for the purpose of soliciting employment of legal services and/or the services of sureties upon criminal recognizances; any person who shall be found jostling or roughly crowding people unnecessarily in a public place; and any person picketing, shall be deemed a disorderly person. Proof of recent reputation for engaging in an illegal occupation or business shall be~~

PROOFS

prima facie evidence of being engaged in an illegal occupation or business.

All persons who shall make, aid, countenance or assist in making undue noise, riot, disturbance, breach of the peace or diversion tending to a breach of the peace, within the limits of the city; all persons who shall collect in bodies or crowds for unlawful purposes, or for any purpose, to the annoyance or disturbance of other persons; all persons who are idle or dissolute and go about begging; all persons who use or exercise any juggling or other unlawful games or plays; all persons who are found in houses of ill fame or gaming houses; all persons lodging in or found at any time in any outhouses, sheds, barns, garages or unoccupied buildings or underneath sidewalks or lodging in the open air and not giving a good account of themselves; all persons who shall be engaged in or aid or abet in any fight, quarrel or any other disturbance in the city; all persons who stand, loiter or stroll about in any place in the city waiting or seeking to obtain money or other valuable things from others by trick or fraud, or to aid or assist therein; all persons who shall engage in any fraudulent scheme, device or trick to obtain money or other valuable thing in any place in the city or who shall aid or abet or in any manner be concerned therein; all touts, ropers, steerers, or cappers, so called, for any gambling room or house who shall ply or attempt to ply their calling in the city; all persons found loitering about any hotel, block, barroom, juke joints, gambling house or disorderly house, or wandering about the streets either by night or by day, without any known lawful means of support or without being able to give a satisfactory account of themselves; all persons who are known to be thieves, burglars, pickpockets, robbers or confidence men, either by their own confession or otherwise, or by having been convicted of larceny, burglary or other crimes against the laws of the state or any state in the United States, who are found lounging in or prowling or loitering around any boat landing, railroad depot, banking institution, place of public amusement, auction room, hotel, store, shop, thoroughfare, car, public conveyance, public gathering, public assembly, public buildings, private dwelling house, house of ill fame, gambling house, barroom or any public place who are unable to give a reasonable excuse for being so found; any person who willfully disturbs the peace of others within the city by violent or offensive conduct or by making undue noise or by using loud, profane or obscene language; any person who shall accost, approach, proposition, pick up or attempt to pick up, insult or embarrass any female, or who shall aid, countenance, abet or assist or in any manner be concerned therein; any person who shall enter upon any private, public or parochial school property, school cafeteria or any public place of business or upon the premises of such public place of business, or any other public place whatsoever in the city and while therein, thereon or in the immediate vicinity thereof, shall create a disturbance or breach of the peace in any way whatsoever, including but not restricted to, loud and offensive talk, the making of threats or attempting to intimidate, or any conduct which causes a disturbance or breach of the peace or threatened breach of the peace, shall be deemed guilty of disorderly conduct.

(Code 1960, § 19-13; Code 1983, § 11-44)

**State law reference**—Disorderly conduct, F.S. § 877.03.

**Sec. 11-45. Disturbing the peace.**

It shall be unlawful for any person to commit or cause any riot, affray, noise, disorder or tumult, or loud personal abuse of any person, or create any disturbance calculated to disturb the peace or quiet of the city. For enforcing the provisions of this section it shall be lawful for the chief of police, or for any of his force, to enter any house, outhouse, garden, place of amusement or public place or business to arrest any persons violating the same.

(Code 1960, § 19-15; Code 1983, § 11-45)

**State law reference**—Breach of the peace, F.S. § 877.03.

**Sec. 11-46. Fighting.**

It shall be unlawful for any person to fight, except in self defense, in the city.

(Code 1960, § 19-18; Code 1983, § 11-46)

**Sec. 11-47. Provocative language.**

It shall be unlawful for any person to use any language to or of another of a character calculated to provoke an assault or breach of the peace or obviously intended to accomplish that purpose.

(Code 1960, § 19-34; Code 1983, § 11-47)

PROOFS

~~**Sec. 11-49. Narcotics; selling, giving, etc., refilling of prescriptions.**~~

~~It shall be unlawful for any person to sell, give, administer, prescribe or otherwise dispose of or aid in procuring any narcotic drug or substance, except to save or prolong life and relieve suffering, and then only in accordance with express provisions and requirements of law and when prescribed and administered by a licensed physician or dentist. No such prescription shall be refilled.~~

~~(Code 1960, § 19-26 Code 1983, § 11-49)~~

~~**State law reference**—Drug trafficking, F.S. § 893.135.~~

**Sec. 26-9. Controlled substances.**

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

~~The following definitions apply in this section:~~

*Controlled substances* mean any substance, mixture or combination of substances, as defined in F.S. § 893.02, as now enacted or hereinafter amended or transferred.

*High drug activity areas* mean any public place, as defined herein, known to the general public as a place where persons illegally use, possess, transfer or sell any controlled substance, as defined herein, or a public place that has been posted with a warning sign substantially in the following form and content:

Warning

High drug activity area

Persons observed loitering in this area are subject to questioning and arrest by law enforcement officers under section 26-9 of the city Code of Ordinances.

*Known possessor, transferrer or seller of controlled substances* mean any person who within one year previous to the date of arrest for violation of this section with the knowledge of the arresting officer has been convicted in any courts of the state of any offense relating to or involving the illegal use, possession, transfer or sale of any controlled substance, as it is defined in F.S. § 893.02, as now enacted or hereinafter amended or transferred.

*Public place* means an area generally visible to public viewing, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, the doorways and entrances to buildings or dwellings, and the grounds enclosing them.

(b) *Prohibited.* It is unlawful for any person to loiter in a public place, and at a time or in a manner not usual for law abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern that such person is engaged in the illegal use, possession, transfer or sale of any controlled substances, as that term is defined in this section.

(c) *Attempts.* Whoever attempts to commit an offense prohibited by subsection (b) of this section and in such an attempt does not act in committing such an offense but fails in perpetration or is intercepted or prevented in the execution of same, commits the offense of criminal attempt of this section.

(d) *Circumstances considered.* When considered in light of the totality of the surrounding circumstances, the following elements may be considered by the officer to conclude upon the basis of his experience that a violation of this section has been committed, is being committed, is about to be committed, or is attempting to be committed in a public place:

(1) That the person is a known possessor, transferor or seller of controlled substance, as defined herein;

(2) That the person is at a location frequented by persons who illegally use, possess, transfer or sell controlled substances, as defined herein;

(3) That the person repeatedly beckons, repeatedly stops, repeatedly attempts to stop, or repeatedly engages any person passing by in conversation without apparent purpose, and when considered in light of the surrounding circumstances would lead the officer to reasonably conclude on the basis of his experience that the purpose in so beckoning, stopping, or engaging in conversation or passersby that it is for the

PROOFS

purpose of inducing, enticing, soliciting, or procuring another to illegally possess, transfer or buy any controlled substance, as defined herein;

(4) That the person is engaged in any action described in subsection (d)(1), (2) or (3) of this section while in a high drug activity area.

(d) *Temporary detention authorized.* Whenever any law enforcement officer encounters any person under circumstances which indicate that such person has committed, is committing, is about to commit, or is attempting to commit a violation of this section, unless flight by the person or other circumstance makes it impractical, a law enforcement officer shall prior to any arrest for any offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting such person to identify himself, and explain the circumstances surrounding his presence which led the officer to believe that the person detained had committed, was committing, or was about to commit a violation of this section. No person shall be temporarily detained under the provisions of this section longer than is reasonably necessary to affect the purpose of this section. Such temporary detention shall not extend beyond the place where it is first affected or the immediate vicinity thereof. No person shall be convicted of an offense under this section if the law enforcement officer does not comply with this procedure, or if it appears at trial that the explanation given by the person is true, and if believed by the officer at the time would have dispelled the alarm or immediate concern.

(e) *Prior conviction.* For the purposes of this section, a certified copy of a judgment of conviction shall be deemed prima facie evidence of such prior conviction.

(f) *Remedies not exclusive.* This section does not prohibit the prosecution of any person arrested under this chapter for possessing, selling, transferring or delivering any controlled substance consistent with state statutes.

(Code 1983, § 11-53; Ord. No. I-482, § 1, 12-2-1991)

**Secs. 26-10--26-36. Reserved.**

## ARTICLE II. NOISE

### Sec. 26-37. Purpose.

(a) Excessive, unnecessary or unusually loud noise is a detriment to the public health, comfort, convenience, safety, welfare and prosperity of city residents.

(b) It is in the public interest that the regulations contained in this article be adopted as public policy to promote the public health, comfort, safety, welfare and repose of the ~~county~~ and its inhabitants.

(Code 1983, § 11-52.1; Ord. No. 14-033, § 1, 12-1-2014)

### Sec. 26-38. Terminology, standards, and definitions.

(a) *Definitions.* All technical definitions are in accordance with American National Standards Institute Standard S1.1-1960 or in successor publication entitled Acoustical; Terminology, as reaffirmed. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~For the purposes of this chapter, the following definitions shall apply:~~

*A-weighting* means the electronic filtering in sound level meters that models human hearing frequency sensitivity.

*Ambient noise* means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far, independent of any single, identifiable noise source.

*Background sound level* means the total sound pressure level in the area of interest excluding the noise source of interest.

*Bel* means a unit of level when the base of logarithm is ten. Use of the bel is restricted to levels of quantities proportional to power.

*C-weighted scale* is often used to characterize low frequency sounds capable of inducing vibrations in buildings or other structures.

PROOFS

*Commercial property* means any property zoned for commercial purposes that is used primarily for the sale of merchandise or goods, or for the performance of service, or for office or clerical work.

*Construction* means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

*Decibel (dB)* means the unit of measurement for sound pressure level at a specified location.

*dBA* means the A-weighted unit of sound pressure level. C-weighted measurements are expressed as dBC. Z-weighted measurements are expressed as dBZ.

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.

*Emergency work* means any work or action performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or delivering essential services.

*Frequency of a function periodic in time* means the reciprocal of the primitive period. The unit is the cycle per unit time and must be specified.

*Impulsive sound* means a sound having a duration of less than one second with an abrupt onset and rapid decay.

*Industrial property* means any property that is used primarily for manufacturing or processing.

*Legal holiday* means and includes the following: New Year's Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Eve and Christmas Day.

*Mixed use building* means a building in which both residential and commercial uses are permitted.

*Muffler* means a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

*Multifamily dwelling* means any building or other shelter that has been divided into separate units to house more than one family.

*Noise* means any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans or that would unreasonably interfere with the enjoyment of life or property.

*Octave band* means all of the components in a sound spectrum whose frequencies are separated by an octave.

~~*Person* means any person, person's firm, association, copartnership, joint venture, corporation or any entity, public or private in nature.~~

*Real property line* means the line, including its vertical extension that separates one parcel of real property from another.

*Residential property* means any property on which people live and sleep.

*Sound level* means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, C or Z as specified in American National Standards Institute specifications for sound level meters, ANSI S1.4-1971, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

*Sound level meter (SLM)* means an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the ANSI Standard S1.4-1983 or the latest version thereof.

*Sound pressure level (SPL)* is 20 multiplied by the logarithm, to the base of ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

*Weekday* means any day, Monday through Friday that is not a legal holiday.

*Z-weighting* means the true absolute unweighted dB sound levels. Unweighted decibel measurements are used for refined analyses that require data on the frequency spectrum of a sound (e.g., when determining the sound absorption or sound transmission properties of materials). As a direct measure of the pressure fluctuations associated with sound, unweighted decibel measurements also have considerable usefulness in evaluating noise-induced

PROOFS

vibrations.

(b) *Classification of use occupancy.* For purposes of defining the use occupancy, all premises containing habitually occupied sleeping quarters shall be considered residential use. All premises containing transient commercial sleeping quarters shall be considered commercial use. All premises containing businesses where sales, professional or other commercial uses are legally permitted shall be considered commercial use. All premises where manufacturing is legally permitted shall be considered industrial use. In cases of multiple use, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, churches and all institutional uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.

(c) *Maximum permissible sound levels by use occupancy.* It shall be unlawful to project a sound or noise, from one property into another property within the boundary of the use occupancy, which exceeds either the limiting noise spectra set forth in Table I below or exceeds the ambient noise level by more than three decibels when measured as specified under the noise enforcement practices as adopted by the city commission by ordinance.

(1) Sound or noise projecting from one use occupancy into another use occupancy with a different noise level limit shall not exceed the limits of the use occupancy into which the noise is projected.

(2) The limits hereinabove referred to shall be in accordance with Table 1 below:

(Code 1983, § 11-52.16; Ord. No. 14-033, § 1, 12-1-2014)

**Sec. 26-39. Classification of use districts.**

For purposes of defining the use occupancy, all premises containing habitually occupied sleeping quarters shall be considered in residential use. All premises containing transient commercial sleeping quarters shall be considered commercial use. All premises containing businesses where sales, professional or other commercial use is legally permitted shall be considered commercial use. All premises where manufacturing is legally permitted shall be considered industrial use. In cases of multiple use, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, churches and all institutional uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.

(Code 1983, § 11-52.17; Ord. No. 14-033, § 1, 12-1-2014)

**Sec. 26-40. Sound level limitations.**

No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 when measured from the real property line of the nearest receiving property, using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

PROOFS

*Table 1: Sound Level Limits by Receiving Property*

| *Receiving Property Category* | *Time* | *Sound Level Limit (dBA)* | *Sound Level Limit (dBC)* | *Sound Level Limit (dBZ)* |
|---|---|---|---|---|
| Residential | Monday through Saturday, 7:00 a.m.--11:00 p.m. | 60 | 60 | 60 |
| Residential | Sunday, 7:00 a.m.--1:00 p.m. | See subsection (1) of this section. | See subsection (1) of this section. | See subsection (1) of this section. |
| Residential | Sunday through Saturday, 11:00 p.m.--7:00 a.m. | See subsection (1) of this section. | See subsection (1) of this section. | See subsection (1) of this section. |
| Commercial | At all times | 65 | 65 | 65 |
| Industrial | At all times | 70 | 70 | 70 |

(1) It shall be unlawful for any person to make, continue or cause to be made or continued within that portion of the city which has been designated as a residential or mixed use area of the city, between the hours of 11:00 p.m. and 7:00 a.m. of each day, and on Sunday from 7:00 a.m. to 1:00 p.m. any unreasonably loud, excessive, unnecessary, or unusual noise in such manner that noise produced, or the vibration made, by the same would be obvious, or cause discomfort and annoyance to an ordinary, reasonable prudent person at a distance greater than 50 feet from the real property line of the nearest receiving property. A sound level meter or sound level reading shall not be necessary for the enforcement of this subsection.

(2) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 11:00 p.m.) limits of Table 1 shall be increased by ten dBA, dBC, or dBZ.

(3) In a multifamily dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 50 dBA, dBC, or dBZ and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 40 dBA, dBC, or dBZ as measured from a neighbor's dwelling.

(4) In a mixed use building, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 55 dBA, dBC, or dBZ and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 45 dBA, dBC, or dBZ as measured within the residential use portion of the building.

(5) In addition to the limits of Table 1, for any sound source which impacts residential property, the maximum allowable sound level limits for the individual octave bands whose centers are 31.5, 63 and 125 Hertz shall not exceed 65 dBA, dBC, or dBZ.

(Code 1983, § 11-52.18; Ord. No. 14-033, § 1, 12-1-2014)

**Sec. 26-41. Exemptions.**

(a) The following uses and activities shall be exempt from noise level regulations:

(1) Noise of safety signals, warning devices, and emergency pressure relief valves.

(2) Noise resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergency.

(3) Noise resulting from emergency work.

(4) Noise resulting from the operation of any type of aircraft, not including scale model aircraft.

(5) Noise resulting from the operation of any motor vehicle as specified in F.S. chs. 316 and 403.

(6) Noise resulting from the operation of the following facilities existing and in operation on the effective date of the ordinance from which this article:

a. Electricity regulating substations.

b. Electric generation plants.

c. Other electric utilities.

d. Gas pressure control stations.

e. Gas production plants.

f. Natural or manufactured gas storage and distribution points.

g. Other gas utilities.

h. Pipeline pressure control stations.

i. Railroad, rapid rail transit, and street railway transportation.

j. Industrial wastewater disposal.

k. Sewage disposal.

l. Sewage pressure control stations.

m. Sewage treatment plants.

PROOFS

n. Sewage sludge drying beds.

o. Water utilities and irrigation.

p. Solid waste disposal.

(7) Air conditioners are exempt from provisions of Table I when this equipment is functioning in accord with the manufacturer's specifications and with all manufacturers' standard mufflers and noise-reducing equipment in use and in proper operating condition according to standards promulgated by the American Refrigeration Institute. The same exception shall apply to lawn mowers and agricultural equipment during daylight hours.

(8) Non-amplified crowd noises resulting from the activities such as those planned by student, governmental or community groups.

(9) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government, provided that all equipment is operated in accord with the manufacturer's specifications and with all standard equipment, manufacturers' mufflers and noise-reducing equipment in use and in proper operating condition.

(10) Noises made by persons having obtained a special events permit to use the streets as provided for in chapter 28, article IV.

(11) Noises resulting from any authorized law enforcement and firefighting training activities, including, but not limited to, police department shooting range exercises.

(12) Noise resulting from the activities of any permitted use, conditional use or accessory use permitted in districts zoned industrial, light or industrial, heavy.

(13) Noise resulting from the temporary operation of equipment or activities relating to normal maintenance of residential or commercial uses, between the hours of 7:00 a.m. and 10:00 p.m., including, but not limited to, the following activities: lawn mowing, maintenance of trees, hedges and gardens; refuse collection; soil cultivation; and pavement sweeping and cleaning.

(14) Noise resulting from the operation of railways and shipping activities.

(15) Noise resulting from construction activities occurring between 7:00 a.m. and sundown. The exemption shall be effective upon obtaining a building permit and shall pertain to any construction activity directly related to the construction authorized under the permit. A special permit issued pursuant to section 26-42 shall be required for the generation of noise resulting from construction activities between sundown and 7:00 a.m. For any violation of the terms of the special permit, the permit holders shall be jointly and severally liable.

(16) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city manager, or his designated appointee.

(b) Where an industrial or commercial use is established on property not adjacent to a residential use district and the adjacent property subsequently becomes residential, the noise resulting from the operation of the preexisting industrial or commercial use which is projected into the residential use district shall be subject to the permissible noise levels for industrial or commercial use districts, as appropriate.

(c) Where the noise levels for a preexisting use are more restrictive than those for a subsequent use established adjacent to the preexisting use, the noise level for the preexisting use shall apply.

(Code 1983, § 11-52.19 Ord. No. 14-033, § 1, 12-1-2014)

**Sec. 26-42. Application for special permit.**

Application for a permit for relief from the noise levels designated in this section on the basis of undue hardship may be made to the city manager, or his designated appointee. Any permit granted by the city manager, or his designated appointee hereunder, shall be in writing and contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The city manager, or his designated appointee, may grant the relief as applied for under the following conditions:

PROOFS

(1) The city manager, or his designated appointee, may prescribe any reasonable conditions or requirements as he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound-attenuating devices.

(2) Permits for entertainment. Special event permits are covered under chapter 28, article IV. Permits for noise generated by and related to public events held on public property may be obtained as provided for in chapter 28, article IV.

(3) Other. Special permits for noise generated by non-entertainment special purposes may be issued under the following conditions:

a. 1. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or

2. If the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant.

b. If the special purpose be a recurring purpose, that it not recurs more often than four times each calendar year.

c. 1. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or

2. If the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur.

d. Except in emergency situations, as determined by the city manager, or his designated appointee, the special permit may be issued for only four hours between 7:00 a.m. and 11:00 p.m. on weekdays; and

e. Special permits may be issued for no longer than 15 consecutive days, renewable by further application to the city manager or his designated appointee.

(4) No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building which at any time exceeds the sound level limits in Table I except those used for emergency warnings.

(Code 1983, § 11-52.20; Ord. No. 14-033, § 1, 12-1-2014; Ord. No. 15-011, § 1, 6-15-2015)

**Sec. 26-43. Noises prohibited, unnecessary noise standard, required.**

(a) Sounds may be such that they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city as deemed by a reasonable person are prohibited.

(b) With the exception of those exemptions provided by state law, noises prohibited by this section are unlawful notwithstanding the fact that no violation of this article is involved and notwithstanding the fact that the activity complained about is exempted in this article.

(c) A sound level meter or sound level reading shall not be necessary for the enforcement of this section.

(Code 1983, § 11-52.21; Ord. No. 14-033, § 1, 12-1-2014)

**Sec. 26-44. Penalties for each violation.**

Violations of this article shall be punishable as ~~a misdemeanor pursuant to F.S. § 125.69, subject to imprisonment as provided by said section of up to 60 days or a fine of up to five hundred dollars ($500.00), or both such imprisonment and fine, subject however to the following~~ provided in section 1-7:

(1) Upon receipt of a first complaint of violation at the subject location, the violator shall be given a warning;

(2) Upon receipt of a second complaint of violation at the same location, within the same 24-hour period of time, the violator shall be issued a citation pursuant to section 1-100 with such violation to be deemed a civil infraction;

PROOFS

(3) Upon receipt of a third complaint of violation within the same 24-hour period of time, at the same location, the violation shall be deemed a misdemeanor and the violator will be issued a summons to appear in court;

(4) Upon receipt of a fourth complaint of violation within the same 24-hour of time, at the same location, the violation shall be deemed a misdemeanor as above provided and the violator shall be taken under physical arrest.

(Code 1983, § 11-52.22; Ord. No. 14-033, § 1, 12-1-2014)

**Secs. 26-45--26-61. Reserved.**

## ARTICLE III. YOUTH PROTECTION

**Sec. 26-62. Title.**

This article shall be known and may be cited as the "Youth Protection Ordinance" of the city.

(Code 1983, § 11-90; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-63. Purposes.**

The city commission finds as follows:

(1) Reducing juvenile crime and victimization, while promoting juvenile safety and wellbeing, is a matter of compelling governmental interest.

(2) Juveniles are particularly vulnerable to crime and victimization, due to their frequent inability to make critical decisions in an informed, mature manner.

(3) Juvenile crime brings adverse consequences to the youth of the city in the form of decreased school performance, increased school dropout rates, criminal records, and diminished opportunity at worthwhile future employment.

(4) The city has an interest in the protection of minors from adults and from each other on the street during night-time hours and is obligated to act in a positive manner for the safety and welfare of the juveniles of the city.

(5) The city also has an interest in seeing that school-age minors who have been suspended or expelled from school do not wander at large or disrupt school activities.

(6) A narrowly tailored ordinance that imposes reasonable time, place and manner restrictions upon minors in an effort to reduce juvenile crime and victimization, without unduly limiting the free exercise of religion, freedom of speech, and the right of assembly secured to all citizens by the United States and state constitutions, in the best interest of the public health, safety and general welfare of the citizens of the city.

(Code 1983, § 11-91; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-64. Definitions.**

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

~~For the purposes of this article, certain words and phrases are defined as indicated herein words in the present tense include the future, the singular includes the plural and the plural the singular; the words "shall", "will" and "must" are mandatory, and the word "may" is permissive.~~

*Direct route* means the shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

*Emergency* means, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Holding location* means the juvenile assessment center (JAC), to which a minor taken into custody for a violation of this article will be delivered to await pick up by a parent or juvenile authorities.

PROOFS

*Minor* means any person under 18 years of age, who is not married and has not been adjudicated an adult.

*Operator* means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term "operator" includes the members or partners of any association or partnership and the officers of a corporation.

*Parent* means a person who is:

(1) A natural or adoptive parent of another person;

(2) A court-appointed guardian of another person; or

(3) At least 21 years of age and authorized by a parent or court-appointed guardian to have the care and custody of another person

*Public place* means any street, alley, highway, sidewalk, playground, park, plaza, building, any property owned by or controlled by the city, or other place used by or open to the public.

*Remain* means to:

(1) Linger or stay unnecessarily; or

(2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

*Restricted hours* mean:

(1) The hours between 12:00 midnight and 6:00 a.m., seven days a week.

(2) For minors under 16 years of age who have been suspended or expelled from school, the term "restricted hours" will also include the hours between 8:00 a.m. and 3:00 p.m. on school days.

*Semi-public place* means any privately-owned or privately-operated real property (including any structure thereon) to which the general public is invited or has a legal right of access and right to resort for business, recreation, entertainment or other lawful purpose, including, but not limited to, any store, shop, restaurant, tavern theater, shopping center, bowling alley, pool hall, parking lot, alley, or road. The term "semi-public place" also means any vacant lot, or any vacant or abandoned building.

*Swale* means the low tract of land in front of or between houses often used for drainage.

(Code 1983, § 11-92; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-65. Violation by minor.**

It is a violation of this article for any minor to remain, linger, stay, congregate, move about, wander, or stroll in any public or semi-public place in the city, either on foot or in or upon any vehicle, during restricted hours.

(Code 1983, § 11-93; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-66. Violation by minor suspended or expelled from school.**

It is a violation of this article for any minor under 16 years of age who has been suspended or expelled from school to be or remain in any public or semi-public place, or be within 1,000 feet of a school, between the hours of 8:00 a.m. and 3:00 p.m. on any school day.

(Code 1983, § 11-94; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-67. Parental responsibility in regard to restricted hours.**

It shall be unlawful for a parent of a minor to knowingly permit or by insufficient control allow the minor to remain in any public or semi-public place or on the premises of any establishment within the city during the curfew hours.

(Code 1983, § 11-95; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-68. Exceptions.**

It shall not be a violation of this article for a minor to be in any public or semi-public place or on the premises of any establishment within the city during the curfew hours if the minor is:

PROOFS

(1) Accompanied by the minor's parent or guardian or other person at least 21 years of age, having the care and control of the minor with the parent or guardian's permission;

(2) On an errand at the direction of the minor's parent with written permission, without any detour and by using a direct route;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in a lawful employment activity, without any detour and by using a direct route;

(5) Involved in an emergency;

(6) On the swale or sidewalk abutting the minor's residence or abutting the residence of a nextdoor neighbor if the neighbor did not complain to the police officer about the minor's presence;

(7) Attending an official school, religious, recreational or academic activity supervised by adults at least 21 years of age, which organization takes responsibility for the minor as an invitee, or going to or returning home from any such activity without any detour and by using the most direct route;

(8) Exercising First Amendment rights protected by the United States Constitution (or those similar rights protected by article I, sections 3, 4, and 5 of the Florida Constitution), such as the free exercise of religion, freedom of speech, and the right of assembly;

(9) Married or had been married or had disabilities of minority removed in accordance with state statutes;

(10) Homeless, or uses a public place as their usual place of abode;

(11) When the city commission, pursuant to an application by a sponsor of an event not provided for in these exceptions, authorizes minors to be in a public place during restricted hours. An application by a sponsor of said event shall be completed by the sponsor and filed with the office of the chief of police not later than 21 days prior to the event and in sufficient time for the commission to consider the application at a regularly scheduled meeting prior to the event. The application shall include provisions for the protection of any minors participating in the event and shall be approved by the chief of police prior to submission to the commission for consideration.

(Code 1983, § 11-96; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-69. Responsibility of parents.**

It shall be unlawful for a parent, guardian, or other person at least 21 years of age having legal care and control of a minor to permit, or by inefficient control, to allow such minor to be or remain, linger, stay, congregate, move about, wander or stroll in any public or semi-public place during restricted hours, or, through willful inaction, fails to ensure that the minor makes timely payment of any civil penalty provided by this article. It shall constitute a defense:

(1) If the parent, guardian or other person informed the police department that the minor was missing or had left or remained away from their residence during restricted hours, over the objection of the parent, guardian, or other person; or

(2) If the parent, guardian or other person did not know of the minor's presence in a public or semi-public place during restricted hours, if said parent guardian or other person, through the exercise of reasonable care and diligence, should not have known of the minor's unlawful act.

(Code 1983, § 11-97; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-70. Responsibility of operators.**

(a) It shall be unlawful for the operator of any business to knowingly permit a minor to remain, linger, stay, congregate, move about, wander or stroll upon the premises of the business during restricted hours. Operators are encouraged, but not required to, post in or about their business premises a notice in substantially the following form:

It is unlawful for any person who is less than 18 years of age to remain on these premises between 12:00 midnight and 6:00 a.m., unless specifically allowed by law.

PROOFS

(b) It shall constitute a defense if the operator notified the police department that the minor was present on the premises of the business during restricted hours and the minor refused to leave the premises after being requested by the operator to leave. It shall also constitute a defense if the operator has posted a notice, in the form set forth in subsection (a) of this section, which has notified the minor that the minor is not permitted on the premises during the restricted hours and has provided reasonable notice.

(Code 1983, § 11-98; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-71. Enforcement procedures as to minors.**

Unless flight by the person or other circumstances makes it impractical, a law enforcement officer, upon finding a suspected minor in violation of this article, shall:

(1) Have the suspected minor identify themselves by name, age and address; make every reasonable effort to verify the information provided by the juvenile, through written documentation, contact with the parent, or otherwise;

(2) Ascertain the minor's reason for being in the public or semi-public place during restricted hours;

(3) If the minor is found to be in violation of this article, the minor shall be taken to a parent or to the juvenile assessment center (JAC). The officer may file the appropriate papers to request that a petition be filed in court in accordance with F.S. ch. 984, Children/Family in Need of Services (CINS/FINS).

(Code 1983, § 11-99; Ord. No. K-473, § 2, 3-5-2007)

**Sec. 26-72. Penalties for minors.**

(a) A minor who violates this article for the first time will receive a written warning by the police officer, and will be afforded the opportunity to participate in the city police department's juvenile diversion program. If he chooses not to participate, does not qualify for the program, or fails to successfully complete the program, a $50.00 civil fine will be imposed, in the manner provided for a civil infraction by ~~chapter 2, article XIII.5.~~ Law enforcement may file the appropriate papers to request that a petition be filed in court, in accordance with F.S. ch. 984, Children/Family in Need of Services (CINS/FINS).

(b) A minor who violates this article for the second time will be issued a civil fine of $100.00, in the manner provided for a civil infraction by chapter 1, article II, division 3. Again, law enforcement may file the appropriate papers to request that a petition be filed in court, in accordance with F.S. ch. 984, Children/Family in Need of Services (CINS/FINS).

(c) A minor who violates this article for the third (or more) time will receive a referral for CINS/FINS from law enforcement, in accordance with F.S. ch. 984, Children/Family in Need of Services (CINS/FINS)..

(Code 1983, § 11-100; Ord. No. K-473, § 2, 3-5-2007)

PROOFS

Chapter 27

**RESERVED**

PROOFS

Chapter 28

# PARKS, RECREATION AND SPECIAL EVENTS*

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

## ARTICLE I. IN GENERAL

### Sec. 28-1. Definitions.

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

~~The following definitions shall apply in this chapter:~~

*Administrative rules* mean the rules and regulations promulgated by the city manager under the procedure prescribed in section 2-85.

*Block party* means a gathering composed substantially of neighbors in a residential area which requires the closing of a local street for the purpose of having a party or other social, recreational or similar other type of assemblies.

*City manager* means the city manager, or such individual's designee.

*Driver* means every person who drives or is in actual physical control of a vehicle or steering a vehicle being towed by a motor vehicle.

*Fishing* means taking or attempting to take, possess, remove, or capture fish or other marine life, by means of any type of pole, rod, net, spear gun, spear, lance, gig, or any type of device used for taking, removing, possessing, or capturing fish, whether for commercial or noncommercial purposes. The term "net" includes cast nets, seine nets, and scoop nets.

*Motor vehicle* means every vehicle which is self-propelled whether by means of an internal combustion engine or by electrical power, including, but not limited to, automobiles, buses, emergency vehicles, motorcycles, motorbikes, motor scooters, school buses, trucks and tractors, except publicly-owned vehicles in the performance of their functions and motorized wheel chairs.

*Park area* means all parks, playgrounds, recreation fields and areas, waterways, water areas, canals, beaches, buildings, structures and facilities and the parking areas, roadways, walkways, paths and trails which are provided in connection therewith within the city limits, excluding state and federal parks.

*Parking* means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

*Special event* means any outdoor meeting, activity, parade, gathering or group of two or more persons, animals or vehicles, or a combination thereof having a common purpose, design or goal, upon any public street, sidewalk, alley, park, beach or other public property, place or building, which special event substantially inhibits the usual flow of pedestrian or vehicular travel or which occupies any outdoor area of any public area or building which results in use preempting normal use otherwise to be made of the area by the general public or which deviates from the established use. The term "special event" shall not be construed to include a funeral procession.

*Traffic control devices* means all signs, signals, markings and devices planned or created by authority of the city for the purpose of regulating, warning or guiding traffic.

(Code 1983, § 12-100; Ord. No. L-246, § 2, 2-21-2012)

### Sec. 28-2. Enforcement.

(a) The police department's officers, code enforcement officers, and any other city employees designated by

PROOFS

the city manager shall enforce this chapter.

(b) Any city employee authorized to enforce this chapter, as provided herein, has the authority to eject from a park or public facility any person in violation of this chapter or any other law.

(c) Any person who violates any provision of this chapter shall be subject to municipal enforcement as set forth in chapter 1, article II, divisions 2 and 3.

(Code 1983, § 12-101; Ord. No. L-246, § 2, 2-21-2012; Ord. No. 20-002, 2-3-2020)

**Sec. 28-3. Fees.**

Fees for permits and service required by this chapter shall be established by resolution of the city commission.

(Code 1983, § 12-102; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-4. Fishing within city.**

(a) The city hereby prohibits fishing from certain specified areas, as follows:

(1) From the South Bridge located on Seaway Drive within the city, except from the balconies or walkways underneath and attached to either side of such bridge;

(2) From the land or shoreline, including structures attached thereto, along the west bank of the Indian River Lagoon in the area known as River Walk starting at the base of the South Bridge on Seaway Drive, extending south until the mouth or entrance to Moore's Creek;

(3) From the land or shoreline, in, on, upon or under the waters of Moore's Creek, east of Indian River Drive, being the area where Moore's Creek enters the Indian River Lagoon;

(4) From the land or shoreline, including structures attached thereto, in, on, upon or under the waters of the city marina, except as otherwise provided by marina rules or dockage license agreements;

(5) From the land or shoreline, including structures attached thereto, along the west bank of the Indian River Lagoon in the area known as Marina Square, starting at Avenue A and extending south to Orange Avenue; and

(6) From the sidewalk adjacent to the south side of the city inlet in the area known as Inlet Linear Park, west of, but not including, the South Jetty or the adjacent picnic area.

(b) "No fishing" areas encompassed and included in this section are generally described as provided by diagram, a current copy of which shall be kept on file with the city clerk, and referenced hereto.

(c) Areas encompassed and included in this section, wherein fishing is prohibited, shall be posted with signage indicating such restriction.

(Code 1983, § 12-103; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-5. Cleaning of beach during turtle nesting season.**

The following regulations and standards shall apply to cleaning activities on beaches within the city limits from March 1 through October 31:

(1) All beach cleaning activity shall be approved by the state department of ~~Natural Resources~~ environmental protection as to method and equipment;

(2) Use of mechanical beach cleaning equipment above the high water tide line is prohibited; and

(3) Prior to use of mechanical cleaning equipment, the Bureau of Marine Science and Technology in St. Petersburg, Florida, shall be contacted for instructions and orientation necessary for the protection of nesting sea turtles.

(Code 1983, § 12-104; Ord. No. L-246, § 2, 2-21-2012)

PROOFS

**Secs. 28-6--28-28. Reserved.**

## ARTICLE II. PARKS AND RECREATION

### Sec. 28-29. Purpose.

The purpose of this article is to establish rules and regulations governing the operation and use of park and recreation facilities, including established and designated beach and picnic areas, buildings and shelters devoted to recreational purposes, athletic fields, tennis courts, shuffleboard courts, swimming areas and other similar recreational areas and facilities, and the parking areas provided in connection therewith which are located within the city limits, for the end and purpose that the public may obtain the maximum enjoyment and utilization thereof in accordance with the purposes intended, and that the facilities may be conserved and protected for the public good. State and federal parks are excluded from the provisions of this article.

(Code 1983, § 12-200; Ord. No. L-246, § 2, 2-21-2012)

### Sec. 28-30. Hours.

All public parks shall be closed from sunset to sunrise daily, except where otherwise posted. Exceptions to the hours of operation may be established by administrative rules.

(Code 1983, § 12-201; Ord. No. L-246, § 2, 2-21-2012)

### Sec. 28-31. Prohibited activities.

It shall be unlawful for any person to do any of the following in any park area or any other areas officially designated by the city commission as a park and posted as such unless specifically permitted by the appropriate authorization received from the city manager and issued pursuant to this article, except for activities of the city which are undertaken within the scope of its governmental authority:

(1) Trespass at times when the park is closed;

(2) Camp overnight, unless specifically authorized by permit issued by the city manager;

(3) Purchase, sell, offer for sale, possess, or consume any alcoholic beverages, except in accordance with a special event and supplemental alcohol permit as provided in this chapter;

(4) Cook foodstuff on grills other than those public grills provided by the city for that purpose, except as specifically allowed by special event permit as provided in this chapter. Persons may utilize grills provided by the city only for cooking in the park area. No fires or food preparation shall be allowed that pose a hazard to public property or the general public;

(5) Set or stoke a fire, except for city-authorized prescribed burns or those fires set or stoked in designated city grills, where they are provided, and said fire shall not be allowed if it poses a hazard to public property or the general public;

(6) Litter, dump, or fail to remove all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse left or caused in the use of a park. If no trash receptacles are provided, then refuse and trash shall be carried away from the park area by the park user to be properly disposed of elsewhere;

(7) Engage in the defacing, destruction, removal or alteration of any city-owned facility, structure, grounds, or equipment;

(8) Construct or erect any hut, shanty or other shelter. Park users may temporarily set up a temporary sun/shade apparatus up to ten feet by ten feet in size. Such apparatus must be made of flexible material, and any support lines which extend beyond the length and width of the covering, must be flagged for visibility and cannot be within 15 feet of any game court, sports field, or children's play equipment. No sun/shade apparatus shall remain in place overnight in any park;

(9) Disturb the natural surface of the ground in any manner unless authorized in writing by the city manager and done in accordance with a city-initiated land management activity;

(10) Erect or affix signs to any tree, post, pole, fence or park facility or grounds, except as provided by city ordinance, or through an approved facility use contract authorized by the city manager;

PROOFS

(11) Pick flowers, nuts, berries, or fruit and to damage or remove plants, trees or shrubs, unless specifically authorized in writing by the city manager and done in accordance with a city-initiated land management activity;

(12) Engage in the removal, alteration or destruction of archaeological or cultural resources, except as authorized by the city manager. For purposes of this section, the term "archaeological or cultural resources" means associated physical remnants and features contained in the ground, including, but not limited to, artifacts, fossils, bones, shell mounds, or primitive culture facilities or items;

(13) To bring or otherwise allow any cat, dog, or other animal into any park area, except in a public parking area, public boat docks, walkways adjacent to a park, or where otherwise clearly marked by signs expressly permitting domestic animals in that area. Service animals that are specially trained and actively engaged in service to assist ~~the handicapped~~ persons with disabilities are exempted from this subsection;

(14) To allow privately-owned animals to discharge or deposit waste. All owners or others in charge of privately-owned animals shall remove their waste from the park grounds, and may deposit animal waste in park trash receptacles;

(15) To in any way disturb or remove any wildlife, animal, bird, or egg located above, upon or below the surface of the park grounds or to allow any privately-owned animal to do so, unless specifically authorized in writing by the city manager;

(16) Engage in the removal, destruction or harassment of animals and plants from or on park lands, except for authorized research efforts, as authorized by the city manager;

(17) Engage in the introduction of plants or animals onto park lands, unless authorized by the city manager;

(18) To launch, throw, hurl, or otherwise propel an arrow, spear, BB, pellet, slingshot, or other dangerous object, except that in accordance with F.S. § 790.33, this subsection (18) shall not be used to regulate firearms, ammunition, or components thereof, as defined in F.S. ch. 790;

(19) Drive, putt or otherwise hit a golf ball, except in parks specifically designated for those purposes;

(20) Use roller skates, roller blades or skateboards, except on park facilities specifically designated for this purpose;

(21) Operate any motor vehicle on park grounds, except in areas designated by the city as parking areas, driveways, and roadways. Motorists shall obey all traffic control devices posted within the park. Authorized city personnel or contract personnel shall be allowed to drive vehicles onto park areas during facility maintenance or renovation projects;

(22) Repair, change any parts, except for emergency repairs, wash, polish and wax or grease any vehicle;

(23) Use public restrooms to shave and/or shower, unless shower facilities are specifically provided for public use;

(24) Bathe or otherwise be or remain in a water or drinking fountain and/or its reservoir or to allow any privately-owned animal to do so;

(25) Discharge or deposit human wastes, except in toilet facilities provided by the city;

(26) Engage in the sale, rental, delivery, demonstration, display, or offering as a business promotion any item or service for any non-city-sponsored functions, except as otherwise permitted for special events as provided by this chapter or administrative rule;

(27) Use of any park property for non-city-sponsored fundraising activities, except as otherwise permitted for special events as provided in this chapter;

(28) Engage in gambling, conduct raffles, bingo games, card games for money or donations for prizes or any other forms of gambling, whether the activity is for charity or otherwise;

(29) Play or operate any radio, stereo, public address system, or any other sound emitting device in such a manner that the sound produced is audible at a distance of greater than 100 feet, unless otherwise permitted for special events as provided in this chapter, except that no action shall be taken to enforce

PROOFS

this subsection until a warning to cease such violation has been issued by a person authorized to enforce this chapter and the violator continues such violation;

(30) Refuse to vacate any pavilion, table, building, or other portion of a park area that is permitted for the exclusive use of another party as provided by special event permit or temporary rental agreement authorized by the city.

(Code 1983, § 12-202; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-32. Rental of park pavilions and facilities.**

The city may temporarily rent pavilions, picnic tables, and other facilities designed for such purpose for the exclusive use of a renter. Such rental shall require a special event permit and supplemental facilities rental permit as provided within this chapter. No such rental shall authorize the sale, possession, or consumption of alcohol without a supplemental alcohol permit as required within this chapter.

(Code 1983, § 12-203; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-33. Parking within parks.**

(a) No person in a park area shall park a motor vehicle in other than an established or designated parking area in accordance with posted traffic control devices and with the instructions of any attendant who may be present.

(b) No person shall park or leave a vehicle in a parking area established in conjunction with a park and recreation facility beyond the hours of operation established for said facility unless otherwise posted. Operators of vehicles having mechanical breakdowns or operational failures shall immediately advise the traffic officers or appropriate park employees of such circumstances and shall take further appropriate action necessary to ensure that said vehicle will be removed from the parking area with all reasonable dispatch. No vehicle shall be permitted to remain in the parking areas after the closing hours thereof unless the express permission of the police department is first obtained. Vehicles in violation thereof shall be subject to removal by the city police officers and impounded until they are redeemed at the owner's expense.

(c) Violations of this section shall be enforced as parking violations as provided in chapter 34.

(Code 1983, § 12-204; Ord. No. L-246, § 2, 2-21-2012)

~~**Secs. 12-205—12-250. Reserved.**~~

**Sec. 28-34. Surfside Park—Area designated.**

The lands described in this section shall be known as Surfside Park, said lands being within the corporate limits of the city and described as follows:

That part of the North 550 feet of Government Lot 1, Section 12, Township 35 South, Range 40 East and that part of the North 550 feet of Government Lot 1, Section 7, Township 35 South, Range 41 East lying east of State Highway A-1-A, Surfside Unit One.

(Code 1983, § 12-251; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-35. Surfside Park—Regulations and standards.**

The following regulations and standards shall apply to and govern Surfside Park:

(a) No overnight parking or camping will be permitted.

(1) No peddlers, solicitors or canvassers, as defined by section 22-358, will be permitted.

(2) No dogs or other animals will be permitted on the beach (east of the dune line). Service animals that are specially trained and actively engaged in service to assist persons with disabilities are exempted from this subsection.

(3) No surf fishing will be permitted.

(4) No boats will be permitted within 100 yards of the shore.

(5) No motor vehicles, including cars, trucks, scooters, motorcycles or other devices propelled by other than muscular power, will be permitted on the beach (east of the dune line), except authorized beach patrol

PROOFS

vehicles; city, county, state or federal vehicles; and ambulances and wreckers on emergency calls.

(6) No picnicking will be permitted on the beach (east of the dune line). Areas for picnicking are immediately adjacent to swimming and protected beach areas and should be used for this purpose leaving the beach area itself free of bottles, cans or other refuse.

(7) No athletic games will be permitted on the beach (east of the dune line) without the express permission of lifeguard personnel on duty, if any.

(8) No competitive swimming, diving, boating or surfing events will be permitted without first scheduling such events with the city manager, thereby making it possible to furnish adequate lifeguard protection.

(9) All signs, containers, lifeguard stands, water areas, safety ropes, benches, playground equipment, picnic shelters or other structures placed in ~~the above stated areas~~ Surfside Park are public property and shall not be damaged or defaced by any person

(Code 1983, § 12-252; Ord. No. L-246, § 2, 2-21-2012)

**Secs. 28-36--28-58. Reserved.**

## ARTICLE III. SUNRISE THEATRE

**Sec. 28-59. Contracts relating to the sunrise theatre; authority.**

(a) The city manager is hereby authorized to approve and execute written contracts on behalf of the city, and to further enter into agreements for the following matters:

(1) Agreements with artists or performers;

(2) Agreements for the rental use of the Sunrise Theatre facilities;

(3) Concessionaire and advertising agreements; and

(4) Stagehand and independent labor employment agreements necessary for any performance or general operations of the facilities.

(b) With regard to the matters set forth in subsection (a) of this section, the city manager shall adopt and implement administrative procedures which shall control the administrative review, approval and execution of such contractual matters or agreements. The administrative procedures adopted by the city manager may specifically delegate the authority to review, approve and execute certain contractual matters, or enter such agreements as are incident thereto, as set forth in the above, to a designated department head serving under the city manager. At a minimum, the administrative procedures shall require the city manager or designated department head to be responsible for determining the proposed contract or agreement falls within one or more of the subcategories set forth in subsection (a) of this section. In addition, with regard to those contractual matters or agreements which require as a condition precedent that funding for said agreement has been appropriately budgeted, the city manager or designated department head shall confirm the existence of said funding. The administrative procedures shall set forth the process by which this review shall be completed and the contract shall be prepared, reviewed and executed.

(Code 1983, § 2-48; Ord. No. K-434, § 1, 8-7-2006)

**Secs. 28-60--28-76. Reserved.**

## ARTICLE IV. SPECIAL EVENTS

**Sec. 28-77. Name.**

This article shall be known and may be cited as the "special events code" of the city.

(Code 1983, § 12-300; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-78. Permit required.**

No person shall engage in, participate in or commence any special event, unless a special event permit shall have been obtained from the city manager.

(Code 1983, § 12-301; Ord. No. L-246, § 2, 2-21-2012)

PROOFS

**Sec. 28-79. Application for permit.**

(a) A person seeking issuance of a special event shall file an application with the city manager on forms provided by the city.

(b) For a single, non-recurring special event, an application for a permit shall be filed not more than 180 days before, and not less than 60 calendar days before, the date and time at which it is proposed to commence the assembly. The application shall be signed by the applicant under oath.

(c) For special events which are to be held on a regular or recurring basis at the same location during a calendar year, an application for a permit covering all such assemblies in one-month intervals during that calendar year shall be filed not more than 180 days before, and not less than 60 days before, the date and time at which it is proposed to commence the first such assembly. The application shall be signed by the applicant under oath.

(d) The application for a special event permit shall include the following information:

(1) The name, date of birth, address and telephone number of the person seeking to conduct such special event and the permit applicant shall produce valid government issued identification;

(2) The purpose of the special event;

(3) If the special event is proposed to be conducted for, or on behalf of, or by an organization, the names, addresses, and telephone numbers of the headquarters of the organization and of the authorized and responsible heads of such organization;

(4) The name, address and telephone number of the person who will be responsible for conducting the special event;

(5) The date when the special event is to be conducted, the hours of such event and the location;

(6) The estimated number of participants or those otherwise attending, and the estimated number of vehicles participating or parking near the event;

(7) If the event is a parade, the estimated number of units in each category, such as band, marching units, floats, cars, etc., and both the proposed locations and the proposed times for assembly and disbandment for the parade event;

(8) The number, type, location and provision for toilet facilities during the event;

(9) A statement describing what portion of any street will be occupied by the event;

(10) Whether any music will be provided, the hours of duration and location of such bands or loudspeakers, along with the numbers and types of such amplifiers or other such devices;

(11) Provisions for cleanup after the conclusion of the special events;

(12) Provisions, if any, for security, traffic control and crowd controls;

(13) Intent to have food and drinks and whether or not such food or drinks will be sold or otherwise disbursed, who will be preparing or supplying such food or drinks, and who will receive the funds obtained from the sale of such food or drinks;

(14) A specific statement as to what electric power the event will require;

(15) The applicant shall provide a policy of liability insurance naming the city as an additional insured in the minimum amount set by resolution adopted by the city commission. If vehicles are to be driven or used as part of the special event, proof of auto liability insurance, in such amount as set by resolution adopted by the city commission, to the extent that any specified type of insurance required under this chapter is available through a city-sponsored program, an applicant's utilization of such program to obtain the required insurance shall be deemed to be in compliance with the insurance requirements of this article;

(16) An indemnity agreement is required for all special events, including block parties. This agreement must be executed and notarized with an original signature, and if a corporation is the applicant or the application is filed on behalf of a corporation, the indemnity agreement must be signed by an authorized corporate officer.

PROOFS

(Code 1983, § 12-302; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-80. Standards for issuance of permit.**

The city manager shall issue a permit, as provided for hereunder, when, from a consideration of the application and from other information as may otherwise be obtained, it appears that:

(1) The conduct of the assembly will not interrupt substantially the safe and orderly movement of other pedestrian or vehicular traffic in or contiguous to the route or location of the assembly;

(2) The concentration of persons, animals, and/or vehicles at the assembly will not interfere unduly with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly area or other areas to the city;

(3) Adequate sanitation and other required health facilities are or will be made available in or adjacent to the assembly area;

(4) There are sufficient parking places near the assembly site so as to accommodate the approximate number of automobiles reasonably expected to be driven to the assembly;

(5) The applicant has secured the police protection, if any, required by this chapter;

(6) No assembly permit application for the same time and location has been received which has been or will be granted;

(7) No assembly permit application for the same time or in another location has been received which has been or will be granted where the police resources required for that prior public assembly are so great that in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of persons and property;

(8) No event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed assembly would have an immediate and adverse effect upon the welfare and safety of persons and property;

(9) A deposit shall be required where a request is made to use city services or equipment;

(10) The city manager shall have the authority to restrict, limit or prohibit the use or construction of platforms, chairs, or other equipment upon determining that their use would result in damage to city property or constitute a hazard to safety or would block or infringe upon some other lawful use of the public property areas;

(11) The public forum is to be left clean and undamaged following the special event;

(12) The city manager may establish standards and specifications for services and equipment required in this article by administrative rule.

(Code 1983, § 12-303; Ord. No. L-246, § 2, 2-21-2012)

~~**Sec. 9-440. Purpose.**~~

~~This article establishes fees for designated uses, functions and events not otherwise established elsewhere in this Code. Such fees are reasonably related to the costs of providing services necessary for issuance of the designated permit and cannot be waived. Neither issuance of the permit nor payment of the fee therefore shall excuse or waive any condition or provisions prescribed by this Code for permit eligibility. The permit shall expire immediately upon completion of the act, use or event for which it was issued.~~

~~(Code 1983, § 9-440; Ord. No. K-08, § 1, 4-17-2000; Ord. No. K-377, § 1, 9-19-2005)~~

~~**Sec. 9-441. Fees.**~~

~~Fees for special events shall be established by resolution of the city commission.~~

~~(Code 1983, § 9-441; Ord. No. K-08, § 1, 4-17-2000; Ord. No. K-377, § 2, 9-19-2005; Ord. No. L-120, § 1, 6-7-2010; Ord. No. L-259, § 1, 6-4-2012)~~

PROOFS

**Sec. 28-81. Police protection.**

The city manager shall determine whether and to what extent additional police protection reasonably will be necessary for the assembly for purposes of traffic control and public safety. The city manager shall base this decision on the size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections to be blocked and the need to detour or preempt ordinary citizen travel and use of the streets and sidewalks. The content of the speech or event will not be a factor in determining the amount of police protection necessary. If possible without disruption of ordinary police services or compromise to public safety, the event will be policed by regularly scheduled on-duty personnel. If additional police protection for the assembly is deemed necessary by the city manager, the applicant shall be so informed and shall then have the duty to secure the additional police protection deemed necessary by the city manager, at the sole expense of the applicant, who shall prepay the expenses of any such additional protection.

(Code 1983, § 12-304; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-82. Administration of permit application.**

(a) Staff designated by the city manager to process applications shall immediately route the permit application to appropriate departments or agencies, including the public works department, police department, marina department and the county fire district for review and then to the city manager for approval.

(b) Within 30 days of the filing of the application for a permit, the city manager shall provide the applicant written notice of the action taken on the application and the specific reasons therefor. This notice shall be provided by personal delivery or through regular first class United States mail delivery. The permit for the special event shall be granted unless one or more of the following conditions is found to exist:

(1) The application is incomplete in a material respect;

(2) The application has been fraudulently completed;

(3) The application is not for a public area;

(4) An adjacent public area has already been scheduled for use at the same time and simultaneous uses cannot be accommodated;

(5) The estimate of the anticipated attendance is in excess of the maximum designated as allowable for the area;

(6) The chief of police has factual knowledge that the applicant or sponsoring groups specifically intends to cause or create imminent lawless actions in connection with the special event. Anticipated violence on the part of persons not associated with the applicant or sponsoring group shall not be considered; or

(7) The application does not otherwise conform to standards and requirements imposed by this article.

(c) In the event the city manager denies the application as submitted, the city manager may, in the interest of traffic control and public safety, authorize the conduct of the assembly on a date, at a time, over a route or in a location different than that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the proposed modification, file a written notice of acceptance with the city manager. An alternate permit shall conform to the requirements of, and shall have the effect of, a permit under this article.

(Code 1983, § 12-305; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-83. Appeal of denial.**

(a) An applicant shall have the right to appeal the denial of a permit by immediately filing a written notice of appeal with the office of the city manager. Such appeal shall be filed by the applicant within five days after receipt of the notice of denial.

(b) Such appeal shall be heard and decided by the city commission at its next regularly scheduled meeting following the city manager's receipt of the notice of appeal. The applicant shall be notified at least 24 hours prior to the hearing and the applicant may appear at the hearing in person and may be represented by counsel. Evidence on the applicant's behalf may be presented at such hearing. The city manager shall describe the reasons for denying the permit and shall provide any other evidence supporting such denial. The city commission shall direct the city

PROOFS

manager to issue a permit in the event it determines that the applicant has met the criteria set forth in this article for issuance of a permit. In the event the applicant is not satisfied with the decision of the city commission, the applicant may seek immediate judicial review in the manner provided for by law.

(Code 1983, § 12-306; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-84. Duties of permittee.**

A permittee hereunder shall comply with all permit directions and conditions, and with all applicable laws and ordinances. The assembly organizer or other person heading or leading such assembly shall carry the permit upon such individual's person during the conduct of the assembly and shall display the permit upon demand by any employee of the city authorized to enforce this article.

(Code 1983, § 12-307; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-85. Public conduct during assemblies.**

(a) *Interference.* No person shall unreasonably hamper, obstruct or impede, or interfere with any duly licensed assembly, or with any person, vehicle or animal participating or used in such assembly.

(b) *Driving through parades.* No driver of any vehicle, unless specifically permitted by an officer of the city police department shall drive between the vehicles or persons comprising a duly licensed parade when such vehicles or persons are in motion and/or conspicuously designated as a parade.

(c) *Parking on parade route or an area near assembly.* The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or parts thereof consisting of a part of the route of a parade or an area needed for the safe and efficient flow of traffic to or from an assembly. The chief of police shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(Code 1983, § 12-308; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-86. Revocation of permit.**

The city manager shall have the authority to revoke a permit issued hereunder instantly upon violation of any one or more of the conditions or standards for issuance as herein set forth or when a public emergency arises where the police resources required for that emergency are so great that the deployment of police services for the assembly would have an immediate and adverse effect upon the welfare and safety of persons or property.

(Code 1983, § 12-309; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-87. Discrimination prohibited.**

It shall be unlawful for any permittee, or any agent or employee of the permittee, either directly or indirectly:

(1) To discriminate against any natural person by refusing, withholding, or denying to such person any of the services, advantages, facilities or privileges offered or available to any other person attending the assembly, or by setting different rates or charges therefor, or by placing or attempting to place any such natural person in a separate and segregated section or area at the assembly;

(2) To publish, circulate, display, post or mail any written or printed communication or notice to the effect that any of the services, advantages, facilities, or privileges of the assembly will be refused, withheld or denied to any natural person on account of the person's race, color, religion, natural origin, sex, or that the person's attendance and presence at the assembly is unwelcome or objectionable, or that the person will be prohibited from mingling with other persons at the assembly because of the person's race, color, religion, natural origin, or sex;

(3) To aid, abate, incite or coerce the doing of any act declared herein to be unlawful, or to prevent or to attempt to prevent any person from complying with the provisions of this section.

(Code 1983, § 12-310; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-88. Supplemental permit required for alcoholic beverage sales or consumption at a special event.**

(a) No person shall sell, distribute, or cause the consumption of alcoholic beverages at a special event which

PROOFS

is located within any park area, on property owned, controlled, or maintained by the city, or its dependent special districts, or where the city is a sponsor or co-sponsor of the event, unless an alcoholic beverage special event permit shall have been obtained from the city manager.

(b) The issuance of an alcoholic beverage special event permit shall be restricted to the following:

(1) Permits for consumption only may be issued to nonprofit organizations and private parties or entities that are not engaged in fundraising or profit-making.

(2) Permits for the sale of alcoholic beverages may be issued to nonprofit organizations at public events under the following circumstances:

a. The organization maintains an active registration as a nonprofit corporation with the state department of state, division of corporations;

b. The organization receives a one-, two-, or three-day permit from the state department of business and professional regulation, division of alcoholic beverages and tobacco, for the special event;

c. No organization shall be issued more than three permits per year, and no permitted event may exceed three days in duration;

d. Only beer, as defined in F.S. § 563.01, and wine as defined in F.S. § 564.01, shall be served.

(3) Permits for the sale of alcoholic beverages may be issued to private parties and entities engaged in for profit or fundraising activities only when the special event occurs within Marina Square Park, including the road and walkways adjacent thereto along Avenue A east of Indian River Drive and Melody Lane between Avenue A and Orange Avenue, or within Indian River Memorial Park, located between Indian River Drive and the Indian River Lagoon north of Moore's Creeks and south of Seaway Drive, but not including any property under lease from the city. Such permits may only be issued under the following conditions:

a. As an extension of an established business within the designated area, when the applicant:

1. Holds a valid business tax receipt issued by the city permitting the operation of a restaurant or bar at a location immediately adjacent to the special event location;

2. Holds a valid special restaurant exemption or consumption on premises license issued by the state department of business and professional regulation, division of alcoholic beverages and tobacco;

3. Obtains a temporary extension permit from the state department of business and professional regulation, division of alcoholic beverages and tobacco;

4. No such business shall be issued more than 12 permits per year, and no permitted event may exceed one day in duration;

5. Only alcoholic beverages permitted by the applicant's special restaurant exemption or consumption on premises license issued by the state department of business and professional regulation, division of alcoholic beverages and tobacco, may be served.

b. When the applicant operates an established catering or event management business within the county, and the applicant:

1. Holds a valid business tax receipt issued by the city permitting the conduct of such business within the city limits;

2. Holds a valid caterer's license issued by the state department of business and professional regulation, division of alcoholic beverages and tobacco, which permits the conduct of such business;

3. No such business entity shall be issued more than six permits per year, and no permitted event may exceed five days in duration;

4. Only alcoholic beverages permitted by the applicant's caterer's license issued by the state department of business and professional regulation, division of alcoholic beverages and

PROOFS

tobacco, may be served.

(c) Such permit shall be obtained in accordance with the following:

(1) A person seeking approval for such sale and/or consumption activity shall file a supplemental application with the city manager on forms provided by the city.

(2) The application shall be filed with the special event permit application and in accordance with the timelines provided for special events.

(3) The application for an alcoholic beverage special event permit shall include, in addition to any information otherwise required by this article, the following information:

a. Diagram depicting areas within the event venue within which beverage sales are to occur;

b. Documentation of state alcoholic beverage licensing.

(d) Permits issued pursuant to this article for sale and/or consumption of alcoholic beverages at a special event shall be subject to the following conditions in addition to those contained in this article:

(1) The applicant shall provide, in addition to insurance required in this article, general liability and other insurance as required by the provisions of state statutes for the sale and/or consumption of alcoholic beverages, including liquor liability insurance, wherein the applicant must provide insurance that includes coverage for liability arising out of such sale, provision, possession or consumption of alcoholic beverages.

a. A separate, standalone liquor liability insurance policy may be used to also meet the general liability insurance requirement, provided that such liquor liability policy also provides non liquor-related, general liability coverage in the specified amounts. If there will not be any sale of alcohol, host liquor liability coverage contained within the general liability policy will be sufficient to meet this liquor liability requirement.

b. Neither approval nor failure to disapprove insurance furnished by an applicant shall relieve the applicant from responsibility to provide insurance as required by this article.

(2) The proposed sales and/or consumption activity will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(3) The proposed sales and/or consumption activity will not entail extraordinary or burdensome expense or police operation by the city.

(4) The use of alcoholic beverages is not expected to result in violence, crime, or disorderly conduct.

(5) The person responsible for conducting the event on behalf of the applicant shall meet state minimum age licensure requirements and has not been convicted of a felony or a crime involving moral turpitude.

(6) The applicant has obtained any necessary federal, state or local permits otherwise required to engage in the proposed sales and/or consumption activity.

(7) Alcoholic beverages shall be served in containers meeting industry standards for such events and shall be so designed and constructed that law enforcement officers may ascertain their contents upon visual inspection and shall not include sport drink bottles, ceramic or glass mugs, closed containers, or other containers not clearly labeled as containing an alcoholic beverage. The application shall provide for proper disposal of litter resulting from the activity.

(8) The applicant shall comply with all ordinances and conditions associated with permitting of events upon public property.

(9) The sale and consumption of alcoholic beverages shall be confined to designated and secured areas within the event venue or shall be confined within a secured perimeter for the entire event.

(10) The applicant shall pay any additional costs of police or other city services attributed to the sale or consumption of alcoholic beverages during the activity.

(Code 1983, § 12-321; Ord. No. L-246, § 2, 2-21-2012; Ord. No. L-258, § 1, 6-4-2012)

PROOFS

**Sec. 28-89. Supplemental permit required for tents at special events.**

A supplemental permit shall be required to erect any type of tent or canopy ~~larger than 12 feet by 12 feet~~ used in connection with a special event. Application for such permit shall be made as provided in this article. A sketch of the property showing the location of the tent or canopy on the property and a certificate of flame resistance shall be required to be submitted with the application.

(Code 1983, § 12-322; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-90. Supplemental permit required for street closings at special events.**

A supplemental permit shall be required to close any public street or roadway to regular vehicular or pedestrian traffic as part of a special event. Application for such permit shall be made as provided in this article. A diagram of the street closure showing traffic control points, specifying traffic safety and control devices being utilized, and detour routes and markings shall be included with the application. The city manager may adopt by administrative rule specifications and requirements for the closure of streets and roadways. Closure of a state highway or street shall also require a separate permit issued by the state department of transportation.

(Code 1983, § 12-323; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-91. Supplemental permit required for park facilities rental.**

A supplemental permit shall be required for the temporary rental and exclusive use of park facilities, such as pavilions and picnic tables, for a special event. Application for such permit shall be made as provided in this article.

(Code 1983, § 12-324; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-92. Exemption from certain requirements for block parties.**

The city manager may waive fees, application time limitations, and insurance requirements for a neighborhood block party under the following conditions:

(1) A written application for waiver is submitted as provided in this article for a special event permit not less than ten days prior to the event;

(2) The event is closed to the general public;

(3) No commercial activity of any kind is to be conducted on the public street, sidewalk or other right-of-way while the block party is in progress;

(4) No sound-amplification equipment or devices are to be used;

(5) No admission fee is charged or solicited;

(6) No alcohol is to be offered or served at the event. No alcohol is permitted on the street, sidewalk, right-of-way, or public property; and

(7) The street is classified as a local street by the city engineer, the closing of which would not be detrimental or substantially disruptive to the safety and convenience of vehicular and/or pedestrian movement, as determined by the city engineer or chief of police.

(Code 1983, § 12-351; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-93. Exemption from certain requirements for park facility rentals.**

The city manager may waive application time limitations and waive insurance requirements for the temporary rental of public park facilities, such as pavilions and picnic tables, in public parks under the following conditions:

(1) A written application for waiver is submitted as provided in this article for a special event permit not less than ten days prior to the event;

(2) The event is closed to the general public;

(3) No commercial activity of any kind is to be conducted on the public street, sidewalk, right-of-way, or within the park;

(4) No sound amplification equipment or device, which exceeds noise restrictions provided in this chapter,

PROOFS

is used;

(5) No admission fee is charged or solicited;

(6) No alcohol is to be served or offered for sale or consumption; and

(7) The event will not otherwise interfere with public use of the park.

(Code 1983, § 12-352; Ord. No. L-246, § 2, 2-21-2012)

**Sec. 28-94. Exemption from certain requirements for the sole purpose of exercising rights to free public speech.**

The city manager may waive or reduce fees, application time limitations, insurance requirements, and expenses for police protection, as otherwise required by this article, for special events held for the sole purpose of exercising constitutionally protected rights to free public speech. A request for such waiver or reduction shall be submitted to the city manager in writing and in advance of the event. The waiver or reduction may be granted only when all other standards provided in this article are met and the event does not create a public safety hazard.

(Code 1983, § 12-353)

PROOFS

Chapter 29

**RESERVED**

PROOFS

Chapter 30

# SOLID WASTE*

***State law reference**—Municipal Home Rule Powers Act, F.S. ch. 166; solid waste, generally, F.S. § 403.702 et seq.; local government solid waste responsibilities, F.S. § 403.706; Florida Litter Law, F.S. § 403.413.

## ARTICLE I. IN GENERAL

**Secs. 30-1--30-18. Reserved.**

## ARTICLE II. COLLECTION AND DISPOSAL

**Sec. 30-19. Definitions.**

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

~~For the purposes of this article, the following terms are hereby given the following meanings:~~

*Biological waste* ~~Any solid waste or liquid waste that causes or has the capacity to cause disease or infection in humans or animals, and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes~~ means solid waste that causes or has the capability of causing disease or infection, and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term "biological waste" does not include human remains that are disposed of by persons licensed under F.S. ch. 497.

*Biomedical waste* ~~Any solid waste or liquid waste which may present a threat of infection to humans or animals. The term includes, but is not limited to non liquid human body parts; laboratory and veterinary waste which causes human disease causing agents; discarded disposable sharps; human blood and human blood products and body fluids; and other materials which in the opinion of Department of Health represent a significant risk to persons outside the generating facility~~ means any solid waste or liquid waste that may present a threat of infection to humans. The term "biomedical waste" includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste that contains human-disease-causing agents; discarded disposable sharps; human blood and human blood products and body fluids; and other materials that in the opinion of the department of health represent a significant risk of infection to persons outside the generating facility. The term "biomedical waste" does not include human remains that are disposed of by persons licensed under F.S. ch. 497.

*Bulk items/trash* means any items that may require special handling and management, including, but not limited to, inoperative and discarded appliances, materials resulting from the improvement to the internal portion of a home, any and all household goods and furniture, yard and garden trash. Bulk items must be generated by the customer of the dwelling unit where the bulk item is collected. The term "bulk items/trash" does not include special waste.

*Commercial property* means all improved property other than residential property.

*Commercial trash* means any and all accumulations of paper; rags; excelsior; wooden, paper or cardboard boxes or containers; sweepings; furniture; appliances; tires and any other accumulation not included under the definition of the term "garbage," generated by the operation of stores, offices and other business places.

*Construction and demolition debris* means materials generally considered not to be water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt, roofing materials, pipe, gypsum, wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project. The term "construction and demolition debris" includes rock and soil, tree remains, trees and other vegetative matter which normally results from land clearing or land development operations for a construction

PROOFS

project. Mixing of construction and demolition debris with other types of waste, including material from a construction or demolition which is not from the actual construction or destruction of a structure, will cause it to be classified as other than construction and demolition debris.

*Contractor generated waste* means rubbish, yard trash, bulk items, or any combination thereof, generated by builders, contractors, privately employed tree trimmers, loggers and tree surgeons, landscape services and lawn or yard maintenance services, which shall not be collected as household trash or residential waste.

*Dwelling unit* means any building or a portion thereof which is lawfully used for residential purposes, consisting of one or more rooms arranged, designed, or used, or intended to be used as living quarters for one household only.

*Explosive* means any chemical compound, mixture, or device the primary purpose of which is to function by explosion.

*Flammable* means capable of burning with a flame.

*Garbage* means all accumulations of animal, fruit or vegetable matter that attend the preparation, use, cooking, dealing in or storage of meats, fish, fowl, fruit, vegetables and any other matter of any nature which is subject to decay, putrefaction and the generation of noxious and offensive gases or odors; or which, during and after decay, may serve as breeding or feeding material for flies and/or other germ-carrying insects; and bottles, cans or food containers which due to their ability to retain water may serve as a breeding place for mosquitoes or other water-breeding insects.

*Garden and yard trash* means all accumulations of grass, palm fronds, leaves, branches, shrubs, vines, and other similar items generated by the maintenance of lawns, shrubs, and gardens.

*Government property* means property owned by the United States or any agency thereof, a sovereign state or nation, the state or any agency thereof, a special district or a municipal corporation.

*Hazardous materials* mean any substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term "hazardous materials" includes the term "hazardous waste," as defined in F.S. § 403.703(14).

*Hazardous waste* means the same as the term "hazardous waste" is defined in F.S. § 403.703(14), or any successor law or regulation

*Household trash* means any and all accumulations of waste material from the operation of a home other than garbage, including all appliances, furniture, yard toys, building material waste from do-it-yourself projects that do not require a building permit, but excluding commercial waste and contractor generated waste as defined herein.

*Industrial wastes* mean all debris and waste products generated by canning, manufacturing, food processing (except restaurants), land clearing, building construction or alteration (except do-it-yourself projects) and public works type construction projects whether performed by a governmental unit or by contract.

*Institutional property* means a dwelling unit owned by any state, county, or municipal housing authority, or the federal government or an agency thereof, which is exempt from the payment of ad valorem taxes.

*Mechanical container* means a metal or plastic receptacle which is designed to be emptied by and into a compactor type truck or to be mechanically loaded onto a truck designed to carry such container. Refuse shall be placed in the container manually and the container may be attached to a device to compact the refuse in the container.

*Recyclable or recoverable materials* mean those materials which are capable of being reclaimed and processed for reuse and which would otherwise be processed or disposed of as solid waste, that are diverted, separated and removed from solid waste for use or re-use. Such materials are not solid waste.

*Refuse* means garbage, garden and yard trash, household trash and commercial trash.

*Residential property* means all improved property which is used for single-family dwelling units and condominiums and multifamily dwelling units consisting of less than ten units within the same building, unless such single-family dwelling unit, condominium, or multifamily dwelling unit has been reclassified as commercial property. The term "residential property" does not include institutional property.

PROOFS

*Residential refuse container* means a 90-gallon plastic container, 300-gallon foam injected plastic container and 420-gallon plastic container. The city shall supply all residential refuse containers to be used by the customer.

*Residential solid waste* means any garbage, refuse, yard trash or bulk item that is usual to housekeeping. The term "residential solid waste" includes waste generated by a customer at the dwelling unit at which the residential waste is collected and does not include items defined herein as commercially generated waste, contractor generated waste, industrially generated waste, hazardous waste, or biomedical waste.

*Single-family dwelling unit* means a building or a portion thereof, designed for residential occupancy, which is arranged, designed or used as living quarters for one household only

*Special waste* means wastes that can require special handling and management, including, but not limited to, white goods, waste tires, used oil, lead acid batteries, automobiles, automobile parts, boats, boat parts, hazardous waste, biological waste, biomedical waste, construction and demolition debris, commercial trash, contractor generated waste, ash residue, yard trash, and any commercial or residential waste for which there is no legally permitted disposal, processing, transfer or storage facility within the county.

*White goods* ~~Inoperative and discarded appliances such as refrigerators, ranges, water heaters, freezers, room air conditioners and other similar domestic large appliances~~ means and includes discarded air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(Code 1960, § 12-1(a—i); Code 1983, § 16-16; Ord. No. I-338, § 2, 8-21-1989; Ord. No. K-422, § 1, 5-1-2006)

**State law reference—**Definitions, F.S. §§ 403.703, 403.7031.

**Sec. 30-20. Receptacles required, generally.**

All residents or occupants of residences, apartments or places of business within the city will be provided receptacles for refuse and recyclables. All waste or recyclables shall be placed for collection in the receptacles provided.

(Code 1960, § 12-2; Code 1983, § 16-17; Ord. No. K-422, § 2, 5-1-2006)

**Sec. 30-21. Residential containers and mechanical containers.**

(a) Every person in possession, charge or control of any place in or from which garbage, trash, tree trimmings or yard trash is created, accumulated or produced shall provide and at all times keep in a suitable place readily accessible for city collection crews adequate and suitable residential refuse containers and mechanical containers capable of holding all such waste materials which would ordinarily accumulate between the time of successive collections.

(b) No residential refuse container or mechanical container shall be installed in such a manner that the bottom thereof shall be at an elevation below that of the immediate surrounding terrain.

(c) Residential refuse containers and mechanical containers shall be tightly closed at all times, except when it is necessary to deposit material into the container.

(d) It shall be the responsibility of the customer to maintain the container in a clean and sanitary condition.

(Code 1960, § 12-3; Code 1983, § 16-18; Ord. No. I-338, § 3, 8-21-1989)

**Sec. 30-22. Treatment of garbage.**

All garbage, cans and bottles shall be drained of all liquid and shall be deposited in the container required in this article. The wet garbage matter shall be wrapped in paper or placed in containers before being placed in the residential refuse container and mechanical container.

(Code 1960, § 12-4; Code 1983, § 16-19)

**Sec. 30-23. Location—Containers.**

Residential refuse containers and mechanical containers shall be kept in a place easily accessible for inspection and removal of contents and shall not be kept upon neighboring property not in the ownership or tenancy of the person by whom the garbage is accumulated, whether such neighboring property is vacant or improved. Where the premises abuts upon an alley used for garbage collection, the residential refuse container and the mechanical

PROOFS

container shall be placed within easy access from such alley.

(Code 1960, § 12-5; Code 1983, § 16-20)

**Sec. 30-24. Location—Trash.**

(a) It shall be deemed unlawful to place or permit the placement of garden and yard trash into a single container commingled with garbage and household trash. It shall be deemed unlawful to place or permit the placement of garbage and household trash into a single container commingled with garden and yard trash.

(b) Garden and yard trash are to be placed into a specified city container designated for this purpose only. Garbage and household trash are to be placed into a specified city container designated for this purpose only.

(c) Designated containers by color code are as described below:

(1) Containers dark green in color are to be used for garbage and household trash only.

(2) Containers black in color are to be used for garden and yard trash only.

(d) It shall be deemed unlawful to commingle garbage and household trash with garden and yard trash. It shall be deemed unlawful to use a designated container for any material other than as specified. Any offense that relates to contamination or improper use of the container must be corrected by the customer prior to collection.

(e) Any person, place, business or agent permitting the mixing of noncompatible waste materials or the improper use of a designated container shall be deemed guilty of ~~a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars ($100.00) for each act of violation~~ an offense.

(Code 1960 § 12-6; Code 1983, § 16-21; Ord. No. I-484, § 2, 12-16-1991)

**Sec. 30-25. Prohibited acts.**

The following acts are prohibited and a violation of this article:

(1) *Prohibited.* No person shall litter, throw, dump or deposit, or cause or permit the same, on the sidewalk, or upon any street, lane, alley or other public property, or in any gutter, catchbasin, storm sewer, storm drain or drainage ditch, any trash, garbage, refuse or other waste matter or material, provided that bulk garden and yard trash and bulk household trash may be placed on the street right-of-way, not within the travel portion, for collection purposes on scheduled pickup days by city collection crews. No person shall place or caused to be placed construction and demolition debris in a location or container that is not authorized or in a container or receptacle intended for the disposal of other solid waste.

(2) *Draining; wrapping*. No person shall permit, place or cause to be placed any refuse, which contains any moisture whatsoever, in residential refuse containers and mechanical containers without first having drained and wrapped in paper such refuse.

(3) *Cartons, etc*. No person shall permit, place or cause to be placed, for collection by the city collection crews or private agencies, cardboard or paper cartons or such other material in residential refuse containers and mechanical containers or loose in any open area without having broken down and folded flat such material.

(4) *Loose paper, etc.* No person shall permit, place or cause to be placed, for collection by city collection crews or private collection agencies, any loose paper or similar material, in any residential refuse container and mechanical container, regardless of location, other than regulation containers, as defined in this chapter.

(5) *Glass*. No person shall permit, place or cause to be placed fluorescent lighting tubes, light bulbs or glass of any kind in any residential refuse container and mechanical container without first having securely wrapped and completely covered such material so as to prevent injury to anyone from the broken edges thereof.

(6) *Nongarbage waste*. No person shall permit, place or cause to be placed, in any residential refuse container or mechanical container, any animals, parts of animals or special waste of any kind whatsoever, except that defined as garbage.

(7) *Refuse*. No person shall deposit refuse in any place within the city limits except as specifically authorized

PROOFS

by this article.

(8) *Tires*. No person shall permit or caused to be permitted, in any residential or commercial refuse container, the commingling of tires with other commercial trash, household trash or garden and yard trash.

(9) *Flammable material*. No person shall deposit flammable liquids, materials, explosives, hazardous materials or hazardous waste in any waste receptacle, refuse container, or mechanical container.

(10) *Burning*. No person shall kindle or maintain any outdoor fire for the purpose of burning trash, refuse, yard waste, or any form of waste.

(Code 1960, §§ 12-7, 19-37.1; Code 1983, § 16-22; Ord. No. I-143, § 3, 12-16-1985; Ord. No. K-422, § 3, 5-1-2006)

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

**Sec. 30-26. Refuse removal—Required.**

All occupants of premises in the city, whether residential or commercial, shall have accumulations of refuse removed and disposed of by the city or its authorized representatives and shall pay the monthly collection fee as defined in section 30-33, except for customers exempted by the city manager under section 30-27.

(Code 1983, § 16-23; Ord. No. 1960, § 12-9; Ord. No. I-338, § 5, 8-21-1989)

**Sec. 30-27. Refuse removal—Responsibility of city.**

All conforming refuse accumulated in the city shall be collected, conveyed and disposed of by the city government or pursuant to agreement with said government. No other agency shall remove refuse originating within the limits of the city from any premises in the city or transport said refuse through the streets of the city, or dump, incinerate or in any other manner dispose of said refuse originating within the limits of the city, or contract for or permit themselves to be employed or engaged for any such removal, transportation or disposal. An exception to this section can be granted by the city manager to customers defined as commercial and/or industrial, where the city or its authorized agents are either unwilling or unable to furnish roll-off equipment or are otherwise unable to provide city refuse removal.

(Code 1960, § 12-8; Code 1983, § 16-24; Ord. No. I-338, § 7, 8-21-1989; Ord. No. K-422, § 4, 5-1-2006)

**Sec. 30-28. Responsibility for containers.**

(a) *Compliance.* The owner or agents, tenants or lessees of all residential homes, including rental units and/or commercial establishments, shall be responsible under the law for complying with the provisions of this article.

(b) *Issuance.* City refuse containers are issued to an address and are not to be removed from the premises. If a dwelling is to be unoccupied for any length of time, the ~~solid waste~~ public works department must be notified to pick up the residential refuse container or mechanical container. Upon reoccupancy, a new container will be issued.

(c) *When placed.* Residential refuse containers placed near the curb, street or alley shall be placed there no earlier than 7:00 p.m. on the evening preceding the collection day and must be removed to a point at the side or rear of the structure not later than 7:00 p.m. on the day of collection. Any container not removed will be tagged with a 24-hour warning. Failure to remove the container after this 24-hour period will result in a $10.00 charge being placed on the customer's utility bill for each violation. Each 24-hour period that the container is not removed shall be deemed another occurrence and shall be considered a separate incident and offense which will result in an additional $10.00 charge being placed on the customer's utility bill.

(d) *Care.* Negligence in the care of the residential refuse container which causes its destruction or loss requiring replacement will be at the homeowner's expense. The term "negligence" means dumping any hot objects into the container causing its deterioration or leaving the container curbside overnight after being emptied. The ~~solid waste~~ public works department must be notified if a container is stolen, lost or damaged.

(e) *Defects.* The ~~solid waste~~ public works department is to be notified of any defects or malfunction of the container.

(f) *Closing; contents.* City-issued refuse containers shall at all times have their lids on and be tightly closed. No contractor waste, industrial waste, special waste, biological waste, or hazardous waste, building materials, paints, solvents, rocks, sod or dirt shall be placed in any refuse container.

PROOFS

(g) ~~*Handicapped*~~ *Persons with disabilities and elderly.* Any person who shall be found by the city manager, designated representative or certified by a physician to be unable to move or place a residential refuse container at the curb shall be entitled to have the garbage collected at the side or rear of the building at no extra charge.

(Code 1960, § 12-8.1; Code 1983, § 16-25; Ord. No. J-155, §§ 1, 2, 8-7-1995; Ord. No. K-422, § 5, 5-1-2006)

**Sec. 30-29. Presumption of accumulation; collection.**

The fact that any place of residence or any place of business is occupied shall be prima facie evidence that refuse is being produced and accumulated upon such premises and that fees for the collection and disposal thereof are due the city, and it shall be presumed that any place of residence or any place of business is occupied if it is serviced by an electric meter or water meter.

(Code 1960, § 12-10; Code 1983, § 16-26; Ord. No. I-338, § 9, 8-21-1989)

**Sec. 30-30. Bulk trash removal; residential.**

All occupants of residential premises in the city shall have accumulations of bulk trash removed and disposed of by the city or its authorized representative. The city is to provide scheduled weekly collection of bulk garden and yard trash and bulk household waste.

(1) Commercial customers and/or residential developments using dumpster service are not entitled to this service.

(2) Bulk trash must be placed at curbside on collection day. Accumulations must be clear of overhead wires and overhanging limbs.

(3) Garden and yard trash accumulations must be separate and distinct from household waste accumulations.

(4) Garden and yard trash must be neatly stacked in manageable piles. Limbs must not exceed six feet in length and six inches in diameter.

(5) Trash generated by commercial and landscape contractors, or a homeowner performing residential work, pursuant to the contractor permit provisions of F.S. § 489.103(7), must be removed from the premises and disposed of by the contractor or resident in a lawful manner.

(6) Household waste items may include furniture, appliances, automotive parts and building material from do-it-yourself projects that do not require a building permit.

(7) Loose items must be placed in the appropriate container provided.

(8) Nonconforming trash collection will be subject to a fee.

(Code 1960, § 12-11; Code 1983, § 16-27; Ord. No. I-338, § 11, 8-21-1989; Ord. No. J-154, §§ 1, 2, 7-17-1995; Ord. No. K-422, § 6, 5-1-2006)

**Sec. 30-31. Molesting container contents.**

No person, other than employees of either the city or a contractor under agreement with the city charged with such duty, shall overhaul, molest or interfere with the contents of any residential refuse container, mechanical container, bundle or pile set out for removal or carry away from the streets unless authorized by the city manager.

(Code 1960, § 12-12; Code 1983, § 16-28)

**Sec. 30-32. Frequency of collection.**

The schedule governing the frequency of collection of garbage, trash and refuse shall be on file in the office of the city clerk.

(Code 1960, § 12-13; Code 1983, § 16-29; Ord. No. I-143, § 4, 12-16-1985; Ord. No. J-42, § 2, 4-19-1993)

~~**Sec. 16-30. Transporting fruit waste and vegetable matter.**~~

~~No person shall transport or convey any fruit peelings, fruit hulls or other vegetable matter subject to decay or putrefaction over and upon the streets of the city, except in containers or watertight bodies and so placed therein that liquid therefrom shall not drain upon the streets.~~

~~(Code 1960, § 12-14; Code 1983, § 16-30)~~

PROOFS

**Sec. 30-33. Fees—Current schedule.**

All fees due and payable to the city for services rendered in the collection and disposal of garbage and trash and for the availability of service for the collection and disposal of garbage and trash shall be ~~fixed by the city manager, subject to review and approval by the city commission~~ in the amount established by resolution. The currently prevailing schedule of fees shall be available for public inspection at the office of the city clerk.

(Code 1983, § 16-31; Ord. No. I-227, § 1, 8-3-1987)

**State law reference—**Local solid waste management fees, F.S. § 403.7049.

**Sec. 30-34. Fees—When payable; default.**

The fees for garbage and trash collection provided in section 30-33 shall be payable monthly and the charge for the services and facilities for the disposal of garbage and trash by the city shall be rendered simultaneously with the bills rendered for electricity or water supplied to the premises, and shall be appropriately listed thereon. Where fees are not so paid, service shall be discontinued. All residences within the city limits not having electricity, water or gas service shall be billed monthly for the garbage and trash collection fees as provided in section 30-33, the same becoming due and payable within 15 days after receipt of same.

(Code 1960, § 12-16; Code 1983, § 16-32)

**Sec. 30-35. Fees—Debt to city.**

The amount of collection fee due under this article is a debt due to the city and any person required under the terms hereof to have accumulations of garbage and trash removed and disposed of by the city shall be liable to the city for the amount of applicable collection fee due therefor, and such shall be recoverable in any court of competent jurisdiction.

(Code 1960, § 12-17; Code 1983, § 16-33)

**Sec. 30-36. Fees—Recyclable materials collection; imposition of lien.**

The city hereby authorizes the county's regulated contractor for the pickup of recyclable materials to the full extent allowed by law to impose a lien against city residential properties as to which recyclable materials collection fees are delinquent in the amount of such delinquent fee, plus interest to the date of payment, costs and attorney fees.

(Code 1983, § 16-34; Ord. No. J-69, § 1, 12-6-1993)

PROOFS

Chapter 31

**RESERVED**

PROOFS

Chapter 32

# STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***State law reference**—Municipal Home Rule Powers Act, F.S. ch. 316; city street system designated, F.S. § 316.004(3); supplemental and alternative method of making local municipal improvements, F.S. ch. 170.

## ARTICLE I. IN GENERAL

### Sec. 32-1. Dedication of streets.

No street or alley hereafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, under the care or control of the city, unless the dedication be accepted by motion or resolution or confirmed by ordinance passed for such purpose.

(1957 Charter § 12)

### Sec. 32-2. Abandonment, narrowing, etc., of streets.

(a) No street, alley or way shall be closed, abandoned, relinquished or narrowed except by ordinance.

(b) The person requesting abandonment of any street alley, or right-of-way shall be responsible for the payment of all costs involved in, or incurred by, the process of vacating and abandonment of any street, alley, or right-of-way.

(Code 1983, § 17-1; Ord. No. K-106, § 1, 10-1-2001)

### Sec. 32-3. Obstructing or blocking streets.

It shall be unlawful for any person to block or obstruct any street in the city for more than five minutes at any one time, unless a permit has been obtained from the city manager to do so. Such obstruction shall comply with all rules, regulations and orders that the city manager may require.

(Code 1983, § 17-2; Ord. No. K-106, § 1, 10-1-2001)

### Sec. 32-4. Barricades and warning lights.

Whenever any street, sidewalk or way is blocked or obstructed by excavations, injury or other cause, it shall be properly barricaded and warning given at night by red lights properly placed, all at the expense of the person creating the condition.

(Code 1983, § 17-3; Ord. No. K-106, § 1, 10-1-2001)

### Sec. 32-5. Placing injurious articles in public places, etc.

It shall be unlawful for any person to throw, place, deposit, distribute or leave on any beach, ~~street,~~ playground, park and other public place any bottle, broken glass, tacks, nails or any sharp or pointed thing or substances likely to pierce, cut or damage any person or vehicle using such beach or public place.

(Code 1983, § 17-4; Ord. No. K-106, § 1, 10-1-2001)

### Sec. 32-6. Playing in streets.

It shall be unlawful for any person to play ball or any other game upon the public streets or parks, except at places provided for such games, or to authorize, permit or encourage children under one's care or custody to play upon the public streets or other prohibited areas.

(Code 1983, § 17-5; Ord. No. K-106, § 1, 10-1-2001)

### Sec. 32-7. Improper use of sidewalks.

It shall be unlawful for any person to congregate or ride ~~or drive~~ upon or otherwise obstruct, block, injure or

PROOFS

remove any public sidewalk, except as duly authorized or sanctioned by this Code or any law or ordinance of the city.

(Code 1983, § 17-6; Ord. No. K-106, § 1, 10-1-2001)

**Sec. 32-8. Placement of utility facilities in the public rights-of-way.**

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

*Emergency* means a condition that may affect the public's health, safety, or welfare, including, but not limited to, an out of service condition affecting 911 service.

*Extenuating circumstances* mean conditions relative to the installation, maintenance, relocation, or repair of facilities in the public right-of-way where the specific requirements of this section regarding required or preferred techniques, methods, or equipment for installation, maintenance, relocation, or repair of facilities is rendered impractical or impossible. Such circumstances include, but are not limited to, inadequate clearance, possible damage caused by compliance, size of the facility, or excessive costs.

*Facilities* or *utility facilities* means the cables, conduits, ducts, antennas, fiber optic, pipes, poles, lines, converters, splice boxes, cabinets, hand holes, manholes, vaults, equipment, drains, surface location markers, appurtenances, and related materials or equipment to be located, used, or to be used by, a utility as defined herein.

*Public right-of-way* or *right-of-way* means the surface, the airspace above the surface, and the area below the surface, of any public street, highway, alley, road, boulevard, concourse, driveway, freeway, thoroughfare, sidewalk, bridge, tunnel, park, waterway, dock, bulkhead, wharf, pier, public easement, public way, or any other property in which the city holds any kind of property interest or over which the city exercises any type of control and may lawfully grant access to pursuant to applicable law.

*Utility* means the owner of agents of any of the following:

(1) Electric transmission, telephone, or telegraph services;

(2) Communication services and cable services, as defined in F.S. ch. 202;

(3) Railways;

(4) Sewer and sanitary services;

(5) Gas lines, mains, or services;

(6) Gasoline tanks, lines, mains, pumps or services;

(7) Water, with structures or infrastructure, either existing or proposed, whether aboveground, underground, or aerial, within the corporate limits of the city.

(b) *Application process for working in city right-of-way.*

(1) *Permit required.*

a. The cutting, disturbing, or disruption, of city streets, or any portion of the public right-of-way is prohibited, except as provided herein.

b. Utilities may not work within, nor disturb or disrupt the public rights-of-way without an express, prior written permit from the city engineer, except that, such permission may not be required in the case of an emergency, as defined herein.

(2) *Application for permit.*

a. A utility may not commence any work in the right-of-way, unless their permit application has been granted, except as otherwise provided herein. The written permit shall state the date work in the right-of-way may commence. The utility shall notify the office of the city engineer at least 48 hours prior to the date work is to commence, of either their intent to commence work as scheduled and permitted, or of any delays in commencement of work in the right-of-way.

b. A permit under this section constitutes authorization to undertake only those activities specified in

PROOFS

the utility's application, that are specifically approved on the written permit issued. Such permit does not constitute a property right, nor does it grant authority to impinge upon the rights of others having an interest in the right-of-way.

c. Any utility desiring to work in the public right-of-way must complete the following requirements:

1. Written application for permission to work within the public right-of-way must be submitted to the city engineer, on forms supplied by the city engineer, 30 days prior to the proposed commencement of work in the public right-of-way, except in cases of emergency, as defined herein, and expressly waived by the city engineer, or his designee. Information on the application shall include:

(i) Name of the applicant;

(ii) Name, address, and phone number of the applicant's primary contact person in connection with the application for the permit;

(iii) Name, address, and phone number of the person designated by the applicant to be contacted in the case of an emergency;

2. Provide proof that all federal and/or state permits or registration required, if any, have been obtained by the utility. Such proof shall include providing the number of the applicant's certificate of authorization or license, proof of authority to do business in the state, or any other documents as may be required by any state or federal authority, if applicable;

3. Provide documents or plans showing the location of the proposed facilities and the size of the proposed facilities and the equipment to be installed;

4. Provide a detailed description of the manner (anticipated construction techniques or methods) in which the utility facilities shall be installed;

5. Provide a statement of the estimated time required to completely install the facilities, any information regarding the ability of the right-of-way to accommodate the proposed facilities, if available, and a proposed estimated cost of restoration of the right-of-way. The plan shall include a timetable for each phase of facility placement in the right-of-way. Any information regarding accommodation or space availability in the proposed right-of-way location does not need to be certified as to correctness;

6. Provide a security fund, in the amount specified herein, and establish a performance bond, as specified herein, in favor of the city, in the amount specified by the city engineer, or his designee, to ensure the faithful performance of all requirements under this section and in accordance with any applicable portion of this Code and city administrative regulations;

7. Provide insurance and certificates of insurance as specified herein;

8. Provide a plan for minimizing the disruption of traffic flow in the areas of the right-of-way affected by the construction, installation, maintenance, relocation, or repair of facilities in the public right-of-way.

d. The city may request such additional information as it finds necessary to review an application for a permit to perform work in the public rights-of-way.

e. If a utility is granted a permit to perform work in the public right-of-way, the utility shall, within 30 days of receipt or filing, provide the city with such documents that may prevent compliance with any requirements of the permit or this section, in connection with the installation, construction, maintenance, relocation, removal, or repair of facilities in the right-of-way.

f. A utility desiring to use its existing facilities or to construct new facilities for the purpose of providing utility or non-utility services for other than its own use, or for lease of facilities, resale of services, or sale to a third party, shall seek such additional and separate authorization from the city, as may be required or allowed by applicable law. In the event a utility is acting in its proprietary function as a retail provider of facility equipment or appliances, a utility shall seek the appropriate

PROOFS

permits and licenses from the city.

(3) *Right-of-way linear mile charges.* Pursuant to the provisions in F.S. § 337.401, any person or entity other than a provider of communications services, that places or maintains a communication facility in public roads or rights-of-way shall pay the city a fee a~~t the rate of five hundred dollars ($500.00) per linear mile~~ in the amount established by resolution, payable annually, for any cable, fiber optic, or other pathway that makes physical use of the public roads or rights-of-way.

(4) *Wireless permit applications.*

a. Permit applications for approval of wireless facilities placement, such as antennas and related structures or housing, in the public right-of-way, shall be submitted for approval as provided herein, except that all other wireless approval shall be as provided in chapter 125.

b. A permit application to install any wireless facility in the public right-of-way, such as an antennas, shall, in addition to any other requirements, specify the height that the proposed facility would extend, as measured from the ground, whether or not such antennas requires the installation of accessory equipment or related housing, and whether or not any light illumination, or signal would be required by any applicable law.

(5) *Bond.*

a. All utilities applying for permission to work in the public right-of-way shall provide, prior to beginning work, on a form acceptable to the city, and with a surety acceptable to the city, a performance bond conditioned upon the utility's faithfully performing its duties and obligations under this section. Such bond shall provide that, in the event the utility fails to fulfill its duties and obligations as outlined in the permit and the provisions of this section, there shall be recoverable any damages or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification, cost of completing the work, cost of restoring any work not done to the city's specifications, cost of removal of any abandoned property, equipment or facility of the utility, plus a reasonable allowance for attorney fees, up to the full amount of the bond. Except where such bond is required by law, in the case of an emergency, the requirement may be waived by the city engineer, or the city engineer's designee.

b. The amount of the bond shall be the amount specified in the permit, or set by the city engineer based on the maximum potential costs to the city if the utility fails to faithfully perform its duties and obligations under this section, including, but not limited to, the restoration of the right-of-way. If, during the term of the utility's work in the right-of-way, the city determines that the amount of the bond provided by the utility is less than the amount required to meet the specifications of this section, the city may require that the utility increase the amount of the bond, or procure an additional bond, so that the total amount bonded is equal to or greater than the amount required hereunder.

c. Notwithstanding, except where such performance bond may be required by law, the city engineer, or his designee, may elect to only require a performance bond to the extent that the maximum potential costs of restoration or any other cost provided for by this section exceeds the amount recoverable against the security fund provided for in this section.

d. All bonds shall provide, in writing, that: "This bond may not be canceled or allowed to lapse."

e. The rights reserved by the city with respect to any performance bond established pursuant to this section are in addition to all other rights and remedies the city may have under this Code, or state, or federal law. No action, proceeding, or exercise of a right with respect to the performance bond will affect any other right the city may have.

(6) *Security fund.*

a. The utility shall provide the city with an annual security fund in the amount of $100,000.00. The security fund may be in the form of an annual bond or guarantee, having as a surety a company qualified to do business in the state, and meeting the minimum surety requirements as set forth in this section or in the form of cash, a money order, a certified check, or a cashier's check, acceptable

PROOFS

to the city. Such security fund shall be for the same purpose and be subject to the same conditions as those applicable to any performance bond required by this section. Any bond or corporate guarantee provided shall be reviewed by the city attorney prior to acceptance.

b. In the event a utility fails to perform its duties and obligations there shall be recoverable from the security fund the full amount of any compensation, indemnification, cost of restoration, cost of removal of any utility property abandoned, or any costs associated with compliance under the terms of this section, including attorney fees, up to the full amount of the security fund.

(7) *Minimum surety qualifications.*

a. A surety company or corporation providing bond under this section shall meet the following minimum requirements:

1. The surety shall be licensed to do business in the state;
2. The surety shall hold a certificate of authority to do business in the state;
3. The surety shall be in compliance with the provisions of the state insurance code;
4. The surety shall maintain a rating of A- or better according to A.M. Best Company;
5. The surety shall maintain a current certificate of authority issued by the U.S. Department of the Treasury under 31 USC 9304 through 9308.

b. A surety providing bond under this section shall complete a surety's affidavit, on the form provided by the city, attesting to the foregoing requirements.

(8) *Insurance.*

a. The utility shall, at its own expense, procure and maintain until final acceptance of the work, with insurers acceptable to the city, the types and amounts of insurance conforming to the minimum requirements set forth herein. The utility shall not commence work until the required insurance is in force and evidence of insurance acceptable to the city has been provided to and approved by the city.

b. With respect to workers' compensation insurance, general liability insurance, and automobile liability insurance, an appropriate certificate of insurance, including a 30-day written notice of cancellation to the city shall be satisfactory evidence of insurance. The general liability certificate shall verify the inclusion of the city, its officers, boards, members, agents and employees as additional insured.

c. Until such insurance is no longer required by this section, the utility shall provide the city with renewal or replacement evidence of insurance, satisfactory to the city and in compliance with this section, at least 30 days prior to the expiration or termination of any insurance required by this section.

d. Workers' compensation insurance shall be no more restrictive than that provided by the standard workers' compensation policy, as filed for use by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Worker's Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable federal or state law. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One: "Statutory"

Part Two:

$500,000.00, each accident.

$500,000.00, disease, policy limit.

$500,000.00, disease, each employee.

e. General liability insurance shall be no more restrictive than that provided by the standard

PROOFS

commercial general liability form (ISO Form CG 00 01) without any restrictive endorsements. The city, its officers, boards, members, agents, and employees shall be included as "Additional Insured" on a form no more restrictive than ISO Form CG 20 10, Additional Insured-Owners, Lessees, or Contractors (Form B). The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

$1,000,000.00, general aggregate.

$1,000,000.00, products/completed operations aggregate.

$1,000,000.00, personal and advertising injury.

$1,000,000.00, each occurrence.

f. Automobile liability insurance shall be no more restrictive than that provided by section II (Liability Coverage) of the standard Business Auto Policy (ISO Form CA 00 01), including coverage for the liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with performance of all work. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

$1,000,000.00, each occurrence, bodily injury and property damage combined.

g. The insurance provided by the utility shall apply on a primary basis. Any certificate required under this section shall specifically state that the insurance provided applies on a primary basis. Any insurance maintained by the city shall be in excess of and shall not contribute with the insurance provided by the utility. Except as otherwise specified, no deductible or self-insured retention is permitted.

h. Compliance with these insurance requirements shall not limit the liability of the utility. Any remedy provided to the city by the insurance provided by the utility shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnity of the utility) available to the city under this section or otherwise.

i. Neither approval nor failure to disapprove insurance furnished by the utility shall relieve the utility from responsibility to provide insurance as required by this section.

j. The city may, at its option, require coverage and amounts in excess of the minimums provided by subsections (b)(8)e through f of this section where necessary to reflect changing liability exposure and limits, or where required to do so by applicable law.

k. In the event of any claim or potential claim where the city claims insurance coverage, the utility shall immediately respond to all requests by the city for information with respect to the scope of insurance coverage.

(9) *Minimum insurer requirements.*

a. *Worker's compensation/employer's liability.*

1. With respect to coverage for liability imposed by the Florida Workers' Compensation Act, each such insurer must either be:

(i) Authorized by a subsisting certificate of authority issued by the department of insurance of the state;

(ii) Authorized, pursuant to state statutes, as a group self-insurer which has been in continuous operation in the state for five years or more; or

(iii) Authorized, pursuant to state statues, as a commercial self-insurance fund which has been in continuous operation in the state for five years or more.

2. With respect to employer's liability coverage, each such insurer must either be:

(i) An insurer which qualifies under subsection (b)(9)a.1 of this section; or

(ii) An eligible surplus lines insurer under state statutes.

PROOFS

3. In addition to meeting the respective requirements of this subsection , each such insurer, other than group self-insurers or commercial self-insurance funds, shall have and maintain throughout the period for which coverage is required, a Best's Rating of A- or better and a Financial Size Category of VII or better according to A.M. Best Company.

b. *Other insurance requirements under this section.*

1. Each such insurer must either be:

(i) Authorized by a subsisting certificate of authority issued by the department of insurance of the state; or

(ii) An eligible surplus lines insurer under state statutes.

2. In addition to meeting all the requirements of this section, each such insurer shall have and maintain throughout the period for which coverage is required, a Best's Rating of A- or better and a Financial Size Category of VII or better according to A.M. Best Company.

c. *Change in insurer qualifications.* If during the period when an insurer is providing the insurance required by this section, an insurer shall fail to comply with the foregoing minimum requirements, as soon as the utility becomes aware of any such failure, the utility shall immediately notify the city and shall immediately replace the insurance provided by the insurer with an insurer meeting the requirements.

(10) *Indemnity.*

a. A utility shall, at its sole cost and expense, release, indemnify, hold harmless, and defend the city, its officials, boards, members, agents, and employees, against any and all claims, suits, causes of action, judgments for damages, or equitable relief, costs, and expenses sustained by, or against the city:

1. Arising out of the construction, operation, maintenance, or repair of the utility's facilities in the city right-of-way, regardless of whether any act or omission complained of is authorized, allowed, or, prohibited by city ordinance or administrative regulations.

2. Claims made against the city for failure of the utility to secure consent of owners, to comply with applicable state or federal law, for invasion of privacy by the utility, a utility's defamation of any person, firm, or corporation, a utility's violation or infringement of a patent, trademark, or copyright.

b. Such indemnity shall include, without limitation, costs, fees, and expenses attributable to the city by any third party.

c. This provision includes the city's attorney fees incurred in defending against all such claims, suits, or proceedings.

d. The city agrees to notify the utility, in writing, within a reasonable time, of the city receiving notice of any issue it determines may require indemnification.

e. Nothing herein shall prohibit the city from participating in the defense of any claim or litigation by its own counsel, and at its own costs if, the city believes, there exists a conflict, potential conflict, or appearance of conflict.

f. Nothing herein shall be construed or interpreted as:

1. Denying to either party any remedy or defense available to such party under state law;

2. As a waiver of sovereign immunity beyond the provisions of F.S. § 768.28.

(11) *Safety and notification.*

a. All safety procedures required by applicable law, or accepted industry practice and standards, shall be used during construction, maintenance, repair, relocation, or any other work in the public right-of-way.

PROOFS

b. All utilities shall use and exercise due caution, care, and skill in performing work in the right-of-way, and shall take all reasonable steps to safeguard work sites.

c. In connection with excavation in the public right-of-way, a utility shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act as set forth in F.S. ch. 556.

d. Utilities shall maintain appropriate participation in the regional notification center for subsurface installation.

e. Utilities performing any work in the public right-of-way shall notify all residents directly affected by such work no less than 15 days prior to commencement, except in case of emergencies.

(12) *Fort Pierce Utility Authority (FPUA) excused.* The Fort Pierce Utility Authority (FPUA) shall be excused from all parts of this section regarding bond, guaranty, security fund, or liability insurance. All other portions, including, but not limited to, the written application for, and obtaining of permits is applicable.

(13) *Inspection, monitoring, and restoration.*

a. The city shall have the right to inspect the construction, installation, maintenance, repair, removal, relocation of all utility facilities for compliance with this section, or any applicable portions of this Code.

b. The utility shall, at its own expense, restore the public right-of-way to as good a condition as existed prior to the commencement of work and in a manner reasonable and satisfactory to the city, within 30 calendar days after completion of such work.

c. If the restoration is not performed in a manner proper, reasonable, and satisfactory to the city, the city may, after prior written notice to the utility, cause the restoration of the right-of-way to be made at the utility's expense, utilizing city employees, agents, or contractors, and charge all costs, plus a sum equal to ten percent of the cost against the utility, and require reimbursement within ten days after submission of the bill by the city. Rates for labor and equipment shall be in accordance with city administrative regulations.

d. Right-of-way restoration shall comply with this section, any other applicable sections of this Code, or any other rules or regulations promulgated by the city engineer for the restoration of the right-of-way.

e. The city engineer shall formulate and implement a system to monitor the restoration of the rights-of-way so that all work in the right-of-way is done properly and completely in an acceptable manner and requiring that the pavement or any other surface material is properly restored as required under this Code or regulations.

f. After the required restoration has been accepted by the city engineer, pavement or surface material patches will be classified by the city engineer and registered for future inspections.

g. Registered patches will be re-inspected after six months for signs of settlement or deterioration due to improper installment. Patches rejected at the first inspection shall be redone at the utility's expense.

h. Registered patches not showing any deterioration or settlement after 12 months from the date restoration was accepted shall be given final acceptance by the city.

i. Rights-of-way pavement or surface material, that has been reconstructed or rehabilitated within two years prior to any utility's work in the right-of-way that necessitates the disruption of such pavement or surface material, shall be restored by the utility by milling and resurfacing the pavement or surface material for a minimum length of 100, or the length of the trench plus ten feet on the end of the trench, whichever is greater. Restoration of traverse cuts shall be done by replacing 50 feet of the pavement or surface material structure on each side of the centerline of the installation.

j. Any necessary driveway restoration due to any work done in the right-of-way shall comply with section 32-9 (construction of driveways, sidewalks, curbs, etc.), as contained herein.

(14) *Retroactive permit application after emergencies.* In the case of any work in the public right-of-way

PROOFS

where prior permit application was excused by the city engineer, or his designee, due to emergency, or extenuating circumstance approved by the city engineer, or his designee, the utility shall submit the permit application and comply with all other applicable requirements of this section no later than 48 hours after the work was commenced.

(15) *Facility location documentation.*

a. Upon completion of any installation, construction, repair, removal, or relocation of facilities in the right-of-way, a utility shall provide the city, at no cost to the city, with complete diagrams, maps, as built plans, plats, construction documents, drawings, or any other documentation the city may request, showing the exact location of all of its facilities and structures installed.

b. All documentation requested shall be produced in a timely manner and shall be provided in digitized format, based on the city's geographical database datums, or other format deemed acceptable to the city engineer, showing the two-dimensional location of the facilities.

c. All information required by this section shall be maintained in accordance with F.S. § 202.195.

(16) *Existing facilities location; documentation updates.*

a. All utilities with existing facilities in the right-of-way shall provide the city with documentation, in the form of maps, diagrams, as-built plans, or other documents regarding a utility's facility network that the city may request, as well as documentation regarding facility construction proposals or expansion plans for existing facilities.

b. All material provided to the city as required herein shall be in digitized format, based on the city's geographical database datums, or other format deemed acceptable to the city engineer. All documents and materials as required herein shall be provided to the office of the city engineer on an annual basis.

(c) *Installation and relocation.*

(1) *Underground installation.*

a. Utilities shall install all facilities underground where such requirement is not inconsistent with applicable state or federal rules and regulations, or unless otherwise expressly exempted from such requirement by the city engineer.

b. A utility shall not in any way displace, damage, or destroy any utility facilities of the city or of any other third party who placed such facilities therein by the express authority of the city. The utility shall be liable to the city for the costs of any repairs made necessary by such displacement, damage, or destruction, as provided for in subsection (c)(4) of this section (relocation and repairs), and shall pay such costs on demand.

(2) *Specified installation methods.*

a. Trench-less installation techniques, otherwise known as directional boring, and joint trenching, and/or co-location of facilities in existing conduits shall be employed unless not feasible, as determined by the city engineer, or his designee.

b. All utilities shall install their underground facilities by boring or drilling, or by the jetting of two-inch minimum size pipes, in lieu of boring or drilling, except for emergencies, or extenuating circumstances where such requirement is specifically waived in advance by the city engineer.

c. The method of installation to be used shall be specified on the utility's application for a permit.

d. The city engineer shall provide written rules and regulations concerning the installation, relocation, repair, and maintenance of utility facilities in the right-of-way, as may be consistent with applicable law, and not inconsistent with this section.

(3) *Prohibition or limitation on installation.*

a. The city shall have the power to prohibit or limit the placement of new or additional facilities within the public rights-of-way if the city finds that there is insufficient space to accommodate all requests

PROOFS

of utilities to occupy and use the public right-of-way, or that such limitation is necessary to protect existing facilities or to protect future city plans for improvements or development projects that the city determines to be in the public interest.

b. The city shall have the right to require that all utilities shall install, locate, repair, and maintain all facilities so as not to cause unreasonable interference with the use, maintenance, improvement, extension, or expansion of the public right-of-way and with the minimum of interference with the rights and convenience of property owners who adjoin the public right-of-way, or with the rights of any other person lawfully using the right-of-way.

(4) *Relocation and repairs.*

a. Any utility facilities that the city finds necessary to remove, alter, or relocate shall be removed by the utility, at the utility' expense, after 30 days' written notice, as provided under F.S. § 337.403.

b. If the utility fails to remove or relocate the facilities, the city may proceed to remove or relocate the utilities. The expenses incurred in such removal or relocation shall be charged against the utility and levied and collected and paid to the city, as provided under F.S. § 337.403.

c. The city engineer, or his designee, in their discretion, may extend the time within which a utility shall remove or relocate facilities in extenuating circumstances. Such extension, if given, shall be in writing.

d. In the case of any emergency, the city may commence repairs without prior notice to the utility. In the event of an emergency, the city may cause the repairs to be made utilizing city employees, agents, or contractors and may charge all costs plus the sum of ten percent against the utility and require reimbursement within 30 days after submission of the bill by the city to the utility.

e. Where required repairs are not deemed an emergency by the city, the utility, if known, shall be given notice of the needed repairs, if circumstances permit.

f. If a utility fails to complete requested non-emergency repairs in a satisfactory and timely manner, within 30 days after written notice, the city may cause the repairs to be made utilizing city employees, agents, or contractors and may charge all costs plus the sum of ten percent of the cost against the utility and require reimbursement within 30 days after submission of the bill by the city to the utility.

g. Rates for labor and equipment shall be in accordance with the city administrative regulations 1-23, as amended.

h. Should a utility fail to promptly restore, replace or repair any sidewalk, paving, landscaping, dirt, improvements, water, sewer, or other utility facilities in the right-of-way disturbed by the utility during its work in the right-of-way, the city may proceed to complete the necessary work and charge the utility as specified herein.

(5) *Suspension of work in the right-of-way.*

a. Subject to the provisions of this section, the city engineer, or other authorized city designee, shall have the power to suspend a permit to work in the city rights-of-way for one or more of the following reasons:

1. Violation of permit conditions, including conditions set forth in this section, or any applicable sections of this Code or regulations for use of the right-of-way;

2. Failure to relocate, repair, or remove facilities as may be lawfully required by the city;

3. Failure of the utility, its employees, agents, or subcontractors to:

(i) Place barricades or signs around work area;

(ii) Take all reasonable safety precautions to alert the public of work in progress;

(iii) Repair, replace, or restore any sidewalk, paving, landscaping, dirt, improvements, water, sewer, or other utility facilities, in any alley or street in the right-of-way disturbed by the

PROOFS

utility during its work in the right-of-way.

4. Misrepresentation or fraud on the part of the utility in its permit application;
5. Suspension of utility's license or certification by a federal or state authority;
6. Facilities placed or maintained by the utility in the right-of-way present a danger to public health or safety;
7. Failure of a utility to remove abandoned facilities as required by this section;
8. Failure of utility to comply with bond, security fund and insurance provisions under this section.

b. Notice of permit suspension shall be in writing.

(6) *Appeal of suspension or denial.*

a. Final, written decisions of the city suspending a permit or denying an application for a permit to work in the right-of-way are subject to appeal. A written appeal must be filed with the office of the city engineer within 30 days of the date the permit is either denied or suspended. An appeal not timely filed is waived.

b. The city commission, or its duly appointed designee or hearing officer, shall hear the appeal no later than 45 days after the expiration of the 30-day appeal period, unless waived by the utility. A written decision shall be provided regarding the appeal shall be provided within 20 days of the hearing.

c. Upon correction of any violation that gave rise to a suspension or denial of a permit, including any amounts owed to the city, the suspension or denial shall be reconsidered by the city engineer.

(7) *Enforcement remedies.*

a. The city may seek legal or equitable relief from any court of competent jurisdiction.

b. In addition to any other remedies available at law or equity, or provided in this section, the city may elect other enforcement methods for violations of this section, or any other applicable law related to use of the right-of-way.

c. A utility's failure to comply with the provisions of this section, or any other applicable section of this Code, or law applicable to use or occupation of the right-of-way, shall constitute a violation of this section, and shall, at the city's election, subject the utility to the code enforcement provisions and procedures as otherwise provided in this Code. Before imposing any fine pursuant to this Code, the city engineer, or his designee, shall give the utility written notice of the violation, with a description of the alleged violation, stating the city's intent to assess penalties, and informing the utility of the right to appeal or contest the alleged violation. Following receipt of such notice the utility shall have 30 days to either cure the violation to the city's satisfaction or to file an appeal contesting the alleged violation. Written appeals received from a utility shall be submitted by the city engineer to the city commission, their designee or hearing officer, and shall be heard no later than 45 days after expiration of the 30-day appeal period. The city may collect accrued fines, through any means allowed by law, for any violation not cured or successfully appealed.

d. In addition, violation of this section may be punishable as a civil infraction, as provided in F.S. § 162.22.

e. The city's election of the manner of enforcing any requirements of this section, or any other applicable section of this Code, or applicable law regarding use or occupation of the right-of-way, shall be at the sole discretion of the city.

f. Failure of the city to enforce any requirement of this section shall not constitute a waiver of the city's right to enforce a violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

(8) *Abandonment of facilities.*

PROOFS

a. Upon abandonment of a utility's facilities, or any portion thereof in the public right-of-way, the utility shall notify the city in writing within 90 days.

b. The city may direct the utility to remove the abandoned facilities, at the utility's sole expense, if the city determines that the abandoned facilities interfere with, or compromises public health and safety, prevents another utility from utilizing the right-of-way, or creates a maintenance condition that is disruptive to the right-of-way use.

c. In the event that another utility has applied for and received a permit for placement of facilities in the right-of-way where the abandoned facilities are located, the city may require that the two utilities coordinate jointly for removal and placement of facilities.

d. If, after request by the city, a utility fails to remove an abandoned facility, or any portion thereof, the city may perform the removal and charge the utility as provided in this section.

(9) *Transfer of facilities.*

a. If a utility transfers, sells, leases, or assigns its facilities located in the public rights-of-way, incident to transfer of the utility's assets, the transferee, lessee, or buyer shall be obligated to comply with all terms of this section.

b. Written notice of any such transfer, sale, or assignment shall be provided by the utility to the city within 20 days after the effective date of the transfer, sale, or assignment.

c. Any mortgage, pledge, lease, or other encumbrance of utility facilities shall be subordinate and subject to the rights of the city by virtue of this section and other applicable law.

(10) *Temporary relocation of facilities for third parties.*

a. A utility shall, at the request of any person holding a valid permit issued by the city, temporarily raise or lower its facilities to permit the work authorized by the permit.

b. The expense of such temporary raising or lowering of any facilities shall be paid by the person requesting the same, and the utility shall have the authority to require such payment in advance.

c. The utility shall be given not less than 30 days' advance written notice to arrange for such temporary relocation.

(11) *Force majeure.*

a. In the event a utility's performance or compliance with any provision of this section is prevented by a cause or event not within the utility's control, such as fire, flood, hurricanes, natural disasters, acts of God, sabotage, strikes, or civil disturbances, such inability to comply shall be excused; provided, however, that such utility uses all practicable means to cure or correct any inability to comply.

b. Causes or events specifically defined as being within the utility's control, and therefore excluded from excusing a utility's performance, shall include:

1. Utility's financial inability to perform or comply;

2. Economic hardship;

3. Misfeasance, malfeasance, or nonfeasance by any utility's directors, officers, employees, contractors, or agents.

~~*Severability.* The provisions of this section are declared to be severable, and if any section, sentence, clause, or phrase of this section shall, for any reason, be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions, the legislative intent being that this section shall stand regardless of the invalidity of any part.~~

(12) *Applicability.* This section shall be applicable to all utilities, as defined herein, who either have, use, or lease existing facilities in the public right-of-way prior to the effective date of the ordinance from which this section is derived, or who desire to place, locate, relocate, maintain, repair, remove, use, or lease facilities in the public right-of-way after the effective date, but it shall not operate, where applicable, to

PROOFS

impair any rights expressly granted by prior franchise or license for the duration of such franchise or license. In the event of any inconsistency between an existing franchise or license and the terms of this section, the existing franchise or license shall prevail for the duration of such franchise or license.

~~All utilities with existing facilities shall have 90 days from the effective date of the ordinance from which this section derives to comply with all terms and conditions of this section, or be in violation thereof.~~

(13) *Reservation of rights.*

a. The city reserves the right to amend this section as it shall find necessary in the lawful exercise of its police powers.

b. The city reserves the right to cut or move facilities located in the public right-of-way, as the city engineer, or his designee, in the exercise of reasonable discretion, may determine necessary for the public health, safety, emergency, or for any public purpose.

c. The city reserves the right to place, maintain, and permit to be placed and maintained, any utility facilities, and to do or permit to be done any underground or overhead installation or improvement that the city may deem necessary and proper, in the public right-of-way, whether or not occupied by any utility facilities, and regardless of whether such facilities were placed there with the city's express permission.

d. The city further reserves, without limitation, the right to alter, change, or cause to be changed, the grading, installation, location, width of, or vacate and abandon, the public rights-of-way, within the city limits, as they may from time to time be altered.

e. The city makes no representation or warranty with respect to the suitability, fitness, or availability of the public right-of-way for facilities of any utility. Performance of work, costs incurred. or services provided shall be at a utility's sole risk.

f. The adoption of this section is not intended to affect any rights or defenses the city or a communications service<u>s</u> provider, as defined in ~~Section 202.11(3) Florida Statutes~~ <u>F.S. § 201.11(1)</u>, under any existing franchise, license, or other agreement with such communication service provider, nor is it intended to prevent the city from negotiating and entering into a franchise agreement as may be allowed under federal or state law.

g. Nothing herein shall prohibit the city from negotiating with a utility for the installation of a city conduit pipe or drainage structure in any open trench that may be permitted, or prohibit a utility from exercising its rights under 47 USC 224.

h. Nothing herein shall affect the remedies available to the city or utility under applicable law.

(Code 1983, § 17-7; Ord. No. K-106, § 1, 10-1-2001)

**Sec. 32-9. Construction of driveways, sidewalks, curbs, etc.**

(a) *Application for permit.* An application for a permit to install driveways, sidewalks, curbs, curb and gutters and alteration of drainage ditches must be obtained from the ~~department of~~ engineering <u>department</u>, filled completely and signed by the applicant ("owner") and agent ("engineer and/or contractor") and submitted to the city engineer with a sketch providing information as to the location of driveway in relation to the property lines, front and crossing street pavements. Application for a permit must be submitted 30 days before the work starts. The permit shall be obtained before work starts.

(b) *Construction.* All sidewalks, driveways, driveway approaches, curbs, curb and gutters, culvert installation and alteration of drainage ditches shall be done in accordance with the city's construction standard specifications and details and elevations of existing culvert and drainage ditches that are kept current on the <u>engineering</u> department ~~of engineering~~ files, reference to which is hereby made for further particulars. No sidewalks, curbs, curb and gutters, or driveways shall be installed other than of concrete. The minimum requirement for a driveway culvert is 15 inches RCP or the equivalent elliptical RCP. All culverts shall have concrete mitered ends. All new culverts and restoration of drainage ditches shall be installed to an elevation furnished by the city. At least 48 hours' advance notice shall be given to the city engineer, or designee, by the applicant so that the city may

PROOFS

schedule the provision of the elevation information required. All drainage ditches disturbed by the new driveway culvert and/or pavement installation shall be restored with at least same type of driveway culvert and/or pavement installation, or sod, as required by the city. All debris and surplus materials shall be removed promptly upon completion of the work.

(c) *Minimum corner street clearance.* All driveways shall conform to the minimum distance requirements set forth in section 125-316(b)(2)a. When minimum corner street clearance of existing unpaved driveways to be improved will not comply with section 125-316(b)(2)a., the application shall be reviewed and approved on a case by case basis at the discretion of the city engineer.

(d) *Inspection.* All culverts, sidewalks, curbs, curb and gutters and prepared subgrades, forms and reinforcement, as required, shall be inspected and approved by the city engineer, or designee. The applicant is responsible to provide at least a 48 hours' advance notice for any required inspection to the city engineer, or designee, so that the inspections may be scheduled.

(e) *Safety, indemnity.* The applicant shall provide adequate barricades and lights, and shall maintain the premises in a safe manner, as required by the city, to protect the safety of the public using the adjacent streets and sidewalks. All necessary safety requirements shall be provided by the applicant at the applicant's sole expense. The applicant shall agree, in writing, to indemnify and hold the city harmless from any damages or losses incurred, due to any work performed by or omissions of the applicant.

(f) *Maintenance.* The property owner shall be responsible for the maintenance of the portion of the driveway or driveways located and/or constructed within the city's right-of-way. Should the portion of the driveway on the city right-of-way become a nuisance, drainage blockage or safety hazard. After receiving the director's notification, the abutting property owner shall correct the deficiencies within 30 calendar days from the date of notice. Should the owner neglect to correct deficiencies in the time specified, the ~~department of public works~~ public works department shall perform whatever maintenance or construction is necessary to bring the driveway to city standards. In such case, the abutting property owner shall compensate the city at the labor, equipment and material rates set by the ~~department of public works~~ public works department for the work performed by the city.

(g) *Inspection fee.* Before any permit shall be issued, as hereinbefore set out, a minimum inspection fee ~~of fifty dollars ($50.00)~~ in the amount established by resolution shall be paid to the city.

(h) *Rescinding permit.* The city commission shall have the authority to rescind any permit hereafter granted under this chapter for the construction, installation or repair of any sidewalk, driveway, driveway approach, curb, curb and gutter or culvert installation or drainage ditch alteration, when it finds such action to be in the public interest.

(Code 1983, § 17-8; Ord. No. K-106, § 1, 10-1-2001)

**Sec. 32-10. Display of permits.**

All permits for the construction, installation or repair of sidewalks, driveways, driveway approaches, curbs, curb and gutters, culvert installation or drainage ditch alteration shall be posted conspicuously near the work by the person to whom the permit is granted.

(Code 1983, § 17-9; Ord. No. K-106, § 1, 10-1-2001)

**Secs. 32-11--32-38. Reserved.**

## ARTICLE II. NEWSRACKS AND PUBLIC RIGHTS-OF-WAY

**Sec. 32-39. Short title.**

This article shall be known and may be cited as the "Newsrack Ordinance."

(Code 1983, § 22-200; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-40. Definitions.**

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

PROOFS

*Equivalent newsrack* means any newsrack which is of the same size, dimension and style as is the newsracks specified in this article.

*Newsracks* means an unmanned device for the vending or free distribution of newspapers, advertising circulars, periodicals or publications of any form, type or sort whatsoever without regard to their content.

*Public right-of-way* means any public street, highway, sidewalk, parkway, alley or public parking lot.

(Code 1983, § 22-203; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-41. Area of application.**

This article shall be applied only to public rights-of-way within the community redevelopment area as established by chapter 8, article II, ~~article XIV, chapter 2,~~ and historic districts designated pursuant to chapter 111, according to a map of the community redevelopment area and of the historic districts as on file in the planning department.

(Code 1983, § 22-201; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-42. Purpose and criteria.**

The purpose of the following is to promote the public health, safety and welfare through the regulation of placement, type, appearance, servicing and ensuring of newsracks on public rights-of-way so as to:

(1) Provide for pedestrian and driving safety and convenience;

(2) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles;

(3) Provide for public and property safety during severe weather conditions;

(4) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes and access to locations used for public transportation purposes;

(5) Relocate and/or replace newsracks which result in a visual blight and/or excessive space allocation on the public rights-of-way, or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, as well as to have abandoned newsracks removed;

(6) Maintain and protect the values of surrounding properties;

(7) Reduce unnecessary exposure of the public to personal injury or property damage.

(Code 1983, § 22-202; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-43. Compliance.**

No person or entity shall place, affix, erect, construct, maintain or abandon a newsrack within any area subject to this article except as provided in this article. Nor may any newsrack subject to this article be installed without issuance of a certificate of compliance.

(Code 1983, § 22-204; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-44. Certificate of compliance.**

(a) *Issuing authority.* The ~~director of development~~ planning director is responsible for issuance of certificates of compliance. Such director shall be responsible for coordinating and administering physical placement of newsracks in the locations subject to this article.

(b) *Application.* The applicant shall file with the ~~director of development~~ planning director a written application for an installation certificate of compliance which shall contain the following information:

(1) The name, address, telephone number and fax number of each of the applicant, newsrack owner and, if different from the owner, the principle who is primarily responsible for the newsracks;

(2) The name, address and telephone number of a responsible person or entity whom the city may contact or notify at any time concerning the applicant's newsracks;

PROOFS

(3) The number of newsracks and the proposed location of each;

(4) Names of newspapers or periodicals or other written materials to be contained in each rack;

(5) The type or brand of newsracks, including an illustration (or photograph) and description of the newsrack and mount if other than SHO rack TK 80 or modular rack systems 49K or 49DW;

(6) A certification that the applicant is familiar with the requirements of this article and will comply with the terms thereof.

(c) *Issuance or denial of certificate.* Within five days the ~~director of development~~ planning director shall either grant the application and issue a certificate of compliance or deny the application. Such application shall be granted if the application is properly completed and otherwise conforms to requirements of this article. If the application is incomplete, the director shall notify the applicant within such five-day period of time and, upon resubmission of an amendment application, shall either grant or deny the amended application within five days from receipt thereof. The certificate, or notification of denial, shall be immediately mailed to the applicant by the end of the five-day period. In the event the application is denied, the notification of denial shall set out the specific reason or reasons for such denial.

(d) *Additional newsrack certificates of compliance.* If, at any time after initial application for an installation certificate of compliance, an applicant wishes to install additional newsracks, the application procedures for such additional newsracks will follow the same procedures as for the original application.

(Code 1983, § 22-205; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-45. Insurance and bond.**

(a) Any application for issuance of a certificate of insurance shall be accompanied by a certificate of insurance wherein the owner of the newsracks is the named insured on a policy of liability insurance containing a minimum limit of coverage in the sum of $300,000.00 per occurrence, and which lists the city as an additional insured. The application shall also be accompanied by a returnable bond deposit, in a sum determined as follows:

| *Returnable Bond Deposit* | |
|---|---|
| *Total Proposed Newsracks (at all locations)* | *Total Returnable Bond* |
| 1--4 | $150.00 |
| 5--10 | $300.00 |
| 11--20 | $500.00 |
| 21 and up | $700.00 |

(b) The liability coverage required under this section shall run continuously with location of the applicant's newsracks on city rights-of-way. Any termination or lapse of such coverage during such period of time shall be a violation of this article.

(Code 1983, § 22-206; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-46. Fees.**

An application for issuance of a certificate of compliance shall be accompanied by payment of a fee established by the city commission by resolution per newsrack.

(Code 1983, § 22-207; Ord. No. K-255, § 1, 12-15-2003; Ord. No. L-86, § 8, 7-20-2009)

**Sec. 32-47. Appeals.**

An applicant denied an application of compliance pursuant to this article may file with the department a written request for appeal to the commission. The appeal shall be heard by the commission within 30 days of the filing of the appeal or at the next regularly scheduled meeting, whichever is sooner. The decision of the commission on appeal is subject to judicial review as provided by law. In the event the appeal is granted and the denial reversed,

PROOFS

the director shall issue a certificate of compliance within five days of the date such commission action takes place.

(Code 1983, § 22-208; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-48. Location of newsracks.**

Newsracks may be located at any place previously designated by the ~~director of development~~ planning director, as shown on a map of the city depicting approved locations on file in the planning department. Newsracks may additionally be located at any place on public rights-of-way in a location conforming to requirements of this article, provided that any such location shall be described with particularity in the application with a drawing or map setting out sufficient detail so the director may verify conformity of the location with requirements of this article.

(Code 1983, § 22-209; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-49. Installation and maintenance of newsracks.**

(a) *Equipment specifications.* Newsracks shall be SHO rack TK 80 or equivalent. In locations where more than two racks are necessary, a modular system shall be used. These shall be modular rack systems 49K or 49DW, or equivalent, except that in areas where the director determines that the newsracks are at heightened risk of being vandalized the director may, in such director's discretion, waive or modify the required use of a modular system.

(b) *Color.* Newsracks shall be hunter green (evergreen) pedestals and sides.

(c) *Marking.* Newsracks shall carry no cardholders or advertising, but may display the name and logo, with suitable lettering and coloring, of the publication.

(d) *Modification.* Newsracks for free publications may omit the coin mechanism and may have the lock bar welded to the door to produce an honor rack.

(e) *Maintenance.* Newsracks shall be maintained in good working order at all times, freshly painted and with unbroken hoods.

(f) *Accountability.* The name, address and telephone number of a responsible person who may be contacted at any time concerning the newsrack shall be displayed on the hood of the newsrack in such a manner as to be readily visible and readable to a prospective customer thereof.

(g) *Leveling and caulking.* Newsrack cabinet tops shall be installed and checked for level. A water soluble, paintable, ten-year caulk of clear color shall be applied and wiped to seal around the base plate and the mounting surface.

(h) *Mounting standards.* The following standards shall be applicable to the mounting of modular newsracks:

(1) Four-inch minimum concrete, 2,500 (28-day strength), Class I;

(2) Two-inch minimum concrete edge distance for bolts;

(3) One-half-inch Chamfer all concrete edges;

(4) Three-eighths of an inch diameter hot-dipped galvanized hex bolts, three-inch minimum embedment, threads down, through four corners of the pedestal base.

(Code 1983, § 22-210; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-50. Locational standards.**

A newsrack may not be placed, installed, used or maintained:

(1) Within five feet of any crosswalk, marked or unmarked;

(2) Within ten feet of any fire hydrant, fire call box, police call box or other emergency facility;

(3) Within five feet of any driveway;

(4) Within five feet ahead of, and 15 feet to the rear of any sign marking a designated community transit stop, measured along the edge of pavement;

(5) Within two feet of any bus bench, or plaza bench;

PROOFS

(6) At any location where the clear space for the passageway of pedestrians is reduced to less than six feet;

(7) Where a vertically-protruding member of the newsracks is on or within 12 inches of any area improved with lawn or hedges, or within three feet of flowers or trees;

(8) Within three feet of any display window of any building abutting the public sidewalk or road or in such a manner as to impede or interfere with the reasonable use of such building display purpose, or within five feet of a building entrance;

(9) Within two feet of signs, parking meters, streetlights or utility poles.

(Code 1983, § 22-211; Ord. No. K-255, § 1, 12-15-2003)

**Sec. 32-51. Abandonment.**

In the event a newsrack installed pursuant to this article does not contain the publication specified therefor within a period of 48 hours after release of the current issue or fails to contain a publication for a period of more than seven consecutive days, the department of building and code enforcement may contact the person responsible for such newsrack to determine whether the newsrack remains in current use. In the event a responsible person cannot be located, either at the phone number shown on the rack or in the original application, or a satisfactory explanation of current use is not otherwise forthcoming from the responsible party, the ~~department of building and code enforcement~~ planning department may deem the newsrack abandoned and proceed with appropriate enforcement activity. Should the owner, publisher, distributor or responsible person desire to voluntarily abandon a newsrack location the ~~director of development~~ planning director shall be notified to such effect in writing with restoration of the public right-of-way to its original condition, leaving no holes or projections in the mounting surface.

(Code 1983, § 22-212; Ord. No. K-255, § 1, 12-15-2003)

PROOFS

Chapter 33

**RESERVED**

PROOFS

Chapter 34

# TRAFFIC AND VEHICLES*

***State law reference**—Traffic, generally, F.S. ch. 316; powers of local authorities, F.S. §§ 316.007, 316.008.

## ARTICLE I. IN GENERAL

### Sec. 34-1. Penalties.

(a) Any person who shall violate any of the provisions of this chapter and receives a notice of such violation shall within 30 calendar days pay to the city a fine, as provided for in chapter 2, for violation of on-street parking. Upon the violator's failure to pay said parking fine within 30 calendar days after receipt of the notice of said violation, the violator shall pay an additional $18.00.

(b) Any person who shall violate any of the provisions of this chapter three times or more within a 12-month period shall be considered a repeat violator. Citations issued to a repeat violator shall be filed with the clerk of court.

(Code 1960, § 28-33; Code 1983, § 10-1; Ord. No. J-25, § 2, 11-16-1992; Ord. No. K-329, § 1, 3-21-2005; Ord. No. 16-016, § 1, 8-15-2016)

**State law reference**—Violations of uniform traffic control law, F.S. § 316.655.

~~**Sec. 10-2. Uniform traffic control law adopted.**~~

~~The act relating to the regulation of traffic, creating Chapter 316, Florida Statutes, to be known as the "Florida Uniform Traffic Control Law," regulating the movement of all vehicular, all pedestrian and all other traffic upon the streets and highways and elsewhere throughout the state where the public might have the right to travel; providing definitions; providing for the respective powers of state and local authorities in the control of traffic upon the streets and highways; establishing the enforcement of jurisdiction of traffic laws; establishing the rules of the road to be applicable throughout the state; establishing a standard of equipment of vehicles throughout the state; prescribing penalties for violation; providing for the adoption of this act by all municipalities within the state on or before January 1, 1972; and providing an effective date, two copies of which are filed with the city clerk, is hereby adopted as the traffic control law of the city.~~

~~(Code 1960, § 28-1; Code 1983, § 10-2)~~

~~**Sec. 10-3. Tractors to have smooth wheels.**~~

~~Except as provided in F.S. section 861.09, it shall be unlawful for any person to drive or operate any tractor in, upon or over the streets of the city unless the same has smooth tread wheels.~~

~~(Code 1960, § 28-3; Code 1983, § 10-3)~~

~~**State law reference**—Rough surfaced wheels generally, F.S. § 316.299; certain vehicles prohibited from using hard surfaced roads, F.S. § 861.09.~~

~~**Sec. 10-4. Double trailers.**~~

~~No person shall drive or operate any vehicle in the city with more than one trailer or semi-trailer attached thereto.~~

~~(Code 1960, § 28-6; Code 1983, § 10-4)~~

~~**Sec. 10-5. Loads on vehicles; spilling loads.**~~

~~No vehicle shall be driven or moved on any street, boulevard, avenue, place, highway, thoroughfare, lane, terrace, road, court, circle, drive or alley in the city unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom.~~

PROOFS

~~No person shall operate, on any of the above enumerated rights-of-way, any vehicle with any load unless the load and any covering thereof are securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the rights-of-way.~~

~~It is the duty of every owner and driver, severally, of any vehicle hauling upon any of the above enumerated rights-of-way open to the public, dirt, sand, limerock, gravel, silica or other similar aggregate, trash, garbage or any similar material which could fall or blow from such vehicle, to prevent such materials from falling, blowing or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.~~

~~(Code 1960, § 28-6.1; Code 1983, § 10-5)~~

~~**State law reference**—Loads on vehicles, F.S. §§ 316.520, 316.525.~~

**Sec. 34-2. Speed limits; business district defined.**

(a) Within the limits of the city in the area specified in this section, a rate of speed exceeding the following shall be unlawful:

(1) 25 miles per hour in the residential sections.

~~20 miles per hour in the business section.~~

~~Ten miles per hour in making a turn in any street, or around any corner.~~

(2) 25 miles per hour in passing any church or school unless posted at 20 miles per hour.

(3) 35 miles per hour, except when passing schools and churches, on the following streets:

a. South Thirteenth Street from Mississippi Avenue to Virginia Avenue.

b. South Thirty-Third Street from Orange Avenue to Okeechobee Road.

c. Sunrise Boulevard from Virginia Avenue to Edwards Road.

d. Virginia Avenue from U.S. Highway No. 1 (State Road No. 5) to Okeechobee Road.

(b) For the purpose of this section, the business section of the city is defined as:

(1) Atlantic Avenue between Seventh Street and Melody Lane.

(2) Avenue A from Seventh Street to Indian River Drive.

(3) Avenue B from Seventh Street to Second Street.

(4) Avenue C from Seventh Street to Second Street.

(5) Avenue D from Thirteenth Street to Indian River Drive.

(6) Avenue E from Fourth Street to Second Street.

(7) Avenue H from Seventh Street to Causeway Island.

(8) Boston Avenue between Seventh Street and Third Street.

(9) Delaware Avenue between Seventh Street and Third Street.

(10) Depot Drive—its entire length.

(11) Fifth Street between Atlantic Avenue and Avenue A.

(12) Fourth Street between Atlantic Avenue and Avenue C.

(13) Indian River Drive between Boston Avenue and Avenue A.

(14) Orange Avenue between Thirteenth Street and Melody Lane.

(15) Second Street between Boston Avenue and Avenue C.

(16) Seventh Street between Boston Avenue and Orange Avenue.

(17) Sixth Street between Boston Avenue and Orange Avenue.

PROOFS

(18) Third Street between Orange Avenue and Avenue A.

(c) The portions of the streets named as boundaries shall be included within the business section. All other portions of the city shall be and constitute a residential section of the city.

(Code 1960, § 28-7; Code 1983, § 10-6)

**State law reference**—Establishing speed limits in parks, F.S. § 316.008; municipal speed zones, F.S. § 316.189; racing on highways, F.S. § 316.191.

**Sec. 34-3. Vehicles on walkways of south jetty.**

It shall be unlawful for any person to drive, ride or operate any vehicle or contrivance in, upon or over the paved walkways of the south jetty located on the south beach in the city.

(Code 1960, § 19-47.1; Code 1983, § 10-7)

**Sec. 34-4. Driving restrictions—Beach of Atlantic Ocean.**

No person shall drive or operate any motor vehicle within or upon the beach of the Atlantic Ocean, south of the city inlet, or ship channel, north of the southern boundary of the city, east of the dune line on the Atlantic Ocean beach and west of the low waterline of the Atlantic Ocean, within the corporate limits of the city.

(Code 1960, § 28-13; Code 1983, § 10-8)

**Sec. 34-5. Driving restrictions—Parkways and parks.**

No person shall drive or operate, or cause to be driven or operated, any motor vehicle over or upon any parkway or park within the city; provided, however, this restriction shall not apply to emergency vehicles or to persons in charge of the maintenance and upkeep of such parks or parkways.

(Code 1960, § 28-14; Code 1983, § 10-9)

~~**Sec. 10-10. Intoxicated drivers.**~~

~~Florida Statute 322.261 entitled "Suspension of license; chemical test for intoxication" and Florida Statute 322.262 entitled "Presumption of intoxication; testing methods," except section 322.262(4), are hereby adopted and ratified and made a part of this chapter.~~

~~(Code 1960, § 19-20.1; Code 1983, § 10-10)~~

**Sec. 34-6. Operation of certain vehicles on parkway drive between Fourth Street and Georgia Avenue.**

It shall be unlawful for any person to operate any motor vehicle having the capacity of over three-quarters of a ton over Parkway Drive between Fourth Street and Georgia Avenue; provided, however, exception will be made for delivery purposes to any bona fide resident on Parkway Drive.

(Code 1960, § 28-18; Code 1983, § 10-11)

**Sec. 34-7. Operation of skateboards on Citrus Avenue overpass.**

It shall be unlawful for any person to operate any skateboard on the Citrus Avenue overpass, between U.S. Highway No. 1 and Indian River Drive, in the city.

(Code 1960, § 28-18.1; Code 1983, § 10-12)

**Sec. 34-8. Program to combat automobile theft.**

(a) Pursuant to F.S. § 316.008, there is hereby established an automobile theft prevention program in the city, which shall be known as "Combat Auto Theft." Such program shall include:

(1) A consent form to be signed by motor vehicle owners who wish to enroll their vehicles; and

(2) Bright yellow decals indicating a vehicle's enrollment in Combat Auto Theft.

(b) The consent form shall:

(1) Explain the general operation of the program;

(2) Provide authorization for a law enforcement officer to stop the vehicle when it is being driven between

PROOFS

the hours of 1:00 a.m. and 5:00 a.m., provided that a decal is conspicuously affixed to the bottom left corner of the back window of the vehicle to provide notice of its enrollment in Combat Auto Theft;

(3) Explain the procedures which will be followed by a law enforcement officer making a stop pursuant to the program and advise the motor vehicle owner of the proper means by which the driver of the vehicle should cooperate with the law enforcement officer in such instance;

(4) Provide that the owner of the motor vehicle is responsible for removing the decal when terminating participation in the program or when selling or otherwise transferring ownership of the motor vehicle and for notifying the city police in writing of said termination;

(5) Clearly provide that participation in combat auto theft is strictly voluntary and may be terminated at any time; and

(6) Include a separate statement to be signed by the owner of the motor vehicle which indicates that the consent form has been read and understood in its entirety, including the procedures to be followed in a stop.

(c) Combat Auto Theft may be implemented upon approval of program materials and procedures, including guidelines and procedures for making a stop of a vehicle bearing a decal, by the chief of police, city manager and city attorney. Such program materials and procedures may be subject to periodic review and approval by the chief of police, city manager and city attorney.

(Code 1983, § 10-13; Ord. No. I-380, § 1, 6-4-1990; Ord. No. J-356, §§ 2, 4, 6, 8, 10, 9-2-1997)

**Secs. 34-9--34-34. Reserved.**

## ARTICLE II. STOPPING, STANDING AND PARKING*

***State law reference--**Stopping, standing and parking, generally, F.S. § 316.1945 et seq.; authority to regulate stopping, standing or parking, F.S. § 316.008(1)(a).

### Sec. 34-35. Regulation.

(a) *Purpose.* This section shall regulate the parking of vehicles within the city limits. All violations in the section are considered class I violations unless specified otherwise.

(b) *Obedience to angle-parking signs or markings.* Upon those streets which have been signed or marked by the traffic engineer for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(c) *Permit for loading and unloading at an angle to the curb.* No person shall stop, stand or park any vehicle at right angles to the curb for the purpose of loading or unloading of merchandise without a permit issued by the traffic engineer, or his authorized representative.

(d) *Obstruction of traffic.* No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic. Where streets are not completely paved or curbs provided, the parking of a car shall not usurp more than 12 inches of the paved portion of the street.

(e) *Alleys.* No person shall stop, stand or park a vehicle within an alley in a business district, except for the expeditious loading or unloading of materials, and in no event for a period of more than 20 minutes, and no person shall stop, stand or park a vehicle in any other alley in such a manner, or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway or entrance to any abutting property.

(f) *Authority to remove and impound vehicles.*

(1) Whenever any police officer finds a vehicle standing upon a street or alley in violation of any of the foregoing provisions of this article, such standing upon a street or alley in violation of any of the provisions of this article, such officer may move such vehicles or require the driver or person in charge of the vehicle to move the same to a position off the paved or improved or main traveled part of such street or alley.

PROOFS

(2) Whenever any police officer finds a vehicle unattended upon any street, bridge or causeway, or in any tunnel within the city where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle in accordance with law.

(g) *All-night parking.* No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all-night parking and giving notice thereof, for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day.

(h) *Parking for certain purposes.* No person shall park a vehicle upon any street for the principal purpose of:

(1) Displaying such vehicle for sale.

(2) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency.

(3) Displaying advertising.

(4) Selling merchandise from such vehicle except in a duly established marketplace, or when so authorized or licensed under the ordinances of the city.

(5) Storage, or as junkage or dead storage, for more than five continuous days (120 hours).

(i) *Standing or parking on one-way roadways.* In the event a street includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway, unless signs are erected to permit such standing or parking.

(j) *Passenger curb loading zone.* No person shall stop, stand or park a vehicle for any purpose or period of time, except for the expeditious loading or unloading of passengers, in any place marked as a passenger curb loading zone during hours when the regulations applicable to such passenger curb loading zone are effective, and then only for a period not to exceed five minutes.

(k) *Freight curb loading zone.*

(1) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

(2) The driver of a vehicle may stop temporarily at a place marked as a freight curb loading zone, for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone.

(l) *Restricted parking zone.* No person shall stop, stand or park a vehicle for any purpose or length of time in any restricted parking zone other than for the purpose to which parking in such zone is restricted, except that a driver of a passenger vehicle may stop temporarily in such zone, for the purpose of and while actually engaged in loading or unloading of passengers, when such stopping does not interfere with any vehicle which is waiting to enter or about to enter the zone for the purpose of parking in accordance with the purpose to which parking is restricted.

(m) *Buses, taxicabs.* The operator of a bus or taxicab shall not stop, stand or park upon any street in any business district at any place other than at a bus stop, or taxicab stand, respectively, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other stopping, standing or parking regulations at any place for the purpose of and while engaged in the expeditious unloading or loading of passengers.

(n) *Use of bus and taxicab stands.* No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(o) *Parking prohibited at all times.* When signs are erected giving notice thereof, no person shall park a

PROOFS

vehicle at any time upon any of the streets, sidewalks, sidewalk areas or other places so designated.

(p) *Parking time limited on certain streets.* When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle for longer than the time designated by said signs at any time between those hours so stated by said signs on any day except Sundays and legal holidays.

(q) *Parking in ~~handicapped~~ spaces for persons with disabilities.* No person shall stop, stand, or park a vehicle within, or to obstruct, any space designated and marked as a ~~handicapped~~ disabled person parking space unless the vehicle displays a disabled parking permit or a license plate and the vehicle is transporting the person to whom the displayed permit is issued. Violation of this subsection is a Level III violation. All fines collected under this subsection will be collected in accordance with F.S. chs. 316 and 318.

(r) *Parking in fire lanes.* No person shall stop, stand, or park a vehicle, with the exception of allowing a disabled person to enter or exit the vehicle, in a fire lane located on any property within the city.

(s) *Parking prohibited on city right-of-way.* No person shall stop, stand or park a vehicle, either fully or partially, upon any right-of-way owned and maintained by the city.

(t) *Violations of F.S. ch. 316.* Supplemental to the provisions of this chapter, the city hereby adopts provisions relating to parking, traffic control, enforcement and penalties as outlined in the F.S. ch. 316.

(u) *Exemptions.* The prohibitions stated in this section shall not apply to city, county, state and/or utility worker vehicles while parked in conjunction with discharging their official duties.

(v) *Penalty.* A violation of any of the provisions of this section shall be deemed an infraction, a noncriminal violation which is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.

(w) *Procedure.* Any person cited for a violation of this section shall be deemed to be charged with a noncriminal violation and upon receiving notice of such shall:

(1) Within 30 calendar days pay to the city a fine, as provided for in chapter 2, for violation of on-street parking; off-street parking; illegal parking or blocking traffic. Upon the violator's failure to pay the appropriate sum as applicable within 30 calendar days after receipt of the notice of such violation or violations, the violator, shall pay an additional fine of $18.00.

(2) Within seven calendar days, post a bond which shall be equal in amount to the applicable penalty set forth in subsection (w)(1) of this section, plus $10.00, and sign a written request to appear before a special magistrate authorized by law to preside over a court or hearing adjudicating traffic infractions. Any person electing to appear before a special magistrate shall be subject to the maximum penalty provided by subsection (w)(1) of this section, as well as subject to any administrative costs assessed.

(3) Any person posting a bond as outlined in subsection (w)(2) of this section and who fails to appear at the hearing shall be considered as having forfeited said bond.

(4) If a person follows the procedure of either subsection (w)(1) or (3) of this section, he shall be deemed to have admitted the infraction and to have waived his right to a hearing on the commission of the infraction. Such admission shall not be used as evidence in any other proceeding.

(Code 1960, § 28-32; Code 1983, 10-23; Ord. No. J-26, § 2, 11-16-1992; Ord. No. K-329, § 2, 3-21-2005; Ord. No. 16-016, § 1, 8-15-2016; Ord. No. 17-026, § 1, 9-18-2017)

**Sec. 34-36. Impoundment of vehicles generally.**

The police officers of the city are hereby authorized to remove a vehicle from any public street, park, lawn or parkway or from any private alley, drive, driveway or other privately-owned property and to cause the same to be impounded in the nearest garage or other place of safety, or in a garage designated or maintained by the police department or otherwise maintained by the city:

(1) When any vehicle shall be parked on any public park, lawn, parkway or in front of or so as to block entrances or driveways into public or private property from streets, avenues, highways or boulevards.

(2) When any vehicle shall be parked in any private alley, drive, driveway or on other privately-owned

PROOFS

property without the permission or consent of the owner of such private alley, drive, driveway or property.

(3) When any vehicle is left unattended and parked upon a street and is so parked illegally as to constitute a hazard or obstruction to the normal movement of traffic.

(4) When any vehicle is left unattended and parked for an excessive period of time and in violation of any ordinance of the city or regulation of the city manager limiting the time for parking of vehicles on designated streets or parts of streets within the city.

(5) When a vehicle is so disabled as to constitute an obstruction to traffic or a hazard to persons or property and the persons in charge of the vehicle are by reason of physical injury or condition incapacitated to such an extent as to be unable to provide for its custody or removal.

(Code 1960, § 28-9; Code 1983, 10-24)

**Sec. 34-37. Parking trucks, buses.**

(a) *Definitions.* For the purpose of this section, the term "truck" means ~~is~~ any vehicle designed or operated for the transportation of property and whose body weight, or whose combined body and load weight, exceeds one ton. The term "bus" means ~~is~~ any vehicle designed or operated for the transportation of human beings and whose body weight, or whose combined body weight and load weight, exceeds one ton.

(b) *Parking on certain city streets.* When official traffic control devices have been installed giving notice thereof, no driver or operator of any bus or truck shall park on said streets.

(Code 1960, § 28-9.1; Code 1983, 10-25)

**Secs. 34-38--34-62. Reserved.**

## ARTICLE III. TRAFFIC SAFETY VIDEO ENFORCEMENT*

***State law reference**—Video enforcement, F.S. § 316.0083.

**Sec. 34-63. Intent and application.**

It is the intent of this article to promote, protect, and improve the health, safety, and welfare of the citizens of the city by enhancing intersection safety through encouragement of driver obedience to traffic control signals by the use of automated traffic control signal cameras and intersection monitoring equipment and technologies to identify and record traffic control signal violations. The traffic-signal violation automated enforcement program provided for in this article is intended as an additional deterrent to the commission of traffic control signal violations and to help reduce automobile crashes and the resulting injuries and property damage associated with such violations. No provision of this article shall prohibit any law enforcement officer from issuing a uniform traffic citation for a violation of any state law in accordance with traditional traffic enforcement methods and procedures. This article shall not supersede, infringe, curtail, or impinge upon any state law related to traffic control signal, red light, or intersection violations, and shall be interpreted to avoid conflict with such laws. The provisions of this article shall apply only to intersections within the city monitored pursuant to the enforcement program provided for in this article.

(Code 1983, 10-300; Ord. No. L-87, § 2, 9-9-2009)

**Sec. 34-64. Definitions.**

Definitions in the state statutes ~~and this Code~~ may be referred to, if relevant and as the context herein permits. ~~Singular words include the plural and plural words include the singular where the context requires.~~ The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~As used in this article:~~

*Intersection* means the area embraced within the prolongation or connection of the lateral curblines; or if none, then the lateral boundary lines of the roadways of two roads or highways that join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads or highways joining

PROOFS

at any other angle may come in conflict. As to unlawful turns from an intersection, the turn can include, but is not necessarily limited to, entering into an alley, private road, service road, or driveway.

*Leased vehicle* means any motor vehicle for which a motor vehicle dealership or manufacturer has, pursuant to a written document, vested exclusive possession, use, and control of and responsibility for the motor vehicle in the lessee during the periods the vehicle is operated by or for the lessee.

*Motor vehicle* means ~~every self-propelled device in, upon, or by which any person or property is, or may be, transported or drawn upon a road, street or highway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, moped, or such vehicles as run only upon a track.~~ a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped.

*Owner* means the person identified as the registered owner of the motor vehicle by the state department of highway safety and motor vehicles, or other applicable agency of whatever state of the United States, country or territory where the respective motor vehicle was registered, as of the date of the noticed violation. The term "owner" also means the person identified as the lessee or conditional vendee of a motor vehicle with an immediate right of possession pursuant to a lease or conditional sales contract.

~~*Person* means and includes natural persons, corporations, partnerships, firms, companies, agencies, associations, and any other legal entity.~~

*Recorded image* means an image recorded by a traffic signal violation detector by photographs, electronic or digital images, digital or video movie or recording, or by any other medium.

*Roadway* means that portion of a street, road, or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

*Traffic* means pedestrians, ridden or herded animals, and vehicles and other conveyances either singly or together while using any street, road, or highway for the purposes of travel.

*Traffic control infraction review officer* means any duly sworn law enforcement officer of the city or person certified as a traffic infraction enforcement officer, pursuant to F.S. § 316.640, that is designated or assigned to perform video enforcement review duties pursuant to this article.

*Traffic control signal* and *traffic signal* mean any device, whether manually, electrically, or mechanically operated, by which traffic is either alternately directed to stop and then permitted to proceed, or directed to stop and then proceed, or permitted without first stopping to proceed with caution, including, but not limited to, such devices that exhibit different-colored lights of green, yellow, and red, or one or more such colored lighted arrows, successively one at a time or in combination, or that exhibit a flashing red light, or flashing yellow light.

*Traffic signal violation detector* means any image-capture technology, equipment, or systems consisting of one or more vehicle sensors or other monitoring equipment, working in conjunction with a traffic control signal and one or more image capture devices, automated cameras, video recording devices, and related equipment and technologies, designed and operated to automatically capture and record two or more sequenced photographic, digital, or electronic images, or streaming video of a motor vehicle at the time and subsequent to when such motor vehicle enters the intersection, including at least one recorded image of the motor vehicle license plate. The recorded images shall also display, the time, date, and location.

*Violation notice* means a written notice of a traffic control signal violation issued pursuant to a violation of this article that was identified and recorded by a traffic-signal violation detector.

(Code 1983, 10-301; Ord. No. L-87, § 2, 9-9-2009)

**Sec. 34-65. Obedience to traffic control signals.**

(a) *Steady red light.* The driver of a motor vehicle facing a steady red light indication displayed by a traffic control signal shall stop the motor vehicle before any portion of the front-most part of that motor vehicle encroaches over a vertical extension of the nearest part of the intersection, intersection line, crosswalk line, or "stop here on red" line, as applicable at the intersection, and shall cause the motor vehicle to remain stopped and standing until a steady green light indication facing the motor vehicle is displayed on the traffic control signal. However, the driver of a motor vehicle that has stopped as required may make a right turn unless such right turn is otherwise prohibited

PROOFS

by a properly posted sign or other traffic control device, but shall yield the right-of-way to other traffic proceeding as directed by the traffic control signal and to pedestrians at the intersection. A steady red light indication includes a steady red circle, a steady red turn arrow, or a steady red circle or turn arrow in conjunction with a properly posted "no turn on red" sign or substantially similar sign that prohibits turning a motor vehicle at that intersection at that time.

(b) *Flashing red light.* The driver of a motor vehicle facing a flashing red light indication displayed by a traffic control signal shall stop the motor vehicle before any portion of the front-most part of that motor vehicle encroaches over a vertical extension of the nearest part of the intersection, intersection line, crosswalk line, or "stop here on red" line, as applicable at the intersection, and shall obey such flashing red light indication as if a stop sign. The motor vehicle driver's right to proceed after stopping shall be subject to the rules applicable after making a stop at a stop sign. A flashing red light indication includes a flashing red circle, a flashing red turn arrow, or a flashing red circle or red turn arrow in conjunction with a "no turn" sign or substantially similar sign that prohibits turning a motor vehicle at that intersection at that time.

(c) *Inoperative or malfunctioning traffic control signal.* The driver of a motor vehicle approaching an intersection at which the traffic control signal or signals are inoperative or malfunctioning shall treat such inoperative or malfunctioning traffic control signal as a stop sign and stop the motor vehicle in the manner required for a stop intersection. The motor vehicle driver's right to proceed after stopping shall be subject to the rules applicable after making a stop at a stop sign. In the event that only some of the traffic control signals or traffic signal lights at an intersection are inoperative, the driver of a vehicle approaching an inoperative light shall stop in the manner described in this subsection.

(Code 1983, 10-302; Ord. No. L-87, § 2, 9-9-2009)

**Sec. 34-66. Penalties.**

(a) Each violation of section 34-65 shall be punishable by a civil penalty of $150.00.

(b) No driver's license points or effect on driving privilege. No admission or finding of responsibility for any violation of section 34-65 shall be deemed a conviction under any state motor vehicle law, nor shall it result in assessment of any driver's license points, as provided in F.S. § 322.27, or otherwise, nor be any basis for suspension or revocation of any driving privilege.

(Code 1983, 10-303; Ord. No. L-87, § 2, 9-9-2009)

**Sec. 34-67. Traffic signal violation automated enforcement program.**

(a) *Enforcement program established; administration.* There is hereby established a traffic signal violation automated enforcement program for enforcement of this article, which enforcement program shall be administered by the police department of the city pursuant to this article and in consultation with the city manager.

(b) *Traffic signal violation detectors.* The traffic signal violation automated enforcement program shall utilize traffic signal violation detectors as a means of monitoring compliance with the provisions of section 34-65 and assisting law enforcement personnel with enforcement. Traffic signal violation detectors shall be utilized to capture recorded images of violating motor vehicles.

(c) *Intersection locations.* The enforcement program shall be implemented and operated for those intersections identified by the city manager with advice from the police department. Intersections chosen for the enforcement program may be located throughout the city.

(d) *Warning signs.* The city shall to the extent practical, at the primary motor vehicle entry points to the city, cause to be erected and maintained signs which provide warning to motorists that traffic safety video enforcement equipment is in use within this jurisdiction. However, failure to erect, maintain, or create these signs shall not invalidate or impair any enforcement of this article.

(e) *Program implementation and operation.* The city manager may, as the city manager finds reasonably necessary and subject to the purchasing provisions of this Code, employ city labor and materials and contract with third-party vendors for implementation and operation of the traffic signal violation automated enforcement program, including, but not limited to, providing recorded images by installation and operation of traffic signal violation detectors; preparation and mailing of courtesy notices, violation notices, and other notices; receipt of and accounting

PROOFS

for civil penalties and costs; receipt of hearing requests; and collection of unpaid civil penalties and costs. However, no vendor contract shall limit the city in performing any such functions. Administration of appeals shall be as provided in this article and chapter 1.

(f) *Public awareness campaign; grace period.* The city shall make a public announcement and conduct a public awareness campaign of the intended implementation of the traffic signal violation automated enforcement program and use of traffic signal violation detectors at least 30 days before commencing enforcement under this article. In addition, there shall be a grace period of 30 days after the first traffic signal violation detector is activated or used for the first time. The motor vehicle owner shall be sent by first class mail a courtesy notice, with no penalty assessed, for any violation of section 34-65 recorded by a traffic signal violation detector during such grace period.

(Code 1983, 10-304; Ord. No. L-87, § 2, 9-9-2009)

**Sec. 34-68. Owner responsibility; defenses.**

(a) The registered owner of the motor vehicle, whether domiciled within or without the state, the images of which are captured by a traffic signal violation detector evidencing a violation of section 34-65, shall be responsible for the violation and liable for payment of the civil penalty, together with administrative and enforcement costs assessed, if any. However, it shall be a defense to a violation of section 34-65 that:

(1) The driver of the motor vehicle was issued a uniform traffic citation for a violation of state law at that intersection at that same date and time for the conduct that comprises the violation of section 34-65;

(2) The violation occurred at any time subsequent to which the motor vehicle or its assigned state license plates were reported to a law enforcement agency as having been stolen and the motor vehicle or its license plates had not been recovered by the owner at the time of the violation;

(3) The motor vehicle was leased to another person by a person or entity licensed to conduct such business within the state at the time of the violation and, within 21 days after the violation notice was mailed to or otherwise served on the registered owner, such noticed owner submits by written affidavit providing the correct name and address of the lessee of such leased vehicle, together with a copy of the lease agreement and any additional information as may be required by the police department. Where the noticed owner complies with the provisions of this subsection, the lessee of the motor vehicle at the time of the violation shall be deemed to be the owner of the motor vehicle for purposes of this article and a violation notice shall be mailed to such lessee within 30 days of such compliance with this subsection. Failure of the noticed owner to comply with the provisions of this subsection shall constitute a waiver of the leased vehicle defense;

(4) The motor vehicle was an authorized emergency vehicle or other motor vehicle owned or controlled by a federal, state, or local government and such motor vehicle's driver was authorized by applicable law, rule, or regulation to disregard that traffic control signal at that time and place;

(5) The motor vehicle passed through the intersection in order to yield the right-of-way to an emergency vehicle or as part of a lawful funeral procession;

(6) The motor vehicle passed through the intersection at the direction of a law enforcement officer;

(7) The motor vehicle driver was required to violate the applicable traffic control signal in order to comply with another applicable law that supersedes section 34-65;

(8) The motor vehicle driver was reasonably required to violate the traffic control signal to protect valuable tangible property or to prevent physical injury or death to any individual;

(9) The person cited for the violation was not the owner or lessee of the cited motor vehicle at the time of the violation;

(10) The defense asserted would excuse the noticed violation if it had been cited by a uniform traffic citation issued for a violation of state law; or

(11) There exists any other valid defense why the violation notice should be voided, dismissed, or excused as found by the special magistrate after an appeal hearing.

(b) Nothing in this article shall be construed to limit or excuse the liability of a driver of a motor vehicle for

PROOFS

any violation of state statute enforced as provided by law nor form the basis for any defense to such a violation.

(Code 1983, 10-305; Ord. No. L-87, § 2, 9-9-2009; Ord. No. 17-017, § 9, 6-5-2017)

**Sec. 34-69. Enforcement.**

(a) *Civil offense.* Each violation of section 34-65 documented by recorded images captured by a traffic signal violation detector shall be deemed a civil offense and a violation of this Code punishable as provided in this article.

(b) *Jurisdiction.* Jurisdiction over violations of section 34-65 and appeals of violation notices issued for such violations shall be vested in the special magistrates of the city pursuant to chapter 1 and not in the county court.

(c) *Issuance of violation notice; grounds.* Notice of a violation of section 34-65 and assessment of the civil penalty shall be by a city traffic signal violation notice and not by a state uniform traffic citation. A traffic control infraction review officer shall review and issue or authorize issuance of each violation notice pursuant to this article. Each decision to issue or not issue a violation notice shall be made by the reviewing officer after personally viewing the recorded images. The reviewing officer shall also verify that the traffic signal violation detector that captured the recorded images was functioning properly at the time the recorded images were captured. Recorded images evidencing a violation of section 34-65 shall provide reasonable and probable grounds for the reviewing officer to issue or authorize the issuance of the violation notice and shall be admissible for all purposes at any hearing. The violation notice shall be issued no later than 30 days after the date of the violation or determination of the identity of the owner, whichever is later. In no event shall a violation notice be issued more than 90 days after the date of the violation.

(d) *Contents of violation notice.* The traffic signal violation notice shall include the following information:

(1) Date of issuance;

(2) Name of the reviewing officer and division or department issuing or authorizing issuance of the violation notice;

(3) Name and address of the motor vehicle owner as of the date of the violation;

(4) License plate number of the violating motor vehicle;

(5) Make and year, and, if ascertainable, the model and color of the violating motor vehicle;

(6) Date and time of the violation;

(7) Location of the intersection where the violation occurred;

(8) Section number of this article that was violated and a brief factual statement of the nature of the violation;

(9) Amount of the civil penalty assessed;

(10) Instructions and due date for paying the civil penalty and instructions for requesting an administrative hearing to appeal the violation notice;

(11) Notice that failure to request a hearing to contest the violation notice within 21 days after mailing or other service of the violation notice shall constitute a waiver of the right to a hearing and that such waiver shall constitute an admission of the violation and liability for the civil penalty;

(12) Notice that the owner will be liable for the costs of the administrative hearing and costs of enforcement if, after the hearing, the violation notice is upheld;

(13) A statement that the signing traffic control infraction review officer viewed and thereby observed the recorded images evidencing the violation, and that those images constitute reasonable and probable grounds for the officer to conclude that the noticed violation was committed at the cited date, time and intersection, with the specified motor vehicle; and

(14) A copy of two or more recorded images documenting the violation, including a copy of the recorded image that identifies the letters and numbers on the motor vehicle license plate and the state, country or territory shown on that license plate. Information directing the owner to a website providing access to the recorded images may also be included.

(e) *Service of notices.* The violation notice and any other notices may be served by depositing the notice in

PROOFS

the United States mail, first class, postage prepaid, addressed to the owner at the owner's last known mailing address furnished to the state department of highway safety and motor vehicles or other applicable agency of whatever state of the United States, country or territory where the violating motor vehicle was registered, or such other address furnished to the city by the owner. Service by first class mail as provided shall be evidenced by a certificate of mailing and shall be deemed sufficient and complete upon such mailing. The certificate of mailing shall be admissible in any administrative or legal proceeding and shall constitute sufficient proof of service. Any violation notice or other notice may be served by any other method provided in chapter 1 for service of a code enforcement citation.

(Code 1983, 10-306; Ord. No. L-87, § 2, 9-9-2009; Ord. No. 17-017, § 9, 6-5-2017)

**Sec. 34-70. Rights of owner; appeal hearings.**

(a) *Rights of owner.* An owner who has been served with a traffic signal violation notice shall, within 21 days after service of the violation notice, either:

(1) Pay the civil penalty in the manner specified on the violation notice; or

(2) Appeal by administrative hearing the violation notice by making a request for a hearing in the manner specified on the violation notice. The appeal shall include the owner's name, mailing address and telephone number, and must state in clear, meaningful detail all grounds upon which the violation notice is being contested. Failure of the owner to appeal within the prescribed time period or failure of the owner to attend the scheduled hearing, if requested, shall constitute a waiver of the owner's right to an administrative hearing on the violation notice. Such waiver of the right to an administrative hearing shall be deemed an admission of the violation and of liability for the civil penalty.

(b) *Scheduling and notice of hearing.* Upon receipt of a request for an administrative hearing to contest a violation notice, the actual date and time of receipt shall be noted on the request. If the request for a hearing is timely, the matter shall be set and noticed for the next regularly scheduled hearing or as soon thereafter as possible. An untimely request shall be returned with written explanation for its return.

(c) *Notice of hearing; contents.* At least ten days before the hearing, a notice of hearing shall be sent to the owner. The notice of hearing shall include the following information:

(1) Place, date and time of the hearing.

(2) Right of the owner to be represented by an attorney.

(3) Right of the owner to present witnesses and evidence.

(4) Notice that failure of the owner to attend the hearing will constitute a waiver of the right to a hearing on the violation notice and that such waiver shall be deemed an admission of the violation alleged and liability for the civil penalty.

(5) Notice that the owner will be responsible for ensuring that a verbatim record of the hearing is made should the owner desire to appeal an adverse decision.

(6) Notice that requests for postponement of the hearing will only be considered if received at least five days prior to the date set for the hearing.

(d) *Conduct of hearings; orders.* The hearing shall be conducted by the special magistrate and appropriate orders entered pursuant to chapter 1.

(e) *Presentation of evidence at hearings.* The traffic control infraction review officer may testify at the hearing. The recorded images showing the infraction are admissible as evidence in any proceeding to enforce the provisions of this article, and shall constitute prima facie evidence of a violation. The vehicle owner may testify and present evidence.

(f) *Findings after hearing; penalties and costs.* If, after the hearing, the special magistrate finds that the violation occurred and that the owner is responsible pursuant to this article, the civil penalty in the amount specified on the violation notice shall be assessed against the owner, plus the costs of the administrative hearing and the costs of enforcement. The owner shall not be liable for the payment of any civil penalty or costs if the finding is that the violation did not occur or that a valid defense to the violation exists.

PROOFS

(Code 1983, 10-307; Ord. No. L-87, § 2, 9-9-2009; Ord. No. 17-017, § 9, 6-5-2017)

**Sec. 34-71. Collection of unpaid penalties and costs.**

(a) Civil penalties and costs unpaid and owing after liability for the violation and the penalties and costs assessed has become final and the owner has exhausted or failed to exhaust any available appeals, may be collected by any method provided in this article or in chapter 2.

(b) The city may withdraw a violation notice, following reasonable collection efforts for unpaid penalties and costs, when the violation notice was issued to an owner who is deceased at the time collection efforts are undertaken and such unpaid penalties and costs are not otherwise secured by a lien.

(Code 1983, 10-308; Ord. No. L-87, § 2, 9-9-2009)

**Sec. 34-72. Conflict ~~and severability~~.**

In the event any provision of this article conflicts with any other provision of this Code or any other ordinance or resolution of the city, the provisions of this article shall apply and supersede on the subject matter of this article. ~~If any provision of this article is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this article, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.~~

(Code 1983, 10-309; Ord. No. L-87, § 2, 9-9-2009)

**Secs. 34-73--34-102. Reserved.**

## ARTICLE IV. WRECKER QUALIFICATIONS AND ALLOCATION SYSTEM

**Sec. 34-103. Scope and purpose.**

(a) The provisions of this article apply only to the extent that there is wrecker participation in the police department's call allocation system as established in this article. It does not apply to service calls under contract to parties other than the police department when the call originates from a request of such other party.

(b) The purpose of this article is to assist private and commercial users of the streets of the city by ensuring the provisions of qualified, reputable wrecker operations for removal or wrecked, disabled, stolen or abandoned motor vehicles in the event the owner or operator thereof is incapacitated, unavailable or leaves the procurement of wrecker service to the discretion of the city police officer at the scene.

(Code 1983, § 9-301; Ord. No. I-409, § 2, 12-3-1990)

**Sec. 34-104. Definitions.**

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

*Operator* or *wrecker operator* means the individual, partnership, corporation or business entity engaged for hire in the recovery, towing or removal of wrecked, disabled, stolen or abandoned motor vehicles. For the purpose of this article, a hired driver or employee shall be governed by the provisions hereof while on duty and, unless otherwise stated, shall be considered an agent of the wrecker operator and not an agent, express or implied, of the city.

*Wrecker vehicle* means a vehicle which conforms to specifications of the state highway patrol and, further, meets the specifications of the T.R.A.A. Tow Truck Specification Committee of the Towing and Recovery Association of America, Inc. (1988), and is classified as a Class A tow truck, Class B tow truck, Class C tow truck or Class D tow truck in accordance with such specifications, including the specified equipment list. All such vehicles shall be subject to annual inspection by the police department and such further inspections without notice as the department finds necessary.

(Code 1983, § 9-302; Ord. No. I-409, § 2, 12-3-1990)

**Sec. 34-105. Call allocation system.**

(a) For inclusion on the police department's approved list of wrecker services, the wrecker operator's place

PROOFS

of business must be located within the corporate limits or within two miles of the limits.

(b) Wrecker operators shall be called for the removal of a wrecked, disabled, stolen or abandoned vehicle by the central dispatching system according to the operator's placement on a wrecker rotation list as maintained by the police department and according to the wrecker classification for the size of the vehicle to be towed. Wrecker operators will be called in succession from the top of the list. Following each call for removal or tow of a vehicle, an operator will be rotated to the bottom of the list except as provided herein. A call for road service where there is no tow will not affect the operator's position on the list. An operator may respond to a call with a tow truck classified to meet or exceed the size of the vehicle to be towed. Calls for towing of abandoned vehicles are to be made during normal business hours.

(c) The wrecker operator may not assign, transfer, pledge, surrender or otherwise encumber or dispose of his approval under this article or his place on the rotation list. A replacement or successor operator must be approved under this article before being placed within the police department's call system.

(d) Wrecker request from the field will be transmitted to the central dispatching system, which will contact the proper wrecker operator. Owner's requests for wrecker operators will not be rotated and such operators will maintain their position on the list. The police department may cancel a request for services of a participating wrecker operator at any time. In the event of cancellation or response without rendering service, the operator will not be rotated but will maintain position on the list.

(e) Wrecker operators will be listed only once on the list and only in the name under which they are qualified under the provisions of this article and conducting business in the state. A wrecker is prohibited from conducting business at one location to receive multiple listings or classifications by utilizing a different fictitious name for trucks operating out of the same location or by utilizing the same named trucks out of different locations. When two or more corporations are owned by the same individual, partnership or parent cooperation, each may have a separate listing only when each has a separate location and different corporate officers. All wreckers operated in conjunction with a wrecker operator's towing and recovery business will have a number painted on both sides of the cab. The same number on two or more vehicles is prohibited. The number shall be painted in contrasting color and at least two inches in height.

(f) Wrecker operators shall only respond to accidents or remove vehicles involved in an accident within the police department's jurisdiction pursuant to call from the police department as set forth in this article.

(g) Wrecker operators shall have one day and one night telephone number. The wrecker operator will immediately notify the police department's dispatcher at the time the call is received on whether a response is forthcoming. The wrecker operator will notify the police department of any additional telephone numbers or change of numbers.

(h) Wrecker operators shall be on call 24 hours a day, seven days a week.

(i) The police department may call specialized recovery equipment on a nearest available basis in the event of specialized recovery requirements not otherwise met by the wrecker operators on the rotation list or if otherwise required by circumstances.

(j) For multiple car accidents involving multiple disabled vehicles, the wrecker operator subject to call from the rotation will be advised by the dispatcher of the number of tow vehicles needed to separately remove each vehicle. The wrecker operator will be given the option of removing all of the disabled vehicles to be removed if the operator maintains the number of qualified tow vehicles to accomplish removal. If the wrecker operator lacks the capacity to handle multiple removals, he shall nevertheless be called and additional wrecker operators shall be called as needed from the rotation list. If the first listed wrecker does not arrive on the scene within a reasonable time, the investigating officer will assign vehicles to available operators. The first wrecker on the scene may be required to move vehicles from the roadway, and such movement will not affect the choice of wrecked vehicles. No fee shall be charged for such service.

(k) Wrecker logs will be maintained at central dispatch with copies to the police department.

(l) If the wrecker does not respond within 20 minutes to a request for service made under this article or if the request is ~~cancelled~~ pursuant to this policy, the operator shall be rotated to the bottom of the list.

PROOFS

(m) Those approved wrecker operators on the rotation list may not exceed nine in number. Wrecker operators will be added to the list from an eligibility list on a first-come basis at such time as a vacancy occurs. The eligibility list is to be maintained by the traffic division of the police department.

(n) Driver's permit; required; display. No person shall operate a wrecker listed on the city towing or wrecker system without having first obtained a driver's permit from the police department.

(1) Each wrecker operator must make application to the city police department for a driver's permit.

a. A department representative shall investigate each application. The investigation will include the following: background check; local criminal history check; and driver's license status/record checks. The representative will, at the conclusion of his investigation, report the findings to the chief of police, or his designee. The chief of police, or his designee, will have the final decision whether the wrecker operator is approved or denied a permit.

b. The chief of police shall deny the applicant's request for a driver's permit, if the applicant:

1. Fails to meet or comply with the provisions of this article; or

2. Fails to maintain any local or state license required for the operation of a wrecker service.

(2) To be issued a wrecker permit, an applicant must meet the following requirements:

a. Be at least 18 years of age.

b. Have a valid CDL license with the necessary "class" issued by the state. (Required for renewal.)

c. Produce a current medical certificate. (Required for renewal.)

d. Three applicant photographs (1 1/2 -inches by 2 1/4 inches). (Required for renewal.)

e. Birth certificate.

f. Must be able to read and write the English language.

g. Must be an experienced driver.

h. Must be fingerprinted by the police department.

i. Permit fee in the amount established by resolution submitted with the application ~~(twenty-five dollars ($25.00))~~.

j. Must not have been convicted of a felony within the preceding five years or misdemeanor within the preceding three years.

~~*Information required for renewal.~~

(3) All driver's permits shall expire 12 months from date of issuance, unless previously revoked by the chief of police or city commission. Permits shall be renewed by filing a renewal application and paying the fee ~~of twenty dollars ($20.00)~~ in the amount established by resolution.

(Code 1983, § 9-303; Ord. No. I-409, § 2, 12-3-1990; Ord. No. J-339, § 1, 6-2-1997)

**Sec. 34-106. Response to calls.**

(a) Unless authorized by the police department, flashing amber lights shall not be used while responding to a call for wrecker service and are otherwise to be used only in accordance with F.S. § 316.2397(3).

(b) Any ancillary service, such as the use of dolly, dropping and hooking up linkage, are to be performed only if required and appropriate.

(c) The motor vehicle owner or operator is responsible for payment of charges imposed by the wrecker operator.

(d) The wrecker company will forfeit a call if the wrecker company, his employees, agents and/or wrecker respond to a call in such condition that the officer on the scene reasonably believes that there is an inability to safely remove the vehicle. Such condition shall include, but not be limited to, impairment due to consumption of alcohol or other chemical substances.

PROOFS

(e) A wrecker may be ~~cancelled~~ by the police department up to the time the hook is attached to the vehicle to be towed, but the wrecker operator will maintain its original position at the top of the rotation list.

(f) If the event the hook is attached to a vehicle and its owner arrives prior to removal from the area, payment of a service charge may be required by the wrecker operator for recovery of the vehicle.

(Code 1983, § 9-304; Ord. No. I-409, § 2, 12-3-1990; Ord. No. J-340, § 2, 6-2-1997)

**Sec. 34-107. Wrecker operator requirements.**

(a) Wrecker drivers shall comply with all licensure and vehicle operation requirements imposed by law.

(b) Wrecker operators shall sweep glass from the roadway and remove all debris or hazards from the scene as required by law.

(c) The wrecker driver shall be thoroughly familiar with the operation of the wrecker.

(d) The wrecker operator is responsible for any damage to a vehicle caused by the wrecker operator.

(e) Insurance.

(1) The wrecker operator shall maintain the following polices of insurance according to the minimum limits set forth below. Each policy shall be in the name of the wrecker operator, shall include the city as an additional named insured, and shall include coverage for towing and storage. The policy shall be effective throughout the period that the wrecker operator is qualified under this article. It is not the intent of this schedule to preclude coverage in excess of what is provided for here:

a. Workers' compensation and employers' liability insurance as required by law;

b. Garbage liability insurance in amounts not less than $100,000.00 per person and $300,000.00 per accident for bodily injury and $50,000.00 per accident for property damage endorsed to include:

1. Automobile hazard two;

2. Garage keeper's legal liability covering perils of fire and explosion, theft of an entire vehicle, riot and civil commotion, vandalism and malicious mischief;

3. On-hook liability coverage applying to damage to vehicles while being towed by a wrecker operator.

c. Combined single limits automobile liability insurance in an amount not less than $300,000.00.

(2) The insurance coverage required shall include those classifications which are listed in standard liability manuals most nearly reflecting the operations of wrecker operators.

(3) All insurance policies required in subsection (e) of this section shall be issued by companies authorized to do business under state law.

(4) The wrecker operator shall furnish certificates to the chief of police, or his representative, prior to the commencement of operations and thereafter 30 days prior to the expiration dates of the policies. The certificate shall clearly indicate that the wrecker operator has obtained insurance of the type, amount and classifications required for compliance with this article and that no material change or cancellation of the insurance shall be effective without 30 days prior written notice to the police department.

(Code 1983, § 9-305; Ord. No. I-409, § 2, 12-3-1990)

**State law reference—**Removal of injurious substances from streets, F.S. § 316.2044.

**Sec. 34-108. Storage of motor vehicles.**

(a) Wrecker operators shall own or lease adequate property upon which to store vehicles pursuant to this article. Such storage areas shall be securely enclosed by a fence or a wall no less than six feet in height, on all sides, and shall be locked and secured when not occupied or attended to by persons employed by or under the authority of the wrecker operator. Permanent inside storage facilities must be available, when weather or other conditions require, for the protection of the vehicle or personal property. A lean-to, tent or shed does not meet the requirements of this section. The wrecker operator or storage yard shall employ persons to operate the storage facility to allow

PROOFS

access to vehicle owners or police officers on a regular basis, without notice, between the hours of 8:00 a.m. to 6:00 p.m., five days a week, excluding Saturday, Sundays.

(b) Any vehicle towed by a wrecker company in accordance with this article shall be held by the company as requested by the police department. Storage charges for such vehicles on hold will not be assessed by the company for a period of 48 hours or until the company gives written notice to the department that the 48 hours period provided for in this subsection has elapsed, whichever period of time is longer. Any vehicle towed by a wrecker operator, which has been involved in a fatality or any criminal activity, and sealed by a traffic homicide investigator or other law enforcement officer shall remain intact until released by the case investigator. No property of any kind shall be released to anyone without the authority of the investigator. Storage charges for such vehicles on hold will not be assessed by the wrecker or towing company for a period of three working days, excluding Saturdays, Sundays and legal holidays. But where the vehicle is held for confiscation or forfeiture proceedings, the police department will not be charged for storage for a period not to exceed ten days. Once a hold is released on the vehicle, the company may not hold personal property of the vehicle owner as collateral for payment or lien against the vehicle.

(Code 1983, § 9-306; Ord. No. I-409, § 2, 12-3-1990; Ord. No. J-341, §§ 2, 4, 6-2-1997)

**Sec. 34-109. Grounds for denial of inclusion on, or removal or suspension from rotation list.**

The following acts, omissions or deficiencies by the operator or its agents or employees shall be grounds for denial of inclusion on, or removal or suspension from, the rotation list:

(1) Failure to comply with the provisions of this article;

(2) Soliciting at the scene of an accident;

(3) Failure to answer a call two times within a three-month period;

(4) Inability to properly operate tow truck in the removal of disabled vehicles;

(5) Removal of a wrecked or disabled vehicle without permission from the proper law enforcement agency;

(6) Conviction of the wrecker operator or employees of any felony where the individual civil rights have not been restored;

(7) Conviction of any felony or first degree misdemeanor directly related to the business of operating a wrecker, regardless of whether civil rights have been restored. For the purpose of this article, any offense involving perjury or false statement shall be considered directly related to the business of operating a wrecker;

(8) Responding to a call while under the influence of alcohol or any controlled substance or chemical substance to the extent that normal facilities are impaired or driving with an unlawful blood alcohol level, or of any criminal traffic offense;

(9) Charging a fee in excess of the maximum set forth in the rate schedule approved by the city while performing services as provided under this article.

(Code 1983, § 9-307; Ord. No. I-409, § 2, 12-3-1990)

**Sec. 34-110. Procedure for denial of inclusion on or removal or suspension from rotation list.**

(a) Operator conduct prohibited by section 34-109 shall be recorded in the wrecker log at the time it occurs.

(b) Violation of the provisions of this article by a wrecker operator or inability to comply with its terms will result in denial of inclusion on the rotation list, suspension from such list for a period not exceeding six months, or permanent removal.

(c) The chief of police, or his designee, shall determine the appropriate response to any violation and shall give written notice by mail to the affected wrecker operator. The operator may appeal the determination within 30 days to the city manager, who shall overturn or uphold the order as he finds it justified. The city manager's action may, in turn, be appealed to the city commission, which shall hold a public hearing thereon and shall either affirm or overrule the determination.

(Code 1983, § 9-308; Ord. No. I-409, § 2, 12-3-1990)

PROOFS

**Sec. 34-111. Limitation on charges.**

(a) The chief of police, or his designee, shall have the authority to approve the maximum rates chargeable by the wrecker operators and the operators shall agree, in writing, to abide by the terms and conditions contained within this article and the fee schedule approved by the chief of police as a condition for inclusion on the rotation list. The schedule of maximum rates set by the chief of police shall be applied uniformly to all wrecker operators and shall be subject to approval by the city manager.

(b) During the month of October of each year beginning in 1991, wrecker services may request the chief of police to revise the fee schedule and may present information justifying such request.

(Code 1983, § 9-309; Ord. No. I-409, § 2, 12-3-1990)

**Sec. 34-112. Notice to vehicle owner.**

In all instances where the operator of a towed vehicle is other than its owner, the wrecker operator shall notify the vehicle owner and lienholder of its location by registered mail or certified mail, return receipt requested, with a copy to the police department, at the address shown on the vehicle registration, within a period of seven days from the date the vehicle was originally towed, or a lesser period if otherwise required by law. Such notice shall also be given to any lienholder. The chief of police, or his designee, may provide for assessment of any administrative fee for the title search and notification in the manner otherwise provided for in this article for setting towing fees.

(Code 1983, § 9-310; Ord. No. I-409, § 2, 12-3-1990)

**Secs. 34-113--34-137. Reserved.**

## ARTICLE IV. VEHICLE IMPOUNDMENT

**Sec. 34-138. Impoundment of motor vehicles used in connection with controlled substances violations and prostitution.**

(a) A motor vehicle shall be subject to seizure and impoundment whenever a police officer has probable cause that the vehicle:

(1) Contains any controlled substance or cannabis as defined in F.S. ch. 893;

(2) Was used in the purchase, attempt to purchase, sale, or attempt to sell such controlled substance or cannabis; or

(3) Was used to facilitate the commission of an act of prostitution, assignation, or lewdness, as defined in and pursuant to F.S. § 796.07.

(b) Upon seizing the motor vehicle, the police officer shall:

(1) Provide for the towing of the vehicle to a city-owned or city-controlled facility, or to a facility controlled by the city's towing agent; and

(2) Notify in writing the person determined to be the owner of the vehicle and any person who is found to be in control of the vehicle at the time of seizure of the fact of the seizure and impoundment of the vehicle as well as of the right to request a preliminary hearing pursuant to section 34-139.

(c) The notices to be given pursuant to this section shall be provided by hand delivery at the time of the seizure and impoundment of the vehicle, or if neither the vehicle owner nor the person in control of the vehicle at the time of its seizure is available to receive such notice, then notice shall be provided to the vehicle owner by certified mail, return receipt requested, within 48 hours of the time of impoundment, excluding Saturdays, Sundays and legal holidays.

(d) This section shall not apply and the vehicle shall not be seized or impounded, if:

(1) The possession, use or sale of the controlled substance and/or cannabis is authorized by F.S. ch. 893 or F.S. ch. 499;

(2) The vehicle was stolen at the time that it was subject to seizure and impoundment;

(3) The vehicle was operating as a common carrier at the time it was subject to seizure and impoundment;

PROOFS

or

(4) A law enforcement agency has expressed its intent, in writing, to institute forfeiture proceedings on the vehicle.

(Code 1983, § 11-75; Ord. No. J-217, § 1, 2-18-1997)

**Sec. 34-139. Hearings; administrative penalty.**

(a) If the owner of the motor vehicle, or his agent or authorized representative, has made a written request for a preliminary then:

(1) The city shall hold such hearing within 48 hours of receipt of the written request, excluding Saturdays, Sundays, and legal holidays, before a special ~~master~~ magistrate or alternate special ~~master~~ magistrate of the city. At the hearing, the city shall have the burden to show that there is probable cause to believe that the motor vehicle is subject to impoundment and continued seizure under section 34-138. The formal rules of evidence shall not apply at the hearing and hearsay evidence is admissible.

(2) If, after hearing, the special ~~master~~ magistrate or alternate special ~~master~~ magistrate determines that there is probable cause to believe that the motor vehicle is subject to impoundment and continued seizure, he shall order the continued impoundment of the vehicle unless the vehicle owner, or his agent or authorized representative, pays the city an administrative civil penalty of $500.00, plus the towing and storage costs, or posts with the city a cash bond in the amount of $500.00, plus the accumulated costs of towing and storing the vehicle, together with reasonably anticipated storing charges which may accrue prior to the final hearing. If, after the hearing, there is a finding of no probable cause the vehicle shall be released forthwith to the owner, or his agent or authorized representative, without the imposition of penalties or fees.

(b) Within ten days of the date that the motor vehicle is seized and impounded pursuant to section 34-138 and whether or not a preliminary hearing is requested, the city shall notify by certified mail, return receipt requested, the vehicle owner of record of the date, time and location of a final hearing to be conducted pursuant to this subsection. The final hearing shall be scheduled and held, unless continued by order of the special ~~master~~ magistrate or alternate special ~~master~~ magistrate, no later than 45 days after the date that the vehicle was seized and impounded. The formal rules of evidence will not apply at the final hearing. The city shall have the burden to show by a preponderance of the evidence that the vehicle was used as set forth in section 34-138. If, after the hearing, a finding is made that the vehicle is subject to impoundment and seizure pursuant to section 34-138, and that none of the exceptions set forth in section 34-138 apply, then the special ~~master~~ magistrate or alternate special ~~master~~ magistrate of the city shall enter an order finding the owner of the record of the vehicle civilly liable to the city for an administrative penalty of $500.00, plus towing and storage costs. If, after hearing, a finding is made that the city did not meet its burden of proof as set forth in this subsection or that one of the exceptions of section 34-138 apply, the vehicle shall be returned to the owner along with any cash bond posted.

(Code 1983, § 11-76; Ord. No. J-217, § 1, 2-18-1997)

**Sec. 34-140. Administrative penalty to constitute debt due to city.**

If an administrative penalty is imposed pursuant to sections 34-139, such penalty shall constitute a debt due and owing to the city. The vehicle's record owner's obligation to pay such debt to the city shall be independent of the city's return or release of the vehicle. If a cash bond has been posted pursuant to section 34-139, the bond shall be applied towards payment of the penalty.

(Code 1983, § 11-77; Ord. No. J-217, § 1, 2-18-1997)

**Sec. 34-141. Return of vehicle.**

Except as provided otherwise in section 34-139, an impounded vehicle shall be returned to its record owner, or to the person who is legally entitled to possess the vehicle, upon his payment of the administrative penalty to the city, plus any towing and storage fees, unless the vehicle has been sold, or otherwise disposed of to satisfy a judgement or enforce a lien as provided by law.

(Code 1983, § 11-78; Ord. No. J-217, § 1, 2-18-1997)

PROOF

~~**Sec. 11-79. Appeal.**~~

~~The owner of the motor vehicle that has been subject of a seizure and impoundment pursuant to sections 11-75 and 11-76 may appeal the rulings and decisions of the special master or the alternate special master of the City of Fort Pierce to the Circuit Court of the Nineteenth Judicial Circuit of St. Lucie County within 30 days of the date of the order being appealed. The city may charge a reasonable fee for preparation of the record for purposes of making the appeal.~~

~~(Code 1983, § 11-79; Ord. No. J-217, § 1, 2-18-1997)~~

**Sec. 34-142. Unclaimed vehicles.**

Any motor vehicle that is not reclaimed within 60 days from the date of the order of the special ~~master~~ magistrate or alternate special ~~master~~ magistrate of the city, subjecting the owner of the motor vehicle to an administrative civil penalty of $500.00 pursuant to section 34-139, becomes unclaimed evidence pursuant to ~~Florida Statutes, section~~ F.S. § 705.101(6). Such unclaimed evidence shall then be disposed of by the city pursuant to F.S. § 705.105.

(Code 1983, § 11-80; Ord. No. J-217, § 1, 2-18-1997)

PROOFS

Chapter 35

**RESERVED**

PROOFS

Chapter 36

# UTILITIES*

***State law reference—**Municipal Home Rule Powers Act, F.S. ch. 166; municipal public works, F.S. ch. 180.

## ARTICLE I. IN GENERAL

### Sec. 36-1. Violation prohibited; penalty.

(a) It shall be deemed unlawful to violate any of the provisions of this chapter.

(b) Any person, firm or corporation violating any of the provisions contained in this chapter shall be punished as provided ~~for under F.S. § 403.161 and F.A.C. 62-625.500 and by a fine not to exceed one thousand dollars ($1,000.00) for each act of violation or for each day of violation. Each day is a new violation.~~ in section 1-7.

(Code 1983, § 20-6; Ord. No. K-390, § 1, 11-7-2005)

### Secs. 36-2--36-20. Reserved.

## ARTICLE II. LIENS

### Sec. 36-21. Generally.

All individuals or entities contracting with Fort Pierce Utilities Authority ("FPUA") for electric, gas, water, wastewater and/or sewer service by FPUA ("customers") shall be jointly and severally liable and responsible for the payment of the service charges therefor imposed by FPUA. Unpaid charges shall become a lien against the real property of the customer as hereinafter provided; provided, however, that nonpayment of service charges incurred by a former occupant of the rental property shall not be the basis for any lien against the rental property or legal action against the present occupant or owner of the real property, except to the extent that the present occupant or owner has benefitted directly from the service provided to the present or former occupant.

(Code 1983, § 20-250; Ord. No. L-117, § 1, 5-3-2010)

### Sec. 36-22. Procedure.

(a) The FPUA customer service manager shall mail a notice of the delinquency of such services by regular mail to the customer at the address shown on his latest FPUA billing. The notice shall specify the delinquency billings, individual and total, and shall state that if the delinquency is not paid within 30 days from the date of the notice, a lien in the full amount of the delinquency, together with interest at the legal rate allowed for judgments accruing from the date of delinquency, all costs and expenses of FPUA, may be levied by FPUA, including, but not limited to, any and all administrative, advertising, recording, notice, collection, legal expenses and court costs and any other charges or costs which continue to accrue, such as the monthly inactive account fee charged by FPUA, may be levied by the FPUA against the real property of the customer. The notice will further provide that the customer may, within 15 days of the date of the notice, request a hearing before the FPUA customer service manager to challenge the delinquency and resulting lien. If a hearing is requested, the FPUA customer service manager will schedule a hearing within ten days of receipt of the request. If no hearing is requested within 15 days from the date of the notice, and payment is not received within 30 days, the FPUA customer service manager may impose the lien for the amounts set forth above without further notice to the property owner.

(b) Such liens shall be recorded in the public records of the county.

(c) Each and every lien of FPUA created under this article from delivery of any FPUA service or expenditure of funds or any expense incurred by FPUA shall be deemed to be prior in dignity to any other lien, including, but not limited to, mortgage liens, irrespective of the date of the recording of the FPUA lien or the date of the recording of any mortgage or other lien on real property, and such FPUA lien shall survive any action to foreclose or otherwise

PROOFS

enforce such inferior lien whether such inferior lien arises by virtue of a mortgage or promissory note, a mechanic's lien, a judgment, or other security interest in real property; provided, however, that nothing herein contained shall be construed to be respecting the priority of liens, and where such law or statute specially provides for the priority of liens, the provisions hereof shall be construed to achieve harmony therewith.

(d) Such liens shall be subject to foreclosure if not fully paid within three months of the date of delinquency.

(e) Such liens shall be foreclosed in the same manner in which mortgage liens are enforced.

(f) FPUA may enforce and collect any unpaid lien as provided by law. Each remedy available to FPUA for enforcement and collection shall be cumulative to all others and the use of any particular method or procedure shall not prohibit FPUA from enforcing or collecting a lien by any other means allowed by law.

(g) Upon direction of the FPUA customer service manager, proceedings may be instituted in a court of competent jurisdiction for foreclosure of any lien established by FPUA. FPUA shall be entitled to recover all costs and reasonable attorney fees incurred in the action.

(h) Each lien established by FPUA shall continue until paid or released or as otherwise provided by law.

(i) Any lien established by FPUA may be satisfied and discharged by paying to FPUA the amount specified in the lien together with interest at the legal rate allowed for judgments accruing from the date of delinquency, all costs and expenses of FPUA, including, but not limited to, any and all administrative, advertising, recording, notice, collection, legal expenses and court costs and any other charges or costs which continue to accrue, such as the monthly inactive account fee charged by FPUA, and costs and fees to prepare and record a release and satisfaction of the lien in the official records of the county. The amount payable to satisfy any lien may be reduced only as provided by law and with the approval of the FPUA board.

(Code 1983, § 20-251; Ord. No. L-117, § 1, 5-3-2010)

**Secs. 36-23--36-47. Reserved.**

## ARTICLE III. WATER SYSTEM

### Sec. 36-48. Water connections—Application.

Application for water connection with the city mains shall be made on blanks furnished at the office of the utilities authority and shall show the required location of tap stated in feet from the nearest intersecting street property line, the number of the lot, or part thereof, and the number of the block or square, and subdivision and street number. This application shall be filed by the plumber at the office of FPUA. However, no plumbing to be connected to the city's service shall be commenced unless under the supervision or direction of a master plumber who holds a valid city certificate as such.

(Code 1983, § 20-1; Ord. No. K-390, § 1, 11-7-2005)

### Sec. 36-49. Water connections—Connecting other buildings.

The water service pipe for any building, lot or premises shall not be laid over or through any other building, lot or premises, and no persons shall connect or cause to be connected any building, lot or premises with the water service pipe belonging to or supplying any other building, lot or premises, excepting that stables or other outhouses in the rear of the building used in connection with same may be supplied from same service pipe. In addition to other penalties, for any violation of this section the water may be cut off until the same is corrected.

(Code 1983, § 20-2; Ord. No. K-390, § 1, 11-7-2005)

### Sec. 36-50. Water connections—Connecting power pumps.

It shall be unlawful for any person to connect a power pump directly with a service pipe or street main, for supplying water to steam boiler, tank or receptacle in a building, premises or establishment or to maintain such connection.

(Code 1983, § 20-3; Ord. No. K-390, § 1, 11-7-2005)

PROOFS

**Sec. 36-51. Water connections—Property outside corporate limits refusing annexation.**

(a) Any water connection serving property outside the corporate limits of the city on January 22, 1991, shall be continued. In the event that property so served shall refuse annexation to the city, and there is an existing annexation agreement, such water service shall be terminated 30 days after such refusal. In the event that property so served shall refuse annexation to the city, and there is no written annexation agreement, such water service shall be terminated 90 days after such refusal.

(b) A refusal to respond within 15 days to a written request served by registered mail on the property owner as shown on the tax rolls shall be deemed a refusal to annex.

(c) A property owner refusing to annex can request a hearing by asking the city manager to place such property owner on the agenda of the next regularly scheduled city commission meeting not less than ten days following the date of refusal to annex.

(Code 1983, § 20-4; Ord. No. K-390, § 1, 11-7-2005)

**Sec. 36-52. Use of water during drought conditions.**

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

~~For the purpose of this section the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.~~

*Emergency situation* means such a situation as shall be determined and declared by the South Florida Water Management District as in existence due to prolonged drought conditions resulting in the serious shortage of fresh water supply to this area or city; or, prior to any determination or declaration by said district, the city may determine that it has become seriously affected by any such shortage of water. As a result of either of the foregoing determinations the city commission shall declare an emergency situation and implement the provisions of this section.

*Water* means water taken from the city water supply system.

(b) *Application of section.* The provisions of this section shall apply to all persons using water from the city water supply system both in and outside of the city and regardless of whether any person using water shall have a contract for water service with the city.

(c) *Restriction or curtailment of water usage.* At such times as an emergency situation is declared by the South Florida Water Management District as affecting the city or is so declared by the city commission regarding the supply of fresh water due to prolonged drought conditions, the city manager is authorized to implement this section by ordering the restricted use or absolute curtailment of use of water for certain nonessential purposes, including, but not limited to, the following:

(1) The sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens and vegetables. The city manager is authorized to specify certain days and place limitations on the hours or period of time when lawns and shrubbery may be watered.

(2) The washing of automobiles, trucks, trailers, mobile homes, campers, boats, railroad cars or any other type of mobile equipment, except a bona fide business enterprise where vehicle washing is done.

(3) The washing of sidewalks, driveways, filling station aprons, porches, exterior of homes, apartments, office buildings or other outdoor surfaces.

(4) The washing of any business or industrial equipment and machinery.

(5) The operation of any ornamental foundation or other structure using water without a recirculating system.

(6) Swimming and wading pools not using a filter and recirculating system.

(7) The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.

(8) Businesses and industries shall be restricted in the amount of water which they shall use as ordered by the city manager. Any such restriction shall be based upon the amount of water needed during normal

PROOFS

years in the particular business and the severity and peril of drought conditions existing.

(c) *Violations.* No person shall violate any order of the city manager implementing this section. In addition to other penalties, the city manager may suspend water service from any property when the provisions of this section have been violated.

(d) *Appeals.* Whenever the city manager shall issue an order directing restriction or curtailment of the use of water as provided herein, or shall suspend water service as a result of a violation of provisions of this section, the person aggrieved may appeal the decision of the city manager to the city commission. The city commission shall grant such person a reasonable opportunity to present in writing, or at the commission's option in open hearing, his arguments against such decision of the city manager. The commission shall reconsider such arguments and pertinent facts, and its decision with respect to such appeal shall be final.

(e) *Exception; sanitation.* The city manager, upon the recommendation of the county health officer, or upon his own recognizance, may permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards.

(f) *Exception; business necessary to public welfare.*

(1) The provisions of this section shall not apply to any business or industry which shall be declared by the city commission to be specifically excepted there from as necessary for the public health, safety and welfare.

(2) Business and industries processing animal, vegetable and mineral matter for food or human consumption purposes shall be regulated in the following manner: The city manager, when so ordered by the city commission, shall determine the amount of water to be used based upon the amount needed during normal years in the particular business and the severity and period of the existing drought conditions.

(3) The utilities authority shall have available and furnish all records necessary to determine the usages of water restricted by this section.

(g) *Water users accept section.* No water service shall be furnished to any person in the city who does not agree to accept all of the provisions contained in this section and all of the reasonable rules and regulations consistent herewith promulgated by the city commission for the regulation of water service. The acceptance of water service from the city shall be in itself the acceptance of the provisions hereof.

(Code 1983, § 20-5; Ord. No. K-390, § 1, 11-7-2005)

**Sec. 36-53. Standards for fire hydrant installation.**

Water mains, lines, or connections installed or replaced after the effective date of the resolution from which this article is derived shall provide for installation of fire hydrants as follows:

(1) There shall be fire hydrants located and in service within 600 feet of each other in all areas zoned for residential, commercial, or industrial use for flows requiring 1,000 gallons per minute. The hydrant spacing shall be 1,000 feet for fire flows requiring 500 gallons per minute.

(2) Fire hydrants shall be located within dedicated public or private rights-of-way, which shall be paved or readily traversable by firefighting equipment, with required minimum separation distance to be measured by roadway travel thereon.

(3) All water mains intended to provide water for fire protection shall have a diameter of no less than eight inches, except that lower sizes of not less than six inches may be allowed by the county fire district based on needed fire flow as determined by the fire district.

(4) The minimum size water mains and fire flows shall be determined by the fire marshal and based on the current insurance service office (ISO) requirements.

(5) Except as provided for herein, fire hydrant installation shall comply with current standards of the National Fire Protection Association (NFPA).

(Code 1983, § 20-7; Ord. No. K-390, § 1, 11-7-2005)

PROOFS

**Secs. 36-54--36-79. Reserved.**

## ARTICLE IV. SEWER CONNECTIONS

### Sec. 36-80. Made by city employees.

No person other than city employees shall make stub-out connections to a city sewer.

(Code 1983, § 20-33; Ord. No. K-390, § 2, 11-7-2005)

### Sec. 36-81. Property abutting public way containing sewer.

The owner, tenant or occupant of each lot or parcel of land within the city which abuts upon a street or other public way containing a sanitary sewer, lying directly in front of, or directly on the side of, or directly in back of said lot or parcel or any part thereof, served or which may be served, provided outfall pitch exists, by the sewage disposal system of the city and is not connected with such sanitary sewer, and upon which lot or parcel a building or structure has been or shall be constructed for residential, commercial or industrial use, or for human occupancy or other purposes shall, at his expense, connect such building or structure with such sanitary sewer and shall cease to use any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the city.

(Code 1983, § 20-34; Ord. No. K-390, § 2, 11-7-2005)

### Sec. 36-82. Payment of fees.

It shall be the duty of the plumber in charge of any work, whether master or journeyman plumber or owner installer, to verify with the department of development, division of building and code enforcement, that the sewer connection charge and inspection fee have been paid prior to making any sewer connection.

(Code 1983, § 20-35; Ord. No. K-390, § 2, 11-7-2005)

### Sec. 36-83. Extension to street without sanitary sewer.

Where an existing or proposed new building or structure within the city abuts upon a street or public way on a lot or parcel of land that does not contain a sanitary sewer lying directly in front of, or directly on the side of, or directly in back of said lot or parcel, the owner, tenant or occupant may request extension of a city sewer if one is near said parcel or lot. Requirements, feasibility and costs thereof shall be determined by the director of public works in accordance with rules and regulations which shall be adopted from time to time by the city.

(Code 1983, § 20-36; Ord. No. K-390, § 2, 11-7-2005)

### Sec. 36-84. Location; approval.

No person shall connect or cause to be connected the drainage system of any building, lot or premises to the public sewer other than upon the approval of the plumbing inspector as shown by the records of the public works department.

Code 1983, § 20-37; No. K-390, § 2, 11-7-2005)

### Sec. 36-85. Compliance with article before making connection.

No sewer connection to the city sewer shall be permitted until satisfactory evidence is shown that all plumbing conforms to this article and all ordinances of the city relating to plumbing, except that, on connections of existing buildings, the requirement for washing machine drain and water connections, as set forth in ~~Table 922.2, Minimum Facilities, of the Standard Plumbing Code~~ the state plumbing code, are hereby waived, except where washing machines are actually installed on the premises, except when alterations or remodeling is performed where the estimated costs of the plumbing work exceeds $1,500.00, and then, at such time, it shall be mandatory on any and all rental units.

(Code 1983, § 20-38; Ord. No. K-390, § 2, 11-7-2005)

### Sec. 36-86. Discharge of certain substances into sewer system prohibited.

(a) It shall be deemed unlawful to permit any prohibited discharge into the wastewater control systems of the Fort Pierce Utilities Authority of such prohibited discharges as described and enumerated in this article.

PROOFS

(b) Any person, firm or corporation permitting such prohibited discharge as contained herein shall be punished ~~as provided for under F.S. § 403.161 and F.A.C. 62-625.500 and by a fine of not more than one thousand dollars ($1,000.00)~~ as provided in section 1-7 ~~for each act of violation and for each day of violation~~.

(Code 1983, § 20-39; Ord. No. K-390, § 2, 11-7-2005)

**Sec. 36-87. Use of public sewers required; penalty for violation.**

(a) It shall be deemed unlawful to violate any of the following provisions of this section. Such provisions which must not be violated are as follows:

(1) It shall be unlawful for any person to place, or permit to be deposited in any unsanitary manner on public or private property within the service area, or in any area under the jurisdiction of the utilities authority, any human or animal excrement, garbage or other objectional waste.

(2) It shall be unlawful to discharge to any natural outlet within the service area or in any area under the jurisdiction of the utilities authority, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this section.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the utilities authority, is hereby required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 365 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

(b) The disposal of sewage means, other than the use of the available sanitary sewage system, shall be in accordance with local county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the sanitary sewage system is not available, and where waste is not treatable by authorities' plant.

(c) Any person, firm or corporation violating any of the above provisions shall be deemed guilty of an offense. ~~misdemeanor and upon conviction shall be punished by a fine not more than one thousand dollars ($1,000.00) for each act of violation or for each day of violation.~~

(Code 1983, § 20-40; Ord. No. K-390, § 2, 11-7-2005)

**Sec. 36-88. Sewer connections for property outside corporate limits refusing annexation.**

(a) Any sewer connection serving property outside the corporate limits of the city on January 22, 1991, shall be continued. In the event that property so served shall refuse annexation to the city, and there is an existing annexation agreement, such sewer service shall be terminated 30 days after such refusal. In the event that property so served shall refuse annexation to the city, and there is no written annexation agreement, such sewer service shall be terminated 90 days after such refusal.

(b) A refusal to respond within 15 days to a written request served by registered mail on the property owner as shown on the tax rolls shall be deemed a refusal to annex.

(c) A property owner refusing to annex can request a hearing by asking the city manager to place such property owner on the agenda of the next regularly scheduled city commission meeting not less than ten days following the date of refusal to annex.

(Code 1983, § 20-41; Ord. No. K-390, § 2, 11-7-2005)

PROOFS

**Secs. 36-89--36-119. Reserved.**

## ARTICLE V. WASTEWATER DISCHARGE RESTRICTIONS

### DIVISION 1. GENERALLY

**Sec. 36-120. Definitions.**

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

~~Unless the context specifically indicates otherwise, the meaning of the terms used in these rules and regulations shall be as follows:~~

*Act* or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the Florida Department of Environmental Protection (FDEP).

*Authorized or duly authorized representative of the industrial customer* means:

(1) If the industrial customer is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual and temporary wastewater discharge permits requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial customer is a partnership or sole proprietorship, a general partner or proprietor, respectively.

(3) If the industrial customer is a federal, state, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described in subsections (1) through (3) of this definition may designate duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters of the company, and the written authorization is submitted to the director of utilities.

*Baseline monitoring report* means a report establishing a baseline of pollutant concentrations in the wastestream of wastewater system customer: describes the compliance status of the customer in meeting pretreatment standards; identifies pretreatment technology that is in place or proposed to be put in place to enable the customer to meet pretreatment standards where standards are not being met; conforms to F.A.C. 62-625.600(1)(a)—(g).

*Best management practices* or *BMPs* means and includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in F.A.C. 62-625.400(1)(a) and (2), FAC BMPs. The term "BMPs" includes treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Building sewer* means that part of horizontal piping of a drainage system that extends beyond the ends of the building drain and conveys it to a public, private or individual sewage disposal system, or other point of disposal.

PROOFS

*Categorical industrial customers* mean industrial customers subject to categorical pretreatment standards under F.A.C. 62-625.410 and 40 CFR chapter I, subchapter N, parts 405 through 471, hereby adopted and incorporated by reference.

*Categorical pretreatment standard* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405—471.

*Control authority* means the Fort Pierce Utilities Authority (FPUA).

*Control manhole* means a manhole through which the total industrial wastewater from a facility flows, and which contains equipment for wastewater sampling and flow measurement.

*Cooling water* means the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

*Daily maximum* means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

*Daily maximum limit* means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

*Director* means the person designated by FPUA to supervise the operation of the FPUA's wastewater system, and who is charged with certain duties and responsibilities by this article. The term "director" also means a duly authorized representative of the director.

*Director of utilities* means the director of utilities for FPUA, or his duly authorized agent, or representative.

*Discharge* means the introduction of pollutants into the FPUA wastewater system from any source, directly or indirectly, by means of pipes, conduits, pumping stations, ditches, or tank trucks, and all constructed devices and appliances appurtenant thereto.

*Domestic customer* means a customer that generates only domestic wastewater.

*Domestic wastewater* means wastewater derived principally from dwellings, business buildings, institutions, and other non-industrial sources

*Environmental Protection Agency* or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

*Existing facilities,* for the purposes of sizing and installation of grease interceptors, means all food service facilities in existence date hereof shall be permitted to operate and maintain existing grease interceptors or grease traps provided their grease interceptors or grease traps are in efficient operating condition. On or after the effective date of the resolution from which this article is derived, the director may require an existing food service facility to install, operate and maintain a new grease interceptor or trap that complies with the requirements herein to modify or repair any noncompliant plumbing or existing interceptor or trap within 90 days of written notification by the director when any one or more of the following conditions exist.

(1) The facility is found to be contributing oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the FPUA wastewater system.

(2) The facility does not have a grease interceptor or trap.

(3) The facility has an undersized, irreparable or defective grease interceptor or trap.

(4) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the city.

(5) The existing facility is sold or undergoes a change of ownership.

(6) The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with these rules and regulations.

PROOFS

(7) The facility fails to submit a completed notice of intent to discharge form to FPUA.

*Existing source* means any source of discharge that is not a new source.

*Extra strength surcharge parameters*.

*BOD.* See definition under Wastewater standard parameters.

*CF* means conversion factor to obtain dry weight of pollutant in pounds.

*CONC* means average pollutant concentration per utility billing cycle, as determined by FPUA, over and above the standard strength for wastewater (i.e., average BOD or TSS minus 250 mg/L, average O&G minus 100 mg/L).

*Cost* means FPUA'S unit cost per pound for conveying, treating and disposing of a pollutant (BOD, TSS or O&G).

*Load* means the mass of pollutant discharged, in pounds.

*Oil* and Grease (O&G). See definition under Wastewater standards parameters.

*SUR* means extra strength surcharges assessed for a billing month.

*TSS.* See definition under Wastewater standard parameters.

*VOL* means wastewater discharge volume in million gallons per utility billing cycle, obtained from FPUA's billing system.

*Flow proportioned composite sample* means a combination of individual samples of equal volume taken at equal intervals of flow from a wastestream, without consideration of the time between individual samples; or, a combination of individual samples each of volume proportional to the waste flow rate at the time of sampling and taken at equal intervals of time.

*Food service facility* means any facility which prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. The term "food service facility" includes, but is not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools and all other food service facilities not listed above.

*Class I food service facility* means any facility preparing or manufacturing food items and implementing the use of deep fryer equipment, stoves, cook tops (flame or non), or food processing equipment; or producing or selling ice cream products that were not prepackaged for individual consumption, from another location.

*Class II food service facility* means any facility implementing the use of crock pots or soup pots, toaster ovens, hot dog rollers or other small cooking equipment that does not require cooking oil to operate, and that do not fit into the Class I food service facility criteria.

*Class III food service facility* means any facility that only prepares and serves liquid beverages that do not contain ice cream products. This class allows packaged snack items to be served. No food preparation or use of any equipment listed in Class I or II will be allowed at Class III food service facilities. Foods prepared at another location may be served at a Class III food service facility but all cleanup associated with the serving of these food items, including, but not limited to, dishes, utensils and serving equipment, shall be done at another location.

*FPUA wastewater system* means any wastewater treatment works, sewers and conveyance appurtenances discharging thereto as defined by section 212 of the Act (33 USC 1292), owned and operated by FPUA, including any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

*Garbage disposal* means a device which shreds or grinds up waste materials into smaller portions for discharge into the FPUA wastewater system.

*Grab sample* means an individual discrete sample collected at a specific time. A grab sample includes all sub-samples or aliquots (e.g., individual containers for specific analytes or analyte groups), sample fractions (e.g., total and filtered samples), and all applicable field quality control samples (e.g., field sample duplicates or split samples) collected at the same locations within a time not exceeding 15 minutes.

PROOFS

*Gray water* means all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.

*Grease* means a material, either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The term "grease" includes the terms "fats oils and grease (FOG)," "oil and grease" and "oil and grease substances."

*Grease hauler* means a person who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services to a food service facility related to grease interceptor maintenance.

*Grease interceptor* means a device located underground and outside of a food service facility designed to collect, contain or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the FPUA wastewater system by gravity.

*Grease trap* means a device located inside a food service facility either in the floor or under a sink, designed to collect, contain or remove food wastes and grease from the wastestream, while allowing the balance of the liquid waste to discharge to the FPUA wastewater system by gravity. Traps shall have a removable lid on the top to facilitate easy accessibility for inspection, cleaning and maintenance.

*Indirect discharge* or *discharge* means the introduction of pollutants into the FPUA wastewater system from any nondomestic source.

*Industrial customer* or *industrial user* means any customer other than a domestic customer.

*Industrial wastewater* means any discharge, including gray water, discharged from any type of interceptor, to the FPUA wastewater system other than segregated domestic wastes or wastes from sanitary conveniences.

*Inspector* means a member of the staff of the FPUA industrial pretreatment program appointed by the director to conduct periodic inspections of food service facilities and industrial customer facilities to assess compliance with these rules and regulations.

*Instantaneous limit* means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interceptor* means a device located underground and outside of a commercial or industrial facility, including a food service facility, designed to collect, contain or remove food wastes and grease, lint, oil, sand or solid waste from the wastestream while allowing the balance of the liquid waste to discharge to the FPUA wastewater system by gravity.

*Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, is a cause of both:

(1) An inhibition or disruption of the FPUA wastewater system, its treatment processes or operations, or its domestic wastewater residuals processes, use or disposal; and

(2) A violation of any requirement of the FPUA's NPDES and/or Florida Department of Environmental Protection (FDEP) permits (including an increase in the magnitude or duration of a violation) or of the prevention of domestic wastewater residuals use or disposal by FPUA in compliance with local regulations or rules of the FDEP and F.S. ch. 403.

*Lint trap* means a device designed to collect, contain or remove lint, trash or residue from the wastestream of laundering operations while allowing the balance of the liquid waste to discharge to the FPUA wastewater system by gravity.

*Local limit* means specific discharge limits developed and enforced by FPUA upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in section 36-148.

~~*May.* Permissive.~~

*Medical waste* means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and

PROOFS

dialysis wastes.

*Monthly average* means the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

*Monthly average limit* means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

*New facilities*, on or after the effective date ~~hereof~~ of the resolution from which this article is derived, mean food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to install, operate and maintain a grease interceptor or grease trap according to the requirements contained herein. Grease interceptors or grease traps shall be installed prior to the issuance of a certificate of occupancy.

*New source* means:

(1) Any building, structure, facility or installation from which there is or may be a discharge, for which construction is commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source of discharge is located;

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building structure, facility, or installation are substantially independent of an existing source of discharge at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source shall be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (1)a or b of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a now source, as defined herein, has commenced if the owner or operator has:

a. Begun, or caused to begin as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment, or significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this rule.

*Noncontact cooling water* means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

*Oil/water separator* means a device located underground and outside of any facility that engages in operations that would otherwise without such device installed, introduce oils or other hydrocarbons to the FPUA wastewater system. Such devices shall be designed to have adequate capacity to collect, contain or remove solid waste material from the wastestream while allowing the balance of the liquid waste to discharge to the FPUA wastewater system by gravity.

*Pass through* means the discharge of pollutants through the FPUA wastewater system into waters of the state or of the United States in quantities or concentrations, which, alone or in conjunction with discharges from other

PROOFS

sources, is a cause of a violation of any requirement of the FPUA's NPDES or FDEP permits (including an increase in the magnitude or duration of a violation).

~~*Person* means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.~~

*pH* means a measure of the acidity or alkalinity of a solution, expressed in standard units.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the FPUA wastewater system. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment requirements* mean any substantive or procedural requirement related to pretreatment imposed on an industrial customer, other than a pretreatment standard.

*Pretreatment standards* or *standards* mean any regulation containing pollutant discharge limits promulgated by the EPA under sections 307(b) and (c) of the Act or by FDEP under F.S. ch. 403, which applies to industrial users. This term includes prohibitive discharge limits established in F.A.C. 62-625.400.

*Prohibited discharge standards* or *prohibited discharges* mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 36-147.

*Responsible corporate officer* means:

(1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(2) The manager of one or more manufacturing, production, or operating facilities, provided, the manager:

   a. Is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations.

   b. Is authorized to initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations.

   c. Can ensure that the necessary systems are established or actions are taken to gather complete and accurate information for control mechanism requirements.

   d. Has been assigned or delegated the authority to sign documents in accordance with corporate procedures.

*Retail service area* means the retail service area established for FPUA by the interlocal agreement signed by FPUA and the county on February 10, 2004, or as subsequently amended.

*Sand separator* means a device located underground and outside of any facility that engages in operations that would otherwise without such device installed, introduce sand, grit or other solid material to the FPUA wastewater system. Such devices shall be designed to have adequate capacity to collect, contain or remove solid waste material from the wastestream while allowing the balance of the liquid waste to discharge to the FPUA wastewater system by gravity.

*Septic tank waste* means any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage* means human excrement and gray water (e.g., household showers, dishwashing operations, etc.).

*Sewer* means any pipe, conduit, or other device used to collect and transport wastewater and to which storm,

PROOFS

surface, or groundwater is generally excluded.

~~*Shall.* Mandatory.~~

*Significant industrial customer* or *significant industrial user (SIU)* means any industrial customer of the FPUA wastewater system, except as provided below, that is subject to pretreatment standards: Categorical pretreatment standards under F.A.C. 62-625.410 and 40 CFR chapter I, subchapter N.

(1) Discharges an average of 25,000 gallons per day or more of process wastewater to the FPUA wastewater system (excluding sanitary, noncontact cooling and boiler blow down wastewater).

(2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the FPUA treatment plant.

(3) Is designated as such by the control authority on the basis that the industrial customer has a reasonable potential for adversely affecting the water reclamation facility's (WRF's) operation or for violating any pretreatment standard or requirement in accordance with F.A.C. 62-625.500(2)(e).

(4) Upon a finding that an industrial customer has no reasonable potential for adversely affecting the FPUA wastewater system's operation or for violating any pretreatment standard or requirement, the FPUA may, at any time, on its own initiative or in response to a petition received from an industrial customer and in accordance with F.A.C. 62-625.500(2)(e), if applicable, determine that such industrial customer is not a significant industrial customer.

*Significant noncompliance* means the designation given to an industrial customer if its violation meets one or more of the criteria given in section 36-260, which subject the industrial customer to annual publication requirements.

*Slug discharge* or *slug load* means discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this article. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the regulations, local limits, NPDES, or FDEP permit conditions of the FPUA wastewater system.

*Standard industrial classification* means a classification pursuant to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

*Standard methods* mean the current edition of Standard Methods for the Examination of Water and Wastewater, as prepared and published by the American Public Health Association, American Water Works Association, and the Water Environment Federation.

*Storm sewer* means a sewer that carries storm and surface waters and drainage, but excludes wastewater and polluted industrial wastes.

*Stormwater* means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

*Time composite sample* means a combination of individual samples of equal volume taken at equal intervals of time from a wastestream, without consideration of the flow within the wastestream.

*Toxic pollutant* means any pollutant or combination of pollutants listed as toxic by the administrator of the Environmental Protection Agency under the provisions of section 307(a) of the Act and listed in 40 CFR 401.15.

*Upset* means an exceptional incident in which an industrial customer unintentionally and temporarily is in a state of noncompliance with the categorical pretreatment standards adopted under these rules and regulations or established as part of its wastewater discharge permit, due to factors beyond the reasonable control of the industrial customer, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations thereof.

*Wastewater* means industrial or domestic wastewater from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and stormwater that may be naturally present, whether treated or untreated, which is discharged into the FPUA wastewater system.

PROOFS

*Wastewater discharge permit* means an individual wastewater discharge permit issued on a one-on-one basis by the FPUA to all significant industrial customers pursuant to these rules and regulations. FPUA may elect to issue wastewater discharge permits to minor or non-significant industrial customers where the potential exists for discharges that cause pass through or interference.

*Wastewater standard parameters.*

*B.O.D. (biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius (68 degrees Fahrenheit), expressed in parts per million by weight, and determined by standard methods.

*Oil and grease* means a material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or petroleum hydrocarbon sources expressed in parts per million by weight, and determined by standard methods.

*pH* means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution, as determined by standard methods.

*ppm* or *mg/L* means parts per million, a ratio by weight per volume, and interchangeable with milligrams per liter.

*Total solids* mean the total weight, expressed in ppm, of all settleable, suspended, or dissolved solids in the wastewater, as determined by standard methods.

*TSS* or *total suspended solids* means solids that either float on the surface of, or in suspension in, water wastewater, or other liquid expressed in ppm, as determined by standard methods, and that is removable by laboratory filtering.

*Wastewater treatment plant* or *treatment plant* means that portion of the FPUA wastewater system which is designed to provide treatment of municipal sewage and industrial waste known as the FPUA water reclamation facility.

(Code 1983, § 20-108; Ord. No. L-257, § 3, 6-18-2012; Ord. No. L-296, § 2, 9-3-2013)

**Sec. 36-121. Abbreviations.**

The following abbreviations shall have the designated meanings:

*ASTM* means the American Society for the Testing of Materials.

*CFR* means the Code of Federal Regulations.

*EPA* means the U.S. Environmental Protection Agency.

~~F.A.C. Florida Administrative Code.~~

*FDEP* means the Florida Department of Environmental Protection (FDEP).

*FPUA* means the Fort Pierce Utilities Authority (FPUA).

~~F.S. Florida Statutes.~~

*NPDES* means the National Pollutant Discharge Elimination System.

*PDI* means the Plumbing and Drainage Institute.

*RCRA* means the Resource Conservation and Recovery Act.

*USC* means the United States Code.

*WEF* means the Water Environment Federation.

*WRF* means the FPUA's water reclamation facility.

(Code 1983, § 20-109; Ord. No. L-257, § 4, 6-18-2012)

**Sec. 36-122. Penalties.**

It shall be deemed unlawful to violate any of the provisions of this ~~subpart~~ article. ~~Any person(s), natural or~~

PROOFS

~~corporate, violating any provision contained herein shall be punished as provided for under F.S. § 403.161, and Florida Administrative Code Section 62.625.500 for each act of violation, for each day of violation. Each day of occurrence is a new violation.~~

(Code 1983, § 20-106; Ord. No. L-257, § 1, 6-18-2012)

**Sec. 36-123. Purpose and policy.**

(a) These rules and regulations set forth uniform requirements for waste discharges into the Fort Pierce Utilities Authority (FPUA) wastewater system and enable FPUA to comply with applicable state and federal laws required by the Clean Water Act (33 USC 1251 et. seq.) as amended, the National Pollutant Discharge Elimination System (NPDES) permit regulations (40 CFR part 122), and the Pretreatment Requirements for Existing and Other Sources of Pollution (F.A.C. ch. 62-625).

(b) The objectives of these rules and regulations are:

(1) To prevent the introduction of pollutants into the FPUA wastewater system that:

a. Will obstruct or otherwise interfere with the normal operation of the system or contaminate the resulting residuals;

b. Do not receive adequate treatment, and that will pass through the treatment system into the environment or otherwise be incompatible with the treatment system;

c. May cause a hazard to the life or health of FPUA personnel or the general public;

d. May cause or contribute to violations of regulatory rules, regulations, laws, or permits;

(2) To promote reuse and recycling of industrial wastewater and residuals from the FPUA wastewater system;

(3) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the FPUA wastewater system;

(4) To enable FPUA to comply with its NPDES permit conditions, sludge and disposal requirements, and any other federal or state laws; and

(5) To protect the general public and FPUA wastewater personnel who may be affected by wastewater and sludge in the course of their employment.

(c) These rules and regulations apply to all users of the FPUA wastewater system and provide for the regulation of food service facilities and industrial waste discharges to the wastewater system through the issuance of wastewater discharge permits to certain industrial customers, through enforcement of general requirements for all industrial customers, through monitoring and enforcement activities, and through industrial customer reporting.

(Code 1983, § 20-107; Ord. No. L-257, § 2, 6-18-2012; Ord. No. L-296, § 1, 9-3-2013)

**Secs. 36-124--36-144. Reserved.**

DIVISION 2. REGULATIONS

**Sec. 36-145. Connection to wastewater systems.**

(a) *Generally.* The regulations for connection to wastewater systems generally fall within the city or county building and plumbing codes.

(b) *Codes.* Building codes regulate all construction within a private land parcel and specify minimum standards for electrical, mechanical and plumbing systems.

(Code 1983, § 20-130; Ord. No. L-257, § 4, 6-18-2012)

**Sec. 36-146. Construction of building sewers and connections.**

(a) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify FPUA from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

PROOFS

(b) A separate and independent building sewer shall be provided for every building unless waived by the director based on very unusual circumstances.

(c) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, the county, and/or the FPUA. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and Water Environment Federation (WEF) Manual of Practice No. 9 shall apply. Special clean-out connections shall be made at the building and at the property line.

(d) Whenever possible, the building sewer shall be brought to the building at an elevation below the lowest floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(e) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface or groundwater runoff to a building sewer or building drain, which in turn is connected directly or indirectly, to the FPUA wastewater system.

(f) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, the county, the FPUA, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the director before installation.

(g) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to FPUA.

(h) Interceptors.

(1) Grease interceptors shall be provided for industry sector facilities, including, but not limited to, automotive repair centers, car and truck wash facilities, equipment and heavy equipment rental and maintenance facilities, hospitals, laundries, or oily waste recovery/recycling facilities when, in the opinion of the director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, lint, oil or any flammable wastes, sand, solid waste, or other harmful ingredients. Other industry sector facilities may be added if approved by the director as needed, or required by other governing agencies, and shall be located as to be readily and easily accessible for cleaning and inspection. Such interceptors shall not be required for private, residential living quarters. All grease trap interceptors that connect to the FPUA's wastewater system shall adhere to FPUA design and construction standards.

(2) Plumbing connections for grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the FPUA wastewater system. Such fixtures shall include but not be limited to, sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a potential source of grease. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease interceptor or trap under any circumstances.

(3) Grease interceptors shall be installed at all new food service facilities except where physical space is limited as described in subsection (h)(4) of this section, and all renovated facilities where new or additional equipment are installed. All new and existing grease interceptors shall meet the following criteria:

a. *Interceptor design and location.* Grease interceptors shall be capable of separation and retention of grease and storage of settled solids. Interceptor design shall conform to the requirements of state plumbing code, sections 1003 and 1004. A control manhole over each compartment for monitoring purposes shall be required and installed at the owner/operator's sole expense. Covers shall have a gas tight fit. The grease interceptor shall be designed, constructed and installed for adequate load-bearing capacity. Flow control devices shall be required where the water flow through the

PROOFS

interceptor may exceed its rated flow. Interceptors shall be installed in a location outside of the building which provides easy access at all times for inspections, cleaning and proper maintenance, including pumping.

b. *Interceptor capacity.* Grease interceptor capacity calculations shall be performed by each food service facility based on size and type of operation according to the formula contained in Table 1003.3.4.1 and Table 1003.5.1 of the state plumbing code and the sizing methods contained in PDI-G101 and its appendix A1.0 thru A1.7 where applicable. Minimum capacity of any one unit shall be 1,000 gallons and maximum capacity shall be 1,250 gallons as required by the state plumbing code. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series is required. Interceptor capacity calculations shall be approved by the GMP official prior to the installation of the interceptors. The capacity of the grease interceptor required for food manufacturing or processing facilities which are not covered by the state plumbing code shall be approved by the GMP official according to the mass and type of food prepared, the wastewater volume produced from food preparation or manufacturing, total hours of operation per day and a load tor depending on the installed equipment.

(4) Grease traps shall be prohibited and interceptors required for all new food service facilities and renovated facilities where new or additional equipment are installed, except for new Class II food service facilities which may have either grease trap or interceptor and Class III food service facilities which do not require either a grease interceptor or trap. Where space does not allow a grease interceptor for new Class I food service facilities, the customer must make a request to the director for a waiver allowing the customer to install a grease trap that meets the requirements set forth in this section. This waiver request must be made before a commercial service application can be approved for utilities service. Each waiver request will be reviewed on an individual basis. The following criteria are the minimum requirements:

a. *Trap design and location.* Grease traps shall conform to the standards in the Plumbing and Drainage Institute (PDI) Standards G101. Grease traps shall be installed in strict accordance with the manufacturer's instructions. Grease traps shall be constructed of an approved material that is resistant to corrosion and degradation, equipped with a cover that can be easily opened for inspection or sampling and that contains a mechanism for a secure closing.

b. *Trap capacity for class II food service facility.* The capacity of the grease trap shall be related to the flow rate as indicated in Table 1 and the appendix of the PDI Standards G101 document. At no time shall the grease trap's capacity for a Class II food service facility be less than 50 pounds for any individual installation.

c. *Trap capacity for waivered Class I food service facility.* The capacity of the grease trap shall be related to the flow rate as indicated in Table 1 and the appendix of the PDI Standards G101 document. At no time shall the grease trap's capacity for a waivered Class I food service facility be less than 100 pounds for any individual installation.

d. *Waivered Class I food service facility with a commercial dishwasher shall require a separate grease trap for the dishwasher.* The capacity of the grease trap shall be related to the flow rate as indicated in Table 1 and the appendix of the PDI Standards G101 document. At no time shall the grease trap's capacity for the waivered class I food service facility's dishwasher be less than 50 pounds for any individual installation.

e. *Flow-through rate.* Flow-through rates shall be calculated in accordance with the procedures in the PDI Standard G101.

f. *Flow control device.* Grease traps shall be equipped with a device to control the rate of flow through the unit. The rate of flow shall not exceed the manufacturer's rated capacity recommended in gallons per minute for the unit.

g. *Venting.* The flow-control device and the grease trap shall be vented in accordance with the state plumbing code current edition. The vent shall extend not less than six inches above the flood-rim level or in accordance with the manufacturer's instructions.

PROOFS

h. *Food service facility reclassification from Class III or Class II to Class I.* A Class III or Class II food service facility that wishes to reclassify to a Class I food service facility where inadequate space is available, shall meet the following criteria:

1. Inadequate physical space is available for grease interceptor.
2. Shall apply for reclassification through FPUA pretreatment program.
3. Shall meet the requirements of this subsection (h)(4) of this section.
4. Shall submit to FPUA's engineering department, blueprints of all changes to be made.
5. Shall receive approval for reclassification from the director before any construction commences.

i. *Food service facility reclassification from Class III to Class II.* A class III food service facility that wishes to reclassify to a Class II food service facility shall meet the following criteria:

1. Shall apply for reclassification through FPUA pretreatment program.
2. Shall meet the requirements of the definition of the term "Class II food service facility," as provided in section 36-120 and this subsection (h)(4).
3. Shall submit to FPUA's engineering department, blueprints of all changes to be made.
4. Shall receive approval for reclassification from the director before any construction commences.
5. Shall install a grease trap in accordance with the requirements of this subsection (h)(4).

j. *Food service facility reclassification from Class I or Class II to Class III.* Any food service facility that wishes to reclassify to a Class III food service facility shall meet the following criteria:

1. Shall apply for reclassification through FPUA pretreatment program.
2. Shall meet all the requirements of the definition of the term "Class III food service facility," as provided in section 36-120.

k. *Food service facility reclassification from Class I to Class II.* Any food service facility that wishes to reclassify to a Class II food service facility shall meet the following criteria:

1. Shall apply for reclassification through FPUA pretreatment program.
2. Shall meet all the requirements of the definition of the term "Class II food service facility," as provided in section 36-120 and this subsection (h)(4) of this section.

l. Garbage disposal units are prohibited for waivered Class I food service facilities.

(5) Where preliminary treatment or flow-equalizing facilities are provided for any wastewater, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(6) Any cross-connection between potable water supply and any wastewater system shall be prohibited. For guidelines, see Resolution No. UA 82-15, Cross Connection Control Program.

(7) Connection of private collection systems. The director may develop a program to govern discharges from private collection systems discharging or proposing to discharge to the FPUA wastewater system.

(Code 1983, § 20-131; Ord. No. L-257, § 5, 6-18-2012; Ord. No. L-296, § 3, 9-3-2013)

**Sec. 36-147. Prohibited discharges.**

(a) *General prohibitions.* No user shall introduce or cause to be introduced into the FPUA Wastewater System any pollutant or wastewater, which causes pass through or interference. These general prohibitions and the specific prohibitions in subsection (b) of this section apply to all users of the FPUA wastewater system, whether or not they are subject to other pretreatment standards, or any national, state, or local pretreatment requirements.

(b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the FPUA wastewater system the following pollutants, substances, or wastewater:

PROOFS

(1) Pollutants which create a fire or explosive hazard in the FPUA wastewater system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

(2) Wastewater having a pH less than 5.0 or higher than 10.0 standard units, or otherwise causing corrosive structural damage to the FPUA wastewater system or equipment.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow within any part of the FPUA wastewater system.

(4) Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference in the FPUA wastewater system.

(5) Any wastewater liquid or vapor having a temperature higher than 130 degrees Fahrenheit (54.4 degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in concentrations greater than 100 ppm or in amounts that will cause interference or pass through.

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the FPUA wastewater system in a quantity that may cause acute worker health and safety problems, or interfere with any treatment process, or to create any hazard in the receiving waters of the treatment plant, or which exceed the limitations set forth in either a wastewater discharge permit or a Federal Categorical Pretreatment Standard, if applicable.

(8) Trucked or hauled pollutants, except at discharge points designated by FPUA and approved in writing by the director.

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or to prevent entry into the sewers for maintenance or repair.

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes or spent tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating FPUA's NPDES permit, or other wastes which are highly colored, or wastes which are of unusual volume, concentration of solids or composition that may cause interference with proper operation and treatment at the treatment plant without proper pretreatment.

(11) Wastewaters containing any radioactive wastes or isotopes except when the industrial customer is authorized to use radioactive material by the Nuclear Regulatory Commission or other governmental agency empowered to regulate the use of radioactive materials and when the wastewater is discharged in strict conformity with current Nuclear Regulatory Commission regulations for safe disposal and in compliance with all rules and regulations of state and local regulatory agencies.

(12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, uncontaminated cooling water, or unpolluted industrial process waters to any wastewater system operated by FPUA, unless specifically authorized by the director.

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes.

(14) Medical wastes, except as specifically authorized by the director in a wastewater discharge permit.

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.

(16) Detergents, surfactant agents, or other substances which might cause excessive foaming in the FPUA wastewater system.

(17) Any wastes, waters, or wastewaters which may contain more than 1,000 parts per million, by weight, of

PROOFS

total fat, oil or grease, or other substance that will solidify or become viscous at ambient temperature.

(18) Any wastes, waters, or wastewaters that contain more than ten parts per million by weight of hydrogen sulfide, sulfur dioxide or nitrous oxide.

(19) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the FPUA wastewater system, or at any point in the FPUA wastewater system, of more than ten percent or any single reading over ten percent of the lower explosive limit (LEL) of the meter.

(20) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, offal, plastics, wood, whole blood, paunch, manure, hair and flashings, entrails, lime residues, beer or distillery slops, chemical residues, fiberglass, paint or ink residues, cannery waste, bulk solids, or any other solid or viscous substance capable of causing obstruction to the flow in the FPUA wastewater system, or other interference with the proper operation of the FPUA wastewater system without proper pretreatment and wastewater discharge permits, or written approval of the director.

(21) Any wastes, waters, or wastewaters containing suspended or total solids of such character and quantity that unusual provisions, attention, or expense is required to handle such materials in the FPUA wastewater system.

(22) Any wastes, waters, or wastewaters containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater water reclamation facility (WRF) effluent cannot meet the requirements of other agencies having jurisdiction over discharge of said effluent.

(23) Any substance that may cause the water reclamation facilities treatment residues, sludge, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(24) Any trucked or hauled wastewater from sources other than customers of FPUA, unless permitted by the FPUA's industrial pretreatment program.

(25) Any substance that will cause the FPUA to violate its FDEP or NPDES permit.

(c) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the FPUA wastewater system.

(Code 1983, § 20-132; Ord. No. L-257, § 6, 6-18-2012; Ord. No. L-296, § 4, 9-3-2013)

**Sec. 36-148. Specific discharge limitations; non categorical.**

(a) The director is hereby authorized to establish specific discharge limitations (local limits) pursuant to 40 CFR 403.5(c) using standard procedures, calculations and methods acceptable to FDEP to protect against pass-through, or interference of the FPUA wastewater system, for the protection of WRF employees, and to protect against adverse effects of wastewater residuals disposal.

(b) No person shall discharge wastewater containing pollutants in excess of the local limits for those pollutants which have been established for the FPUA WRF.

(c) No person shall discharge process waste streams, unregulated waste streams, or dilute waste streams, in excess of the concentrations set forth by the director. Local limits shall be included as permit conditions and attached to each significant industrial customer (SIU) wastewater discharge permit issued.

(d) No person shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limit unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on SIUs who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(e) The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards; WRF operation, performance and processes; the industrial customer base; potable water quality and domestic wastewater characteristics. Modifications to the established local limits must be reviewed and approved by FDEP prior to implementation. Implementation shall be effective 30 days from notice of acceptance of the modified limits by FDEP.

PROOFS

(f) Implementation shall include:

(1) Written notice of new local limits to all permitted significant industrial users (SIUs) within 30 days from notice of acceptance of the modified limits by FDEP.

(2) Permitted SIUs shall acknowledge receipt of notification of new local limits by returning a signed statement within 30 days of receiving such written notice.

(3) Permitted SIUs shall also be issued an addendum to their wastewater discharge permit containing the new local limits.

(4) In cases where a local limit becomes more stringent than the previous limit, affected SIUs will be given a reasonable time schedule to achieve compliance, if necessary, as provided under section 36-193(c).

(g) The established local limits apply at the point where the wastewater is discharged to the water reclamation facility (WRF). All concentrations for metallic substances are for total metal unless indicated otherwise. At his discretion, the director may impose mass limitations in addition to or in place of the concentration-based limitations.

(h) The director may develop best management practices (BMPs), in addition to, or, in lieu of local limits by ordinance or in wastewater discharge permits. A copy of the approved local limits is available upon request at the FPUA WRF. The local limits shall apply to the total discharge from an industrial customer, including domestic wastewater and uncontaminated non-contact cooling water, and are daily maximum allowable discharge limits based upon a composite sample for metals and conventional pollutants with the exception of grab samples for, cyanide, hydrogen sulfide, oil and grease and pH.

(Code 1983, § 20-133; Ord. No. L-257, § 7, 6-18-2012)

**Sec. 36-149. State limitations.**

No customer may discharge to the FPUA wastewater system any wastewater in violation of a state discharge limitation, including, but not limited to, regulations contained in F.A.C. 62-610.670.

(Code 1983, § 20-134; Ord. No. L-257, § 7, 6-18-2012)

**Sec. 36-150. Federal categorical pretreatment standards.**

(a) Industrial customers must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405 through 471, hereby incorporated by reference. Upon the promulgation of Federal Categorical Pretreatment Standards, pursuant to section 307(b) of the Act, as amended, said standards, if more stringent than any limitation imposed under these rules and regulations, shall apply and it shall be unlawful for any customer to discharge into any public sewer in violation of said standards.

(b) Customers subject to federal categorical pretreatment standards shall submit reports as required under F.A.C. 62-625.600. The FPUA will process all required reports and will conduct follow-ups on such reports as required. The applicable reporting requirements under 40 CFR 403.12 are as given in section 36-221.

(c) Where a federal categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, FPUA may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c) (F.A.C. 62-625.410(4)).

(d) When wastewater subject to a federal categorical pretreatment standard is mixed with wastewater not regulated by the same standard, FPUA shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e) (F.A.C. 62-625.410(6)).

(e) A customer may obtain a variance from a Federal Categorical Pretreatment Standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard (F.A.C. 62-625.700).

(f) A customer may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15 (F.A.C. 62-625.820).

(Code 1983, § 20-135; Ord. No. L-257, § 8, 6-18-2012)

PROOFS

**Sec. 36-151. Right of revision.**

The FPUA reserves the right to amend these rules and regulations to provide for more stringent limitations or requirements on discharges to the FPUA wastewater system, where deemed necessary to comply with the objectives set forth in section 20-107 of these rules and regulations.

(Code 1983, § 20-136; Ord. No. L-257, § 9, 6-18-2012)

**Sec. 36-152. Dilution.**

(a) No customer shall increase the use of potable or processed water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in these rules and regulations or any other applicable standard, limitation, or regulation, except where expressly authorized to do so by an applicable pretreatment standard or requirement.

(b) The FPUA shall impose mass limitations on customers that are using dilution to meet the requirements of these rules and regulations, or in other cases where the imposition of mass limitations is deemed appropriate by the FPUA.

(Code 1983, § 20-137; Ord. No. L-257, § 10, 6-18-2012)

**Sec. 36-153. Slug discharge control plans.**

FPUA shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The director may require any industrial customer to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. All slug discharge control plans shall address the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying FPUA of any accidental or slug discharge; and

(4) Procedures to prevent adverse impact from any accidental slug discharges. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Code 1983, § 20-138; Ord. No. L-257, §§ 11, 12, 6-18-2012)

**Sec. 36-154. Notice of intent.**

(a) The following customers shall file a written notice of intent with the FPUA at least 30 days before commencing discharge into the FPUA wastewater system:

(1) Customers purchasing an existing facility from which a discharge of industrial wastewater into the FPUA wastewater system is proposed.

(2) Customers constructing a new facility from which a discharge of industrial wastewater into the FPUA wastewater system is proposed.

(3) Customers proposing to discharge industrial wastewater into the FPUA wastewater system from a facility which currently does not discharge industrial wastewater.

(4) Customers planning to alter or change the activity at the customer's facility that will significantly increase or decrease the volume or alter the content of any existing source of wastewater discharge into the FPUA wastewater system. This does not include changes in volume or content resulting from shifts in existing production levels at the customer's facility. For purposes of this subsection, the term "significant increase or decrease" means a 20 percent increase or decrease in the volume of industrial wastewater currently being discharged. An alteration is defined as any change in chemicals utilized within a process that will significantly alter the characteristics of the discharge.

(5) Customers proposing to alter or change the listed or characteristic hazardous wastes for which the

PROOFS

customer has submitted notification under 40 CFR 403:12(p).

(b) The notice of intent shall be submitted in writing on a form provided by FPUA and shall contain such information as required to allow the FPUA to evaluate the effect of the proposed discharge on its facilities and operations and to ensure compliance with these rules and regulations. The notice of intent shall be signed by the customer, a principal executive officer of the customer's company, or an authorized representative. The customer must receive written approval of the notice of intent from the FPUA before commencing discharge. Based upon the FPUA's evaluation of the notice of intent, the customer may be issued a wastewater discharge permit or a permit modification, as appropriate, in accordance with article VI of this chapter.

(Code 1983, § 20-139; Ord. No. L-257, § 12, 6-18-2012)

**Sec. 36-155. Control manhole.**

(a) The following buildings shall be required to have a suitable control manhole constructed in accordance with the FPUA design and construction standards:

(1) Buildings equipped with a grease interceptor, grease trap, lint trap, or oil/sand interceptor;

(2) Buildings with restroom facilities used by the public;

(3) Multifamily dwelling units of three or more units; and

(4) Buildings discharging industrial wastewater. All control manholes are to be installed at the owner's expense.

(b) Any customer discharging a new source of industrial wastewater into the FPUA wastewater system shall, unless this requirement is waived in writing by the director upon formal request, construct and maintain a control manhole to allow inspection, sampling and flow measurement of each industrial wastewater discharge to the FPUA wastewater system.

(c) Any customer discharging an existing source of industrial wastewater into the FPUA wastewater system, shall, at the request of the FPUA, construct and maintain a control manhole to allow inspection, sampling and flow measurement of each industrial wastewater discharge to the FPUA wastewater system.

(d) Each control manhole shall be situated on the customer's premises at the right-of-way line (customer's property line), except where such a location will be impractical or cause undue hardship on the customer. FPUA may allow the control manhole to be constructed in the public street or sidewalk area, provided that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such control manhole to allow accurate sampling and preparation of samples for analysis. The facility shall be maintained at all times in a safe and proper operating condition at the expense of the customer. Access to the control manhole shall be available at all times.

(e) There shall be ample room in or near such control manhole to allow accurate sampling and preparation of samples for analysis. The facility shall be maintained at all times in a safe and proper operating condition at the expense of the customer. Access to the control manhole shall be available at all times.

(f) To ensure that any control manhole constructed is acceptable for use by the FPUA, drawings and specifications for such facilities shall be submitted to the FPUA for review and must be approved in writing by the FPUA before construction of the facility.

(Code 1983, § 20-140; Ord. No. L-257, § 13, 6-18-2012)

**Sec. 36-156. FPUA inspection and sampling.**

(a) FPUA may inspect the monitoring facilities and wastewater pretreatment facilities of any customer to determine compliance with the requirements of these rules and regulations, and any individual wastewater discharge permit or order issued hereunder. The customer shall allow FPUA or its representatives, exhibiting proper credentials and identification, to enter upon the premises of the customer's property at all reasonable hours. Customers shall allow FPUA ready access to all parts of the premises for the purposes of inspection, sampling, or records examination and copying, or the performance of any additional duties.

(b) Reasonable hours in the context of inspection and sampling will include any time the customer is

PROOFS

operating any process that results in a processed wastewater discharge to the FPUA wastewater system.

(c) The FPUA will have the right to set up on the customer's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering of the customer's operations.

(d) FPUA may require customers to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the customer at its own expense. All devices used to measure wastewater flow and quality shall be calibrated monthly to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the customer at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the customer.

(f) Interceptors, grease interceptors and grease traps.

(1) Customers self-inspections. Customers shall be responsible for ensuring that interceptors, grease interceptors and grease traps are thoroughly inspected at each pump out interval immediately after all wastes have been removed to ensure that the interceptor is properly cleaned out, that it is structurally sound, and that all fittings and fixtures inside the interceptor are in working condition and functioning properly. Grease haulers shall report all deficiencies found during pump-outs and shall document these deficiencies as required in section 36-230. Failure of grease haulers to submit required report is a violation, subject to enforcement and penalties, as stated in this article. This failure may also result in requiring the customer to have interceptor re-pumped to allow for inspection of interceptor by an FPUA inspector.

(2) Frequency of inspections by FPUA. FPUA may conduct semi-annual, quarterly, monthly, or weekly interceptor inspections as determined by the director as necessary to prevent the discharge of prohibited waste materials to the FPUA wastewater system as delineated herein in section 36-147. Inspection fees will apply as stated in FPUA service charge resolution.

(3) Interceptor inspection acceptance criteria. FPUA Inspectors may fail interceptor, grease interceptor or grease trap inspections under any one the following conditions:

a. The overall structural and functional integrity of the interceptor is found to be in a condition such that is no longer suitable for providing reasonably good service for the application in which the interceptor is installed. (There are structural defects, e.g., eroded concrete with reinforcement bars showing.)

b. Inspection covers are missing.

c. Inlet and outlet tees are missing or have become disconnected.

d. The remaining functional capacity of the grease interceptor or grease trap is such that the total volume of captured grease and settled solid material exceeds or displaces more than 25 percent of the capacity of the interceptor as determined using a core sampler to find the depth of the interceptor and the thickness of settled solids on the bottom and floating materials on the sure, or the interceptor is no longer capable of retaining/capturing oils and greases or other waste materials.

(4) Re-inspections. FPUA may re-inspect customer facilities that have interceptors, grease interceptors or grease traps which received deficiency notices after the original inspection. FPUA may inspect any repairs or other deficiencies and may provide written notice of compliance or noncompliance as the case may be. In the event that the customer facility has returned to compliance with all of the deficiencies, there shall be no charge for the re-inspection. In the event of continuing noncompliance, successive re-inspections will be scheduled and appropriate inspection fees shall be charged to the customer in question for the first and all successive re-inspections, as stated in FPUA service charge resolution. A first re-inspection for an interceptor, grease interceptor or grease trap that failed inspection because the volume of waste material exceeded the 25 percent acceptance criteria specified in section 36-156(f)(3)d shall be performed by FPUA after 15 business days have elapsed to allow the customer to arrange to have the device pumped.

PROOFS

(5) Where a customer has security measures in force that will require proper identification and clearance before entry into its premises, the customer shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, representatives from FPUA shall be permitted to enter without delay for the purposes of performing their specific responsibilities.

(6) If FPUA has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of these rules and regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of FPUA designed to verify compliance with this ordinance or any permit or order issue hereunder, or to protect the overall public health, safety and welfare of the community, then the director may seek issuance of a search or inspection warrant from the local court of jurisdiction.

(Code 1983, § 20-141; Ord. No. L-257, § 14, 6-18-2012; Ord. No. L-296, § 5, 9-3-2013)

**Sec. 36-157. Wastewater pretreatment facilities.**

(a) All industrial customers shall provide necessary wastewater treatment as required to comply with these rules and regulations and shall achieve compliance within the shortest and most stringent time limitations specified by EPA, the state or FPUA in wastewater discharge permits or in compliance orders issued by FPUA. All industrial wastewater pretreatment facilities and programs shall also comply with FPUA's industrial pretreatment manual and pretreatment enforcement response plan. Any facilities required to pretreat wastewater to a level acceptable to FPUA shall be provided, operated, and maintained at the customer's expense.

(b) Detailed drawings and specifications showing the pretreatment facilities and operating procedures shall be sealed by a professional environmental engineer and submitted to the FPUA for review before such facilities are constructed and before the commencement of discharge from the facility. The review of such drawings, specifications, and operating procedures will not relieve the customer from the responsibility of modifying the facility as necessary to produce an effluent acceptable to FPUA under the provisions of these rules and regulations. The addition or introduction of bacteria, chemical compounds or enzymes are not considered as viable methods of pretreatment and are discouraged. Written approval from the director must be obtained prior to the introduction of any such product to the wastewater system.

(c) Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by FPUA before the customer's initiation of the changes.

(d) Additional pretreatment measures.

(1) Whenever deemed necessary, FPUA may require customers to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestream from industrial wastestream, and such other conditions as may be necessary to protect the WRF, or determine customer compliance with the requirements of these rules and regulations.

(2) The director may require any person discharging to the FPUA wastewater system to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, lint, oil, sand, and/or solid waste interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of any one or a combination of wastes; except that such interceptors shall not be required for domestic users. All interception units shall be of a type and capacity approved by FPUA, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, repaired and maintained by the customer, or person operating the facility, at their expense.

(4) Interceptor or grease trap pumping frequency. FPUA customers occupying or operating facilities that require an interceptor, grease interceptor or grease trap shall have its interceptors/traps pumped at a minimum frequency required to prevent instances in which the remaining functional capacity of the interceptor, grease interceptor or grease trap is such that the total volume of captured grease. Lint, sand settled solid material or oil exceeds or displaces more than 25 percent of the capacity of the interceptor.

PROOFS

(5) Pumping frequency. The director may require a customer to increase its pumping frequency upon two sequential failures of interceptor, grease interceptor or grease trap inspections conducted by FPUA as determined using the 25 percent criteria provided in subsection (d)(4) of this section.

(6) Repairs. Each customer shall be responsible for the cost and scheduling of all repairs to its interceptor, grease interceptor or grease trap. Repairs shall be performed within 15 calendar days after the date of written notice of requiring the repairs is received by the facility or unless notice from the director establishes a different compliance date.

(7) Disposal. Wastes removed from each interceptor, grease interceptor or grease trap shall be disposed of at a facility permitted to receive such wastes. Neither grease nor solid materials removed from an interceptor, grease interceptor or grease trap shall be returned to any interceptor, grease interceptor or grease trap, private sewer line or to any portion of the FPUA wastewater system.

(8) Alternative grease removal devices or technologies. Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the director prior to installation. Approval of the device shall be based on demonstrated (proven) removal efficiencies and reliability of operation. The director may approve these types of devices depending on manufacturer's specifications on a case by case basis.

(9) Garbage disposal. The director may order food service facilities to discontinue using garbage disposals when their use accelerates the accumulation of sludge and food waste in a grease interceptor or grease trap causing repeated failed inspections, or the director may order the food service facility to increase their pumping frequency to compensate for the accelerated loading of the grease interceptor or grease trap.

(10) Interceptor additives. Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved by the director prior to their use by the food service facility or the grease hauler. MSDS sheets and any other applicable information concerning the composition, frequency of use and mode of action of the proposed additive shall be sent to the FPUA wastewater system together with a written statement outlining the proposed use of the additives. Based upon the information received and any other information solicited from the potential user or supplier, the director may permit or deny the use of the additive in writing.

(e) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Code 1983, § 20-142; Ord. No. L-257, § 15, 6-18-2012)

**Sec. 36-158. Excess strength discharge.**

(a) If any waters or wastewaters are discharged, or are proposed to be discharged to the FPUA wastewater system, which contain substances in excess of the standard strength for wastewater, those discharges shall be subject to sewer surcharge fees (excess strength surcharge) to defray the additional cost of receiving, transporting, and treatment of those substances.

(1) These surcharges are in addition to standard service charges and wastewater discharge permit fees. The excess strength surcharge shall be in accordance with subsection (c) of this section. The established excess strength surcharges are subject to change and shall be modified as needed based on regulatory requirements and standards, WRF operation, performance and processes, the industrial customer base, potable water quality and domestic wastewater characteristics. An annual cost of treatment adjustment shall be made in accordance with subsections (c)(1) and (d)(1) of this section.

(2) The standard strength for wastewater is defined as follows:

| *Standard Strength for Wastewater* | | |
|---|---|---|
| | *Standard Strength* | *Maximum Allowable* |
| B.O.D. | 250 mg/L | 4,000 mg/L |

PROOFS

| | | |
|---|---|---|
| Suspended solids (SS) | 250 mg/L | 3,000 mg/L |
| Oil and grease | 100 mg/L | 1,000 mg/L |

(b) FPUA shall determine the average concentration or strength of the discharged wastewater. FPUA may take samples without advance notice. Test results made and approved by the FPUA shall be final in fixing the applicable rate; provided, however, the customer may request in writing and secure a portion of the sample for independent laboratory testing in which case the average of the two tests results shall be used.

(1) Unless otherwise provided, the quantity of wastewater discharged to the FPUA wastewater system shall be assumed to be the same as the volume of water delivered and metered through the FPUA water system. In the event that water is obtained from a non-FPUA source, that source shall be metered and meter readings made available to FPUA, or the amount of wastewater discharged may be estimated by the FPUA. All sample collection, handling, preservation and laboratory analysis methods upon which excess strength surcharges are to be based shall be determined in accordance with the latest edition of the Florida Department of Environmental Protection Standard Operating Procedure DEP-SOP-001/01. Contents of DEP-SOP- 001/01 are accessible at http://www.dep.state.fl.us/labs/qa/qadocument.htm

(2) Where large proportions of metered water are not discharged as wastewater to the FPUA wastewater system, the director may consider establishing a constant ratio, factor, or percentage to be applied to the metered water quantity in accordance with FPUA Resolution No. U.A. 2004-5, Section 1.A (2)(b), or as amended.

(c) Extra strength surcharge calculation for BOD and TSS.

(1) The extra strength surcharge is intended to recoup FPUA's cost of treating the higher strength wastewater. The cost of this additional treatment includes increased power consumption, chemical addition, bio-solids disposal, contract laboratory services and labor. These costs are converted to cost per pound for BOD and TSS removal ("cost") according to the procedures contained in section 10 of the FPUA Industrial Pretreatment Program Manual. The initial cost for the year beginning with the effective date of the resolution from which this article is derived is $0.33 per pound for BOD and $0.22 per pound for TSS.

(2) Authority is hereby given to the director, or a designee, to review and adjust the cost annually according to the procedures contained in section 10 of the FPUA Industrial Pretreatment Program Manual. Annual adjustment of the cost shall be made without further action or approval of the FPUA board and/or city commission. The cost shown in this subsection (c) of this section is for illustrative purposes and may not reflect the actual cost levied one year or more beyond the effective date of the resolution from which this article is derived.

(3) Example calculations. An industrial customer of the FPUA wastewater system discharges 1,000,000 gallons of wastewater over one utility billing cycle. Average pollution concentrations for the period are 750 mg/L BOD and 1,250 mg/L TSS. Definitions of all terms are provided under extra strength surcharge parameters in section 36-120.

| *BOD Surcharge Example* | | | | | |
|---|---|---|---|---|---|
| Average BOD over 250 mg/L (CONC) | Usage (VOL) | Conversion Factor (CF) | BOD loading (LOAD) | BOD cost/lb (COST) | Excess BOD Surcharge (SUR) |
| [(500 mg/L) | (1.0 mg) | (8.34 lbs)] = | (4,170 lbs) | ($0.33) = | $1,376.10 |

| *TSS Surcharge Example* | | | | | |
|---|---|---|---|---|---|
| Average TSS over 250 mg/L (CONC) | Usage (VOL) | Conversion Factor (CF) | TSS loading (LOAD) | TSS cost/lb (COST) | Excess TSS Surcharge (SUR) |

PROOFS

| | | | | | |
|---|---|---|---|---|---|
| [(1,000 mg/L) | (1.0 mg) | (8.34 lbs)] = | (8,340 lbs) | ($0. 22) = | $1,834.80 |

(d) Extra strength surcharge calculation for oil and grease.

(1) The extra strength surcharge is intended to recoup FPUA's costs associated with higher strength discharges from industrial customers. The additional costs include cleaning, repairing and/or replacing pipes and equipment in the FPUA wastewater system. These costs also include additional contract laboratory services and labor. The costs are converted to cost per pound for oil and grease and are based on the previous year's costs. The initial cost for the year beginning with the effective date of the resolution from which this article is derived is $0.24 per pound for oil and grease.

(2) Authority is hereby given to the director, or a designee, to review and adjust the cost annually according to the procedures contained in section 10 of the FPUA Industrial Pretreatment Program Manual. Annual adjustment of the cost shall be made without further action or approval of the FPUA board and/or city commission. The cost shown in this subsection (d) is for illustrative purposes and may not reflect the actual cost levied one year or more beyond the effective date of the resolution from which this article is derived.

(3) Example calculations. An industrial customer of the FPUA wastewater system discharges 1,000,000 gallons of wastewater over one utility billing cycle. Average pollutant concentrations for the period are 750 mg/L oil and grease. Definitions of all terms are provided under "extra strength surcharge parameters" in section 36-120.

| *O&G Surcharge Example* | | | | | |
|---|---|---|---|---|---|
| *Average O&G over 100 mg/L (CONC)* | *Usage (VOL)* | *Conversion Tor (CF)* | *O&G loading (LOAD)* | *O&G cost/lb (COST)* | *Excess O&G Surcharge (SUR)* |
| [(650 mg/L) | (1.0 mg) | (8.34 lbs)] = | (5,421 lbs) | ($0.24) = | $1,301.04 |

(Code 1983, § 20-143; Ord. No. L-257, § 16, 6-18-2012; Ord. No. L-296, § 6, 9-3-2013)

**Sec. 36-159. Hauled wastewater.**

(a) Hauled industrial wastewater excluding septic tank waste, food service facility interceptor/grease trap waste, or any other substance that violates the prohibited discharges herein in section 36-147, may be introduced into the FPUA wastewater system only at locations designated by the director, and at such times as are established by the director. The director may require generators of hauled industrial wastewater to obtain wastewater discharge permits. The discharge hauled industrial wastewater is subject to all requirements of these rules and regulations.

(b) Industrial wastewater haulers must generate a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the hauler, truck identification, names and addresses of sources of wastewater, and volume and characteristics of wastewater. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. Waste manifests shall be submitted to FPUA by the means and within the time requirements provided herein in section 36-230.

(c) No load may be discharged without prior consent of FPUA. FPUA may collect samples of each hauled load to ensure compliance with applicable standards. FPUA may require the Industrial Wastewater hauler to provide a wastewater analysis of any load prior to discharge.

(d) Grease hauler pump out services shall include the initial complete removal of all contents, including floating materials, wastewater and bottom sludge and solids from food service facility interceptors, grease interceptors or grease traps. The return of gray water back into such device from which the wastes were removed is prohibited. Interceptor, grease interceptor or grease trap cleaning shall include scraping excessive solids from the walls, floors, baffles and all piping. It shall be the responsibility of each customer to observe the pumping and cleaning procedure to ensure that the device is properly cleaned out and that all fittings and fixtures inside the device are in working condition and functioning properly.

PROOFS

(Code 1983, § 20-144; Ord. No. L-257, § 17, 6-18-12)

**Sec. 36-160. Bypass.**

(a) Bypass means the intentional diversion of wastestream from any portion of a customer's treatment facility resulting in a violation of pretreatment standards or requirements. Bypass is prohibited, and the director may take enforcement action against a customer for a bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(2) There were no technically feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.

(b) Customers shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to FPUA within 24 hours from the time the customer becomes aware of the bypass. A written submission shall also be provided within five days of the time the customer becomes aware of the bypass. The written submission shall contain:

(1) A description of the bypass and its cause;

(2) The duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and

(3) Steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

(Code 1983, § 20-145; Ord. No. L-257, § 18, 6-18-2012)

**Secs. 36-161--36-188. Reserved.**

DIVISION 3. WASTEWATER DISCHARGE PERMITS

**Sec. 36-189. Wastewater discharge permit requirement.**

(a) No industrial customer shall discharge wastewater into the FPUA wastewater system without first applying for a wastewater discharge permit from the director. For the purpose of carrying out the requirements of these rules and regulations, FPUA limits the issuance of individual wastewater discharge permits to all individual significant industrial customers. FPUA shall not issue general permits to any industry sector.

(b) The director may require other industrial customers to obtain wastewater discharge permits as necessary to carry out the purposes of these rules and regulations.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the permittee to the sanctions set out in division 5 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standard or requirements or with any other requirements of federal, state, and local law. Any industrial customer required to obtain a wastewater discharge permit must obtain such permit prior to commencing discharge. An application for this wastewater discharge permit must be filed at least 90 days prior to the date upon which any discharge will commence.

(d) Wastewater analysis. When requested by the director, industrial customers must submit information on the volume, nature and pollutant characteristics of wastewater discharged to the FPUA wastewater system within 60 days of the request. The director is authorized to prepare a wastewater discharge characterization form for this purpose and may periodically require industrial customers to update this information.

(Code 1983, § 20-174; Ord. No. L-257, § 19, 6-18-2012)

**Sec. 36-190. Wastewater discharge permit application contents.**

(a) All industrial customers required to obtain a wastewater discharge permit must submit a permit application.

(b) Existing industrial customers with an expiring wastewater discharge permit shall apply for wastewater

PROOFS

discharge permit reissuance by submitting a complete permit application, at least 60 calendar days before expiration of the permit, in accordance with subsection (c) of this section.

(c) The reapplication for the permit shall consist of a written request for reissuance of the permit, including a statement that all terms and conditions of the existing permit and these rules and regulations are being complied with. This written statement shall be signed and sworn to by the authorized representative of the industrial customer.

(d) The director may require all industrial customers to submit as part of an application the following information:

(1) Identifying information. Industrial customers shall submit the name and address of the facility, including the name of the operator and owner.

(2) Description of activities, facilities, and plant processes on the premises, including a list of all raw-materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the FPUA wastewater system.

a. A listing of any environmental control permits held by or for the facility;

b. Description of operations:

1. Number and type of employees, hours of operation, and proposed of operation.

2. Each product produced by type, amount, process or processes, and rate of production and standard industrial classifications of the operations carried out by such industrial user. This description should include a schematic process diagram, which indicates points of discharge to the FPUA wastewater system from the regulated processes.

c. Type and amount of raw materials processed (average and maximum per day).

d. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the FPUA wastewater system.

(3) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(4) Time and duration of discharges.

(5) The location for monitoring all wastes covered by the wastewater discharge permit.

(6) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the FPUA's wastewater system from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in F.A.C. 62-625.410(6).

(7) Measurement of pollutants.

a. Industrial customers shall identify the pretreatment standards applicable to each regulated process;

b. Additionally, industrial customers shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the pretreatment standard or FPUA) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the pretreatment standard requires compliance with BMP's or pollution prevention alternative, industrial customers shall submit documentation as required by FPUA or the applicable standards to determine compliance with the standard;

c. Industrial customers shall take a minimum of one representative sample to demonstrate data is in compliance with these requirements;

d. Samples shall be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial customer shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of F.A.C. 62-625.410(6) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with subsection 62-F.A.C.

PROOFS

625.410(6), this adjusted limit, along with supporting data, shall be submitted.

(8) Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.

(e) Incomplete or inaccurate applications will not be processed and will be returned to the industrial customer for revision.

(f) Application signatories and certifications.

(1) All wastewater discharge permit applications and industrial customer reports must be signed by an authorized representative of the industrial customer and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

(g) The director will evaluate the data furnished by the industrial customer and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit and may deny any permit application.

(Code 1983, § 20-175; Ord. No. L-257, § 20, 6-18-2012)

**Sec. 36-191. Permit conditions.**

(a) Wastewater discharge permits shall be subject to all provisions of these rules and regulations and all other applicable regulations. Fees are addressed in section 36-194, permit duration and fee.

(b) All permits must contain:

(1) A statement of duration not to exceed five years, the date of issuance, the effective date, and the date on which the permit expires;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the director in accordance with section 36-195, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including BMP's, based on applicable pretreatment standards, including limits on the average or maximum wastewater constituents and characteristics that may be discharged;

(4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local laws; and

(5) A statement of applicable administrative, civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local laws.

(6) Requirements to control slug discharge, if determined by the director to be necessary.

(c) Wastewater discharge permits may contain any or all of the following conditions:

(1) Limits on average or maximum rate and time of discharge or requirements for flow regulation and equalization.

PROOFS

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(3) Requirements for the development and implementation of spill control plans, or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the FPUA wastewater system.

(5) Compliance schedules.

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.

(7) Requirements for maintaining and retaining plant records related to discharge and accidental spills as specified by FPUA and affording FPUA access thereto.

(8) Requirements for notification of the director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the FPUA wastewater system.

(9) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(10) Facility closing plan. All existing industrial customers operating under an FPUA-issued wastewater discharge permit shall complete and submit a facility closing plan to the director 60 calendar days prior to closing said facility, or within the time specified in the wastewater discharge permit. facility closing plans shall address each of the following:

a. Facility anticipated closing date.

b. Is the facility closure temporary or permanent? If temporary, what date is the facility scheduled to reopen?

c. What provisions have or will be made to secure, dispose of, or remove raw materials and chemicals from the facility premises? (Include copies of waste or transport manifests for all chemicals transported offsite).

d. Will the facility be demolished? If so, what provisions have or will be made to protect the FPUA wastewater system from potentially hazardous discharges during facility closure and demolition? (FPUA may require the physical disconnection of all wastewater discharge lines prior to facility demolition.)

e. Plans submitted for permanent facility closure shall include a request to void the existing wastewater discharge permit upon the effective date of facility closure. (All required self-monitoring, reporting and other permit conditions shall apply until such date as the permit becomes void.)

f. Submit a signed certification statement that all of the facility is compliant with all permit conditions.

(11) Other conditions as deemed appropriate by the director to ensure compliance with these rules and regulations.

(Code 1983, § 20-176; Ord. No. L-257, § 21, 6-18-2012)

**Sec. 36-192. Permit appeals.**

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

PROOFS

(c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(d) The director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the industrial customer, may petition the director to reconsider the terms of a wastewater discharge permit within 45 days of notice of its issuance. If the director fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider wastewater discharge permit conditions, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(e) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the local court of jurisdiction.

(Code 1983, § 20-177; Ord. No. L-257, § 22, 6-18-2012)

**Sec. 36-193. Permit modification.**

(a) The terms and conditions of a wastewater discharge permit may be subject to modification by the director at any time as limitations or requirements as identified in section 36-148 are modified or other just causes exist as:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;

(3) A change in the wastewater discharge permit that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to FPUA employees, WRF effluent receiving waters, or beneficial use of residuals;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant issues in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator in accordance with section 36-195.

(b) A wastewater discharge permit may also be modified to incorporate special conditions resulting from the issuance of a special order in accordance with subdivision II of this division.

(c) Any modifications that result in new conditions in the wastewater discharge permit shall include a reasonable time schedule for compliance, if necessary.

(Code 1983, § 20-178; Ord. No. L-257, § 23, 6-18-2012)

**Sec. 36-194. Permit duration and fee.**

(a) All permits will be issued for a term of one year, subject to amendment or revocation as provided in these rules and regulations.

(b) Initial permits and renewal fees shall be set by FPUA service charge resolution.

(c) All fees, surcharges, penalties and any other costs are addressed in FPUA service charge resolution.

(Code 1983, § 20-179; Ord. No. L-257, § 24, 6-18-2012)

**Sec. 36-195. Limitations on permit transfer.**

Wastewater discharge permits are issued to a specific industrial customer for a specific operation and are not assignable to another industrial customer or transferable to any other location without the prior written approval of the director. Sale of the source company shall obligate the purchaser to seek a new permit prior to discharge to the FPUA wastewater system.

PROOFS

(Code 1983, § 20-180; Ord. No. L-257, § 24, 6-18-2012)

**Sec. 36-196. Regulations of waste received from other jurisdictions.**

(a) If another municipality, or industrial user located within another jurisdiction, contributes wastewater to the FPUA wastewater system, the director shall enter into a multi-jurisdictional agreement with the contributing jurisdiction.

(b) Prior to entering into an agreement required by subsection (a) of this section, the director shall request the following information from the contributing jurisdiction:

(1) A description of the quality and volume of wastewater to be discharged to the FPUA wastewater system by the contributing jurisdiction.

(2) An inventory of all industrial users located within the contributing jurisdiction proposing to discharge to the FPUA wastewater system.

(3) Such other information as the director may deem necessary.

(4) A multi-jurisdictional agreement, as required by subsection (a) of this section shall contain the following conditions:

a. A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this division, and local limits, including required baseline monitoring reports (BMR) which is at least as stringent as those set out in section 36-119. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this division or local limits;

b. A requirement for the contributing jurisdiction to submit a revised industrial user inventory on at least an annual basis;

c. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by FPUA; and which of these activities will be conducted jointly by the contributing jurisdiction and FPUA;

d. A requirement for the contributing jurisdiction to provide the director with access to all information that the contributing jurisdiction obtains as part of its pretreatment activities;

e. Limits on the nature, quality, and volume of the contributing jurisdiction's wastewater at the point where it discharges to the FPUA's wastewater system;

f. Requirements for monitoring the contributing jurisdiction's discharge;

g. A provision ensuring FPUA access to the facilities of industrial users located within the contributing jurisdiction's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and

h. A provision specifying remedies available for breach of the terms of the multi-jurisdictional agreement.

(Code 1983, § 20-180.5; Ord. No. L-257, § 5, 6-18-2012)

**Sec. 36-197. Sampling requirements for industrial customer self-monitoring.**

(a) All samples collected by industrial customers (or sampling organization representatives) for the purpose of completing an application for wastewater discharge permit or periodic compliance status reports shall be 24-hour flow proportioned composite samples, except as indicated in subsections (e) and (f) of this section. Samples shall be collected over the period of regulated discharge if less than 24 hours.

(b) In situations where an industrial customer's monitoring facilities have not yet been upgraded to allow the obtaining of a 24-hour flow proportioned composite sample, time proportional composite sampling or grab sampling will be acceptable provided it is collected only during the period when processed wastewater will be present in the wastestream being sampled to ensure that samples are representative of the discharge. The director may allow the use of either time-proportional composite samples or grab samples in situations where these sampling techniques

PROOFS

will result in the obtaining of representative samples. Use of sampling techniques other than 24-hour flow proportioned composite samples must have prior written approval by the director.

(c) Sampling activities shall be performed according to procedures specified in the Florida Department of Environmental Protection "Standard Operating Procedures for Field Activities," DEP-SOP-001/01, which are hereby adopted and incorporated by reference. And, using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate.

(d) Grab samples may be required to show compliance with instantaneous limits.

(e) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(f) For sampling required in support of baseline monitoring and 90-day compliance reports required in sections 36-119 and 36-221, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by section 36-222 (40 CFR 403.12(e) and 403.12(h)), the industrial user is required to collect the number of grab samples necessary to assess and ensure compliance with applicable pretreatment standards and requirements, as determined by the director.

(g) If a sampling procedure is not available or none of the approved procedures are appropriate for collecting the samples, the sampling organization, with the approval of the industrial customer and FPUA, shall identify and propose a method for use in accordance with F.A.C. 62-160.220.

(Code 1983, § 20-181; Ord. No. L-257, § 26, 6-18-2012)

**Sec. 36-198. Sample analysis requirements.**

All sampling and analysis for the purposes of satisfying the requirements of these rules and regulations shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the analyte in question (e.g., insufficient sensitivity), the laboratory, with the approval of the industrial customer and FPUA, shall identify and propose a method for use in accordance with F.A.C. 62-160.300 and 62-160.330.

(Code 1983, § 20-182; Ord. No. L-257, § 27, 6-18-2012)

**Secs. 36-199--36-219. Reserved.**

PROOFS

## DIVISION 4. REPORTING REQUIREMENTS

It appears to be missing a section number.

### *Subdivision I. In General*

(a) All categorical industrial customers shall prepare an application for wastewater discharge permit with a baseline monitoring report (BMR) and submit it to FPUA prior to discharging wastewater to the FPUA wastewater system. At FPUA's discretion, non-categorical significant industrial customers may be required to submit an application for wastewater discharge permit. Based on this report, FPUA will decide whether a wastewater discharge permit will be required for the customer's facility. FPUA's application for wastewater discharge permit contains all information required by the BMR, as defined by EPA, and for the purposes of these rules and regulations, the two report terms are considered synonymous with each other. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a), whichever is later, existing categorical industrial customers currently discharging to, or, scheduled to discharge to the FPUA wastewater system shall submit to the director a report which contains the information listed in subsection (b) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical industrial customers subsequent to the promulgation of an applicable

categorical standard, shall submit to the director a report which contains the information listed in subsection (b) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) *Identifying information.* Industrial customers described in subsection (a) of this section shall submit the following information ~~set forth below~~:

(1) *Name and address.* The name and address of the facility, including the name of the operation and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such industrial customer. This description should include a schematic process diagram, which indicates points of discharge to the FPUA wastewater system from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the FPUA wastewater system from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.* The categorical pretreatment standards applicable to each regulated process, and the results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentration, or mass, where require, shall be reported.

(6) *Sampling.* The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 36-198 of these rules and regulations. Sampling must be performed in accordance with procedures set out in section 36-197.

(7) *Certification.* A statement, reviewed by the industrial customer's authorized representative and certified by a qualified professional Engineer, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(8) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial customer can provide such modifications is required. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 36-220.

(9) *Signature and certification.* All baseline-monitoring reports must be signed and certified in accordance with section 36-190.

(Code 1983, § 20-203; Ord. No. L-257, § 28, 6-18-2012)

**Sec. 36-220. Compliance schedule progress reports.**

The following conditions shall apply to the compliance schedule required by section 36-119(b)(7).

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial customer to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(2) No increment referred to above shall exceed nine months.

(3) The industrial customer shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the industrial customer to return to the established schedule.

PROOFS

(4) In no event shall more than nine months lapse between such progress reports to the director.

(Code 1983, § 20-204; Ord. No. L-257, § 28, 6-18-2012)

**Sec. 36-221. Reports on compliance with categorical pretreatment standard deadline.**

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the FPUA wastewater system, any industrial customer subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in section 36-119(b)(4) through (6). For industrial customers subject to equivalent mass or concentration limits, this report shall contain a reasonable measure of the industrial customer's long-term production rate. For all other industrial customers subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial customer's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 36-190.

(Code 1983, § 20-205; Ord. No. L-257, § 28, 6-18-2012)

**Sec. 36-222. Periodic compliance status reports.**

(a) All significant industrial customers shall, at a frequency determined by the director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the director, or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with section 36-190(b).

(b) All wastewater samples must be representative of the industrial customer's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial customer to keep its monitoring facility in good working order shall not be grounds for the industrial customer to claim that sample results are unrepresentative of its discharge.

(c) If an industrial customer subject to the reporting requirement in this section monitors any regulated pollutant more frequently than required by the director using the procedures prescribed in section 36-197, the results of this monitoring shall be included in the report.

(Code 1983, § 20-206; Ord. No. L-257, § 29, 6-18-2012)

**Sec. 36-223. Reports of changed conditions.**

Each industrial customer must notify the director of any planned significant changes to the industrial customer's operations or system that might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

(1) The director may require the industrial customer to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an application for wastewater discharge permit under section 36-190.

(2) The director may issue a wastewater discharge permit under section 36-190(c) or modify an existing wastewater discharge permit under section 36-193 in response to changed conditions or anticipated changed conditions.

(Code 1983, § 20-207; Ord. No. L-257, § 30, 6-18-2012)

**Sec. 36-224. Reports of potential problems.**

(a) Each customer shall provide protection from the accidental discharge of prohibited or regulated materials or substances established by these rules and regulations. Where necessary, facilities to prevent the accidental discharge of prohibited materials shall be provided and maintained at the customer's expense. customers shall notify the FPUA immediately upon the occurrence of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the WRF. This notification shall include location of discharge, date and time

PROOFS

thereof, type of waste, concentration and volume, and corrective actions taken. In addition, the customer shall immediately notify the Florida Department of Environmental Protection (FDEP) of the accidental spill or discharge.

(b) Within five days following such discharge, the customer shall submit to FPUA a detailed written report describing the cause of the discharge and measures to be taken by the customer to prevent similar future occurrences.

(c) Such written notification shall not relieve the customer of any expense, loss, damage or other liability that may be incurred as a result of damage to the FPUA wastewater system, natural resources, or any other damage to person or property; nor shall such notification relieve the customer of any fines, civil penalties or other liabilities that may be imposed by these rules and regulations or any other applicable laws.

(d) The report required in subsection (b) of this section shall be signed by the authorized representative of the industrial customer.

(e) Each customer shall develop internal emergency notification procedures to ensure FPUA will be notified immediately upon the determination by the customer that a discharge described in subsection (a) of this section has taken place. A notice shall be permanently posted on the customer's bulletin board or other prominent place advising employees who to call in the event of such a discharge. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(f) SIUs are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

(Code 1983, § 20-207.5; Ord. No. L-257, § 31, 6-18-2012)

**Sec. 36-225. Notification of the discharge of hazardous wastes.**

(a) Any industrial customer who commences the discharge of hazardous waste shall notify FPUA, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the FPUA wastewater system of a substance which, if otherwise disposed of would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial customer discharges more than 100 kilograms of such waste per calendar month to the FPUA wastewater system, the notification also shall contain the following information to the extent such information is known and readily available to the industrial customer; an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place within 180 calendar days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under section 36-223. This requirement does not apply to pollutants already reported under the self-monitoring requirements of sections ~~20-201,~~ 36-221~~,~~ and 36-222.

(b) Discharges industrial customers are exempt from the requirements of subsection (a) of this section, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial customer discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance of a hazardous waste, the industrial customer must notify the director, the EPA regional waste management waste division director, and FDEP hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the customer shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by these rules and regulations, a permit issued there under, or any applicable federal or state law.

PROOFS

(Code 1983, § 20-208; Ord. No. L-257, § 32, 6-18-2012)

**Sec. 36-226. Reports from unpermitted industrial customers.**

All industrial customers not required to obtain an industrial wastewater discharge permit shall provide appropriate reports to the director as the director may require.

(Code 1983, § 20-209; Ord. No. L-257, § 32, 6-18-2012)

**Sec. 36-227. Timing of report delivery.**

Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Code 1983, § 20-210; Ord. No. L-257, § 32, 6-18-2012)

**Sec. 36-228. Repeat sampling and reporting.**

If sampling performed by an industrial customer indicates a violation, the industrial customer must notify the director within 24 hours of becoming aware of the violation. The industrial customer shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. The industrial customer is not required to resample if FPUA monitors at the industrial customer's facility at least once a month, or if FPUA samples between the industrial customer's initial sampling and when the industrial customer receives the results of this sampling, or if FPUA has performed the sampling and analysis in lieu of the industrial customer.

(Code 1983, § 20-211; Ord. No. L-257, § 33, 6-18-2012)

**Sec. 36-229. Confidential information.**

Information and data on an industrial customer obtained from reports, surveys, and an application for wastewater discharge permits. Industrial wastewater discharge permits, and monitoring programs, and from the FPUA's inspection and sampling activities, shall be available to the public without restriction, unless the industrial customer specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the industrial customer furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Code 1983, § 20-212; Ord. No. L-257, § 33, 6-18-2012)

**Sec. 36-230. Reports from grease haulers.**

Grease haulers performing pump out or cleaning services for FPUA customers on customer facility grease interceptors, grease traps, lint traps, oil/water separators or sand separators shall, generate and report within 48 hours of pump out and submit to the FPUA pretreatment coordinator a copy of each completed waste manifest. (Blank FPUA waste manifest forms are available at www.FPUA.com.) Acceptable means of waste manifest submittal shall be facsimile or scanned copy electronically mailed. Contact information for the FPUA pretreatment coordinator is provided on FPUA's web page.

(Code 1983, § 20-212.5; Ord. No. L-257, § 34, 6-18-2012)

PROOFS

**Secs. 36-231--36-253. Reserved.**

*Subdivision II. Enforcement and Penalties*

**Sec. 36-254. Emergency suspension of service and permit.**

(a) The director, without notice, may authorize the physical disconnection of the wastewater service and/or cancel the wastewater discharge permit of an industrial customer by special order when it appears to the director that an unusual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interfere with the operation of FPUA wastewater system, or cause FPUA to violate any condition of its NPDES or FDEP discharge permits.

(b) Any industrial customer notified of the discontinuance of wastewater service shall, within a reasonable period of time as determined by the director, cease all discharges.

(c) Any industrial customer notified of the discontinuance of the industrial customer's wastewater discharge permit shall, within a reasonable period of time as determined by the director, cease all discharges regulated under these rules and regulations.

(d) In the event of failure of the industrial customer to comply voluntarily with the discontinuance order within the specified time, FPUA may commence judicial proceedings, immediately thereafter to compel the industrial customer's compliance with such order.

(e) The director may reinstate the wastewater discharge permit or the wastewater service and terminate pending judicial proceedings upon proof by the industrial customer of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger.

(Code 1983, § 20-233; Ord. No. L-257, § 34, 6-18-2012)

**Sec. 36-255. Revocation of permit.**

(a) The FPUA may revoke the wastewater discharge permit of any industrial customer for any of the following reasons:

(1) Failure to fully report the wastewater constituents and characteristics of the industrial customer's discharge.

(2) Failure to report significant changes in wastewater constituents or characteristics.

(3) Failure to reapply for a wastewater discharge permit within the time period specified.

(4) Refusing reasonable access to the industrial customer's premises by representatives of the FPUA for the purpose of inspection or monitoring.

(5) Violating the conditions of a wastewater discharge permit or these rules and regulations or any final judicial order with respect thereto.

(6) Failure to pay monthly bills for water and/or wastewater services when due.

(b) Any industrial customer whose wastewater discharge permit has been revoked shall, within a reasonable period of time as determined by the director, cease all discharges regulated under these rules and regulations.

(c) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 36-256 why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Code 1983, § 20-234; Ord. No. L-257, § 35, 6-18-2012)

**Sec. 36-256. Notice of violation.**

Except as provided in section 36-254, whenever the director finds that any industrial customer has violated or is violating these rules and regulations, its individual wastewater discharge permit, or any order issued hereunder, or any other pretreatment standard, prohibition, limitation, or requirement contained herein, the director may issue a written notification of violation. The notification of violation will be delivered personally or by registered mail, return receipt requested, and will state the nature of the alleged violation. Any industrial customer receiving a

PROOFS

written notification of violation shall respond to the allegations contained therein within 45 calendar days. In addition to explaining the violation, the industrial customer shall submit a plan including specific required actions for the satisfactory correction and prevention of future violations. Submission of such a plan in no way relieves the customer of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Code 1983, § 20-235; Ord. No. L-257, § 36, 6-18-2012)

**Sec. 36-257. Notice to correct.**

(a) The director may issue a notice of violation for any deficiencies observed by FPUA inspectors during interceptor, grease interceptor or grease trap inspections to customers operating facilities that require the use of such devices. Notice of violation may be issued to customers for substandard conditions, including, but not limited to:

(1) Failure to properly maintain the interceptor, grease interceptor or trap in accordance with the provisions contained herein.

(2) Failure to report changes in operations, or wastewater constituents and characteristics.

(3) Failure to report pumping activities or keep copies of pump out manifest reports or receipts.

(4) Failure to maintain logs, files, records or access for inspection or monitoring activities.

(5) Any other inconsistency with the interceptor, grease interceptor or grease trap in question.

(b) Any deficiencies observed by FPUA inspectors during an inspection of an interceptor, grease interceptor or grease trap will be noted in a written notice to correct document. A copy will be provided to the customer giving notification that a tentative date for a first re-inspection will be conducted within 21 calendar days of the notice to correct document.

(Code 1983, § 20-235.5; Ord. No. L-257, § 37, 6-18-2012)

**Sec. 36-258. Compliance orders.**

(a) *Consent orders.* The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any industrial customer responsible for noncompliance. Such documents shall include specific action to be taken by the customer to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to section 36-257 and shall be judicially enforceable.

(b) *Show cause hearing.* The director may order a user which has violated, or continues to violate, any provision of this division, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the industrial customer specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the customer show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the customer, as defined in article. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

(c) *Compliance orders.* When the director finds that an industrial customer has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the customer responsible for the discharge directing that the customer come into compliance within a specified time. If the industrial customer does not come into compliance within the time provided, wastewater service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the FPUA wastewater system. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the customer of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for taking any other action against the customer.

PROOFS

(d) *Cease and desist orders.* When the director finds that an industrial customer has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the customer's past violations are likely to recur, the director may issue an order to the customer directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Code 1983, § 20-236; Ord. No. L-257, § 38, 6-18-2012)

**Sec. 36-259. Injunctive relief.**

When the director finds that an industrial customer has violated, or continues to violate, any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition a court of competent jurisdiction through the FPUA's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the industrial customer. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the industrial customer to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an industrial customer.

(Code 1983, § 20-237; Ord. No. L-257, § 39, 6-18-2012)

**Sec. 36-260. Annual publication of significant violators.**

A list of all industrial customers that have been in significant noncompliance with applicable pretreatment standards and requirements during the 12 previous months will be annually published by FPUA in newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the FPUA wastewater system. The term "significant noncompliance" shall be applicable to all significant industrial customers or any other industrial customer if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 36-120;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined in section 36-120 multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS. Total oil and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a pretreatment standard or requirement as defined by subdivision I of this division (daily maximum, long term average, instantaneous limit, or narrative limit) that the director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of FPUA personnel or the general public).

(4) Any discharge that has resulted in FPUA exercising of its emergency authority under F.A.C. 62-625.500(2)(a)5.b to halt or prevent such a discharge.

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide, within 45 days after the due date, required reports such as BMRs, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations which may include a violation of BMPs, which FPUA

PROOFS

determines will adversely affect the operation or implementation of the pretreatment program.

(Code 1983, § 20-238; Ord. No. L-257, § 40, 6-18-2012)

**Sec. 36-261. Right to administrative ruling.**

As long as no notice of violation has been issued, any affected industrial customer or any person who would be affected, shall have the right to request, in writing, an interpretation by FPUA of any matter covered by these rules and regulations and shall be entitled to a prompt written reply.

(Code 1983, § 20-239; Ord. No. L-257, § 40, 6-18-2012)

**Sec. 36-262. Operating upsets.**

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial customer. The term "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. Any industrial customer that experiences an upset in operations that places the industrial customer in a temporary state of noncompliance with these rules and regulations or an industrial wastewater discharge permit issued pursuant hereto, shall inform FPUA thereof within 24 hours of first awareness of the commencement of the upset. The industrial customer shall also repeat the sampling and analysis and submit the results of the repeat analysis to the FPUA within 30 calendar days after becoming aware of the violation.

(b) Where such information is given orally, a written follow-up report shall be filed by the industrial customer with FPUA within five calendar days providing the following information:

(1) Description of the upset, the cause thereof, and the upset's impact on a customer's compliance status.

(2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur.

(3) All steps taken or to be taken to reduce, eliminate, and prevent reoccurrence of such an upset or other conditions of noncompliance.

(c) A documented and verified bona fide operating upset for which a written report was timely filed containing the matters required in subsection (b) of this section shall be an affirmative defense to any enforcement action brought by FPUA against an industrial customer for any noncompliance with these rules and regulations or any wastewater discharge permit issued pursuant hereto, which arises out of violations alleged to have occurred during the period of the upset. (The affirmative defense provision outlined herein will not apply to the specific prohibitions in section 36-147.)

(d) All written reports shall be signed by the authorized representative of the industrial customer.

(Code 1983, § 20-240; Ord. No. L-257, § 41, 6-18-2012)

**Secs. 36-263--36-287. Reserved.**

DIVISION 5. MISCELLANEOUS REQUIREMENTS

**Sec. 36-288. Records retention.**

(a) Except as provided in subsection (b) of this section, all industrial customers subject to these rules and regulations shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these rules and regulations, any additional records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof or other such information pursuant to monitoring, sampling, and chemical analyses made by or on behalf of a customer independent of such requirements, and, documentation associated with best management practices established under section 36-191(b)(3). Records shall include the date, exact place, method, and time of sampling, and the name of the persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years.

(b) Interceptor, grease interceptor and grease trap records. Customers or facility operators shall maintain

PROOFS

records of the date and time of all cleaning and maintenance of each grease interceptor, grease trap, lint trap, oil/water separator or sand separator. Records to be maintained include: pump out, maintenance and repair invoices, hauler generated waste manifests, manufacturer's written protocol concerning grease trap cleaning and maintenance procedures. All such records shall be made available to FPUA inspectors upon request.

(c) Each food service facility shall also maintain a file on site which contains the following information:

(1) The (as-built) drawings of the plumbing system.

(2) Records of inspections.

(3) Receipts.

(4) Log of pumping activities.

(5) Log of maintenance activities.

(6) Hauler information.

(7) Disposal information.

(8) Monitoring data.

The file shall be available at all times for inspection and review by the GMP official.

(d) All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by FPUA shall be retained and preserved by the industrial customer until either all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired, or the customer has been given a longer retention period by the director.

(Code 1983, § 20-241; Ord. No. L-257, § 42, 6-18-2012)

**Sec. 36-289. Administrative penalties.**

(a) When the director finds that any customer, person, firm or corporation has violated, or continues to violate, any provision of these rules and regulations an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may assess administrative penalties against such customer, person, firm or corporation in an amount not to exceed $1,000.00 for each violation, for each day. Each day the violation is continued is considered to be a new violation. In the case of monthly or other long-term discharge violations, penalties shall be assessed for each day during the period of violation.

(b) Unpaid administrative charges, fines, and penalties may result in an interruption of service to the customer, person, firm or corporation until such time as the charges, fines, and penalties are paid.

(c) Any customer, person, firm or corporation desiring to dispute administrative penalties must file a written request for the director to reconsider the penalties along with full payment of the penalties amount within 30 days of being notified that penalties have been assessed. Where a request has merit, the director may convene a hearing on the matter. In the event the appeal is successful, the payment shall be returned to the customer, person, firm or corporation in the form of a check or account credit. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalties amount.

(d) Issuance of administrative penalties shall not bar against, or become a prerequisite for, taking any other action against the customer, person, firm or corporation.

(Code 1983, § 20-242; Ord. No. L-257, § 43, 6-18-2012; Ord. No. L-296, § 6, 9-3-2013)

**Sec. 36-290. Civil penalties.**

(a) Any customer, person, firm or corporation who has violated, or continues to violate, any provision of this division, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to FPUA for a civil penalty of not less than $1,000.00 per violation, per day. In the case of a monthly or other long-term discharge violations, penalties shall accrue for each day during the period of the violation.

(b) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation,

PROOFS

any economic benefit gained by the customer, person, firm, or corporation's violation, corrective actions by the customer, person, firm or corporation, the compliance history of the customer, person, firm, or corporation, and any other factor as justice requires.

(c) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against the customer, person, firm or corporation.

(Code 1983, § 20-242.5; Ord. No. L-257, § 44, 6-18-2012)

**Sec. 36-291. Recovery of costs incurred by FPUA.**

(a) Any industrial customer violating any of the provisions of these rules and regulations, or who discharges or causes a discharge producing an obstruction or a violation of FPUA, FDEP, or NPDES discharge permits, or who causes damage to or impairs the FPUA wastewater system shall be liable to FPUA for any expense, loss, or damage caused by such violation or discharge.

(b) FPUA may recover reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including sampling, monitoring expenses, the cost of any actual damages incurred by FPUA, and the cost of annual publication of significant violators.

(c) FPUA will bill the industrial customer for the costs incurred by FPUA for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of these rules and regulations enforceable under this article and subject the industrial customer to discontinuance of service.

(Code 1983, § 20-243; Ord. No. L-257, § 45, 6-18-2012)

**Sec. 36-292. Criminal prosecution.**

(a) Any industrial customer who willingly or negligently violates any provision of these rules and regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be, upon conviction, ~~punishable as provided for under F.S. § 403.161, and Florida Administrative Code Section 62-625.500, for each act of violation, for each day of violation.~~ punished as provided in section ~~1-5.~~

(b) Any industrial customer who willfully or negligently introduces any substance into the FPUA wastewater system that causes personal injury or property damage shall, upon conviction, be~~ subject to a penalty or imprisonment, or both~~ guilty of an offense. The penalty shall be in addition to any other cause of action for personal injury or property damage available under state or federal law.

(c) Any person who knowingly makes any false statement or certification in any application, records, report, plan, or other document filed or required to be maintained pursuant to these rules and regulations, or wastewater discharge permit, or order issued, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these rules and regulations,~~ may be punished under the criminal laws of Florida and shall, upon conviction, be punished by a fine of not less than one thousand dollars ($1,000.00) per day, per violation~~ shall be guilty of an offense.

(d) Remedies nonexclusive. The remedies provided for in this article are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant customer, person, firm or corporation. Enforcement of pretreatment violations will generally be in accordance with FPUA's enforcement response plan. However, the director may take other action against any customer, person, firm or corporation when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant customer, person, firm or corporation.

(Code 1983, § 20-244; Ord. No. L-257, § 46, 6-18-2012)

**Sec. 36-293. Property damage.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, delete or tamper with any structure, appurtenance, or equipment that is a part of the FPUA wastewater system. Any person violating this provision shall be punished in accordance with applicable law.

(Code 1983, § 20-245; Ord. No. L-257, § 47, 6-18-2012)

PROOFS

**Sec. 36-294. Sanctions.**

In addition to sanctions provided for by these rules and regulations, the FPUA is entitled to exercise sanctions provided for by the other resolutions of the FPUA for failure to pay the bill for water and/or wastewater service when due.

(Code 1983, § 20-246; Ord. No. L-257, § 47, 6-18-2012)

~~**Sec. 20-246.5. Validity.**~~

~~All resolutions or parts of resolutions in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of these rules and regulations shall not affect the validity of any other part of these rules and regulations that can be given effect without such invalid part or parts.~~

~~(Code 1983, § 20-246.5; Ord. No. L-257, § 48, 6-18-2012)~~

**Sec. 36-295. Affirmative defenses to discharge violations.**

(a) An industrial customer shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 36-147 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the industrial customer was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the industrial customer's prior discharge when the FPUA was regularly in compliance with its discharge permits, and in the case of interference, was in compliance with applicable domestic wastewater residuals use or disposal requirements.

(b) An industrial customer may allow any bypass to occur which:

(1) Does not cause pretreatment standards or requirements to be violated and is for essential maintenance to ensure efficient operation;

(2) Was unavoidable to prevent loss of life, personal injury, or severe property damage; or

(3) Was unavoidable because there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. All such bypasses shall be reported to FPUA.

(Code 1983, § 20-247; Ord. No. L-257, § 48, 6-18-2012)

**Secs. 36-296--36-323. Reserved.**

## ARTICLE VI. STORMWATER MANAGEMENT SYSTEM

### DIVISION 1. GENERALLY

**Secs. 36-324--36-349. Reserved.**

### DIVISION 2. STORMWATER MANAGEMENT UTILITY*

***State law reference**—Stormwater management utility, F.S. § 403.0893.

**Sec. 36-350. Definitions.**

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

*City* means the city government, including staff and elected officials.

*Developed property* means real property within the city on which improvements have been made to foster residential or nonresidential use.

*Equivalent residential unit* or *ERU* means the representative average impervious area of a single-family

PROOFS

residential property located in the city.

*Impervious area* means any part of any parcel of land that has been modified by the action of a person or persons to reduce the land's natural ability to absorb and hold rainfall. The term "impervious area" includes areas that have been cleared, graded, paved, graveled, or compacted, or covered with structures. The term "impervious area" excludes all lawns, landscape areas, and gardens or farming areas.

*Manager* means the city manager or his designee.

*Multifamily property* means all residential development not classified as single-family residential.

*Nonresidential property* means all property not zoned or used as single or multifamily residential property as defined in this article.

*Single-family property* means all single-family detached residential dwelling structures. All other residential development shall be classified as multifamily.

*SMU director* means the city engineering director who shall be responsible for implementing SMU functions.

*Stormwater* means that part of precipitation that travels over natural, altered, or improved surfaces to the nearest stream or channel or impoundment and may appear in surface waters.

*Stormwater management plan* means an approved plan for receiving, handling, and transporting storm and surface waters within the city stormwater management system.

*Stormwater management system* means all natural and manmade elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable outlet location internal or external to the boundaries of the city. The term "stormwater management system" includes all publicly owned pipes, channels, streams, ditches, wetlands, sinkholes, detention/retention basins, ponds and other stormwater conveyance and treatment facilities.

*Undeveloped property* means all real property within the city which does not meet the definition of the term "developed property."

(Code 1983, § 20-72; Ord. No. K-390, § 3, 11-7-2005)

**Sec. 36-351. Purpose.**

It is the purpose and intent of the city to establish stormwater management as a utility function pursuant to F.S. § 403.0893, as amended from time to time, all within the scope of what is permissible as provided by Florida's Surface Water Improvement and Management Act (F.S. § 373.451 et seq.), and the city's stormwater management program as incorporated as an element in the comprehensive plan of the city, and to establish utility fees for stormwater management services to be levied against all property in the city in proportion to the city's contribution to the stormwater runoff as determined by the impervious surface of developed property and the runoff ratio for the future use of undeveloped property, or according to such other formula as may be imposed by the SMU director as a fair and reasonable equivalent under F.S. § 403.0893(3) when the hydrological characteristics of property do not permit application of the formula otherwise provided in section 36-354.

(Code 1983, § 20-71; Ord. No. K-390, § 3, 11-7-2005; Ord. N. L-302, § 2, 11-4-2013)

**Sec. 36-352. Utility established.**

There is hereby created and established a stormwater management utility (SMU) program, which shall provide the operational means of implementing and carrying out the functional requirements of the stormwater management system.

(Code 1983, § 20-73; Ord. No. K-390, § 3, 11-7-2005)

**Sec. 36-353. Customer base.**

All real property within the jurisdictional boundaries of the city shall be subject to SMU fees unless specifically exempted. The fees shall apply to all tax-exempt properties, including properties of federal, state, city and county agencies and nonprofit organizations.

(Code 1983, § 20-74; Ord. No. K-390, § 3, 11-7-2005)

PROOFS

**Sec. 36-354. Stormwater management utility fee categories.**

(a) *Single-family property.* Each single-family property shall be considered 1.0 ERU for billing purposes.

(b) *Multifamily.* Each living unit of a multifamily residential dwelling shall be considered 0.60 percent ERUs for billing purposes.

(c) *Nonresidential property.* The ERU's nonresidential property shall be calculated in accordance with the following formula:

The total impervious area on the property (square feet).

Number of ERU's = _____.

The value of one ERU.

The value of one ERU is hereby determined to be 2,186 square feet of impervious area.

(d) *Undeveloped property.* The ERU's for undeveloped property shall be calculated in accordance with the following formulas:

Single-family — Acres × (units/acre) × 1 × 0.38 percent.

Multifamily — Acres × (units/acre) × 0.60 percent × 0.27 percent.

Nonresidential — ((Acres × 43,560 × 0.65 percent)/2,186) × 0.21 percent.

The category for undeveloped property shall be determined using the city's land use map and the definitions established by this Code.

(e) *SMU fee.* The SMU fee shall be calculated for each property in accordance with the following formula:

SMU fee = Number of ERUs × SMU fee per ERU.

But where the aforesaid formula cannot fairly and reasonably be applied to a particular property because of the property's hydrological characteristics, the SMU director may, in such director's discretion, impose another formula consistent with F.S. § 403.0893(3) so as to establish a reasonable relationship to the benefits received as being within the stated purpose and scope of this section.

(Code 1983, § 20-75; Ord. No. K-390, § 3, 11-7-2005; Ord. No. L-302, § 3, 11-4-2013)

**Sec. 36-355. Fee schedule.**

The stormwater management utility fee per ERU shall be established by a resolution that is separate from this article.

(Code 1983, § 20-76; Ord. No. K-390, § 3, 11-7-2005)

**Sec. 36-356. Exemptions.**

The following real property located in the city shall be exempt from the imposition of SMU fees:

(1) Public roads and rights-of-way.

(2) Submerged land;

(3) Properties used exclusively for stormwater retention.

(Code 1983, § 20-77; Ord. No. K-390, § 3, 11-7-2005; Ord. No. L-302, § 4, 11-4-2013)

**Sec. 36-357. Enterprise funds.**

(a) An SMU enterprise fund ("fund") into which all revenues from SMU fees, miscellaneous charges, grants, or other sources shall be deposited and from which all expenditures related to the SMU shall be paid, is hereby established.

(b) Accounting and reporting procedures shall be consistent with Florida General Law. Expenditures from the fund for activities that are not related to the city SMU shall not be permitted, except for a prorated charge for general government services as is in effect for other city operations.

(Code 1983, § 20-78; Ord. No. K-390, § 3, 11-7-2005)

PROOFS

**Sec. 36-358. Request for adjustment.**

In the event a property owner believes that a stormwater fee assessed according to the formula imposed by section 36-354 does not present a reasonable relationship to the benefits received by the property, the property owner may submit a request for adjustment of the stormwater utility fee in writing to the SMU director within one year of the effective date of that year's assessment, and such request shall be reviewed as follows:

(1) The request shall set forth in detail the grounds upon which an adjustment is sought, and explain why the fee otherwise assessed does not present a reasonable relationship to the stormwater benefits received by the property.

(2) The written request for utility adjustment shall be presented on a form to be provided by the director. The property owner shall include in the petition a contact name and address, the property address, the subdivision name, a property sketch, the total amount of impervious area, the total lot or parcel size, the location and size of any onsite or offsite stormwater treatment facilities, a legal description of the real property affected, a summary description of the asserted basis for adjustment, information on all pertinent stormwater permits and the relief requested, and any other information deemed necessary by the director.

(3) The director shall determine whether the fee as calculated by the formula in section 36-354(e) bears a reasonable relationship to the benefits received by the property or the burden imposed. The director shall consider the customers' stormwater management practices, including, but not limited to, reduction in runoff volume, including discharge to a non-city drainage system and property design, constructed and maintained with onsite retention and treatment facilities. The director shall also base the adjustment decision on the approximate percentage of any significant variation in the volume, rate or quality of stormwater emanating from the property compared to similarly situated properties. In determining the similarity of properties, the director shall consider the location, geography, size, use, impervious area, onsite facilities, and any other factors bearing on the variation. The SMU director shall have discretion to adjust the fee to the extent the director determines that such adjustment is necessary so that the fee will bear a reasonable relationship to the benefits received by the property, when considered in light of the purposes served by imposition of the fee. If due to location or unique features, the property will not receive a reasonable benefit commensurate with the fee otherwise due, the director shall exempt the property accordingly.

(4) The director may require a petitioning customer, at the customer's expense, to provide supplemental information for the director, including, but not limited to, survey data approved by a registered professional land surveyor and engineering reports approved by a professional engineer. The director may deny a property owner's petition based on the failure to provide material information as specified in this section.

(5) Within 90 days after receipt of a completed petition from the property owner, the SMU director shall review such petition and render a written ruling on it, setting out the reasons, and shall provide a copy of the ruling to the property owner by regular mail.

(6) Notwithstanding the foregoing, a property owner who installs and maintains stormwater improvements may apply for an adjustment within six months of completing the improvement.

(Code 1983, § 20-79; Ord. No. K-390, § 3, 11-7-2005; Ord. No. L-302, § 5, 11-4-2013)

**Sec. 36-359. Appeal process.**

Any customer who disputes a ruling of the SMU director for adjustment pursuant to section 36-358 may petition in writing to the stormwater management fees and credits appeals board, in accordance with section 36-381 The petition shall be submitted to the SMU director who shall schedule a meeting of the board in accordance with section 36-380. Such petition for appeal shall state how or why the ruling of the SMU director is improper. All documents comprising the SMU director's record on the original request shall be made a part of the record of proceedings before the board and either or both of the director and customer may submit additional evidence in the manner provided for by the board's rules of procedure.

(Code 1983, § 20-80; Ord. No. K-390, § 3, 11-7-2005; Ord. No. L-302, § 6, 11-4-2013)

PROOFS

**Sec. 36-360. Enforcement and penalties.**

(a) SMU fees shall be payable at the same time and in the same manner and subject to the same penalties as established for real estate taxes. Nonpayment of any portion of the SMU fee shall be considered as nonpayment of any other charges appearing on the real estate tax notice.

(b) Any failure to keep on-site storm facilities properly maintained, as determined in accordance with section 119-8, shall result in loss of adjustment credits based upon such previously approved on-site storm facilities.

(Code 1983, § 20-81; Ord. No. K-390, § 3, 11-7-2005; Ord. No. L-302, § 7, 11-4-2013)

**Secs. 36-361--36-378. Reserved.**

DIVISION 3. STORMWATER MANAGEMENT FEES AND CREDITS APPEALS BOARD

**Sec. 36-379. Appointment; qualifications of members; terms.**

There shall be appointed by the city commission a stormwater management fees and credits appeals board ("board") consisting of three members and one alternate member, each of whom shall serve for a term of two years. At least one such member shall be certified in civil engineering or hydrological engineering. Any such certified member is not required to be a resident of the city, but the other members shall be residents of the city. Any member may be removed with or without cause by the city commission.

(Code 1983, § 2-360; Ord. No. L-302, § 1, 11-4-2013)

**Sec. 36-380. Meetings; records; custodian; absence of members.**

(a) The board shall meet within 45 days of the date appeal is made from a ruling of the SMU director as provided by section 36-358. All meetings of the board shall be public, shall be conducted as quasi-judicial proceedings, and complete records of its deliberations shall be kept. These records shall be available to the public. The SMU director shall appoint a secretary for the board, who shall not be a member of the board, and such secretary shall be custodian of the records of the board.

(b) Absence from three consecutive meetings of the board shall operate to vacate the seat of a member or alternate member unless such absence is excused by the board by resolution setting forth the fact of such excuse duly entered upon the minutes.

(Code 1983, § 2-361; Ord. No. L-302, § 1, 11-4-2013)

**Sec. 36-381. Powers and duties.**

The board shall have the following powers and duties:

(1) Appeals. To hear appeals of any decision of the SMU director pursuant to Code section 20-79, provided that such appeal is filed with the office of the SMU director within 30 days of the date the SMU director's ruling is mailed to the requesting party. The board shall consider whether the true intent and meaning of this article has been misconstrued or incorrectly interpreted by the SMU director, or whether any determination of fact by the director is unsupported by reasonable evidence. The record made by the SMU director, with the SMU director's order as appealed, containing ultimate findings of fact, is deemed to establish a prima facie case. The burden of moving forward with presentation of evidence before the board is therefore to be borne initially by the appealing party. But the SMU director shall nevertheless ultimately bear the burden of proving the correctness of the director's position by a preponderance of the evidence.

(2) Officers. Elect its own chair and vice-chair. The city attorney shall provide counsel to serve as a legal advisor.

(3) Rules and regulations. Adopt rules and regulations so as to provide for good order in the conduct of meetings, to facilitate presentation and receipt of evidence, and to provide due process to the appealing party, all such rules and regulations being consistent with the ordinances of the city and applicable state laws.

(4) The board shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision

PROOFS

of the board shall include the reasons for the decision. If a decision of the board reverses or modifies a ruling of the SMU director, the SMU director shall immediately take action in conformity with the board's decision. Every decision shall be promptly filed in writing in the office of the SMU director and shall be open to public inspection. A certified copy of the decision shall be sent by regular mail or otherwise to the appellant. Every decision of the board shall be final, subject to rehearing as provided in its rules of procedure, and such final decision shall be subject to judicial review in the manner provided for by law, and the property benefits from stormwater management services in a manner consistent with the several purposes of this article.

(Code 1983, § 2-362; Ord. No. L-302, § 1, 11-4-2013)

**Secs. 36-382--36-405. Reserved.**

## ARTICLE VII. NON-STORMWATER DISCHARGES TO STORM DRAINAGE SYSTEM

**Sec. 36-406. Definitions.**

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

*Authorized enforcement agent* means employees or designees of the ~~director of the City~~ city manager designated to enforce this article.

*Best management practices (BMPs)* mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent the discharge of pollutants directly or indirectly to stormwater receiving waters, or stormwater conveyance systems. The term "BMPs" also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Clean Water Act* mean the Federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.

*Construction activities* mean activities subject to NPDES construction permits. Effective immediately upon final passage and adoption of the ordinance from which this article is derived, an NPDES stormwater Phase II permit will be required for construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Hazardous materials* mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illegal discharge* means any direct or indirect non-stormwater discharge to the storm drainage system, except as exempted in section 36-414.

*Illicit connections* mean any structure, drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, waters of the state, waters of the United States., or any watercourses, including, but not limited to, any conveyances which allow any non-stormwater discharge regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agent or, any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agent.

*Industrial activities* mean activities subject to NPDES industrial permits as defined in 40 CFR 122.26 (b)(14).

*MS4 or municipal separate storm sewer system.* A publicly-owned conveyance or system of conveyance (i.e., ditches, curbs, catchbasins, and underground pipes) designed to discharge stormwater to surface waters of the state.

*National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit* means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

PROOFS

*Non-stormwater discharge* means any discharge that is not composed entirely of stormwater.

~~*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.~~

*Pollutant* means anything which causes or contributes to pollution. The term "pollutant" includes, but is not limited to paints, varnishes, and solvents; petroleum products; oil and other automotive fluids; contact cooling waters; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatable; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Premises* means any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

*Storm drainage system* means publicly- or privately-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and manmade or altered drainage channels, reservoirs, and other drainage structures.

*Stormwater* means that part of precipitation that travels over natural, altered, or improved surfaces to the nearest stream or channel or impoundment and may appear in surface waters.

*Stormwater pollution prevention plan* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

*Watercourse* means any flowing body of water.

*Waters of the state* means those waters and bodies of water defined by F.S. § 403.031(13).

*Waters of the United States* means those waters and bodies of waters of the United States, as defined by CFR title 40.

(Code 1983, § 17-91; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-407. Purpose.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of city through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable and as required by federal and state law. This article establishes methods for preventing the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

(1) To prevent the introduction of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

(Code 1983, § 17-90; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-408. Applicability.**

This article shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agent.

(Code 1983, § 17-92; Ord. No. L-06, § 1, 3-3-2008)

PROOFS

**Sec. 36-409. Responsibility for administration.**

The city shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agent may be delegated in writing by the ~~director of the authorized enforcement agent~~ city manager to persons or entities acting in the beneficial interest of or in the employ of the agent.

(Code 1983, § 17-93; Ord. No. L-06, § 1, 3-3-2008)

~~**Sec. 17-94. Severability.**~~

~~The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.~~

~~(Code 1983, § 17-94; Ord. No. L-06, § 1, 3-3-2008)~~

**Sec. 36-410. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Code 1983, § 17-95; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-411. Stormwater discharge prohibitions.**

(a) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged any non-stormwater discharges into a storm drain system, waters of the state, waters of the United States, or any watercourses except as described as follows:

(1) Potable water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wet-land flows, swimming pools if dechlorinated to less than one parts per million chlorine, and firefighting activities.

(2) Discharges approved in writing by the authorized enforcement agent or specified in writing by the authorized enforcement agent as being necessary to protect public health and safety.

(3) Dye testing approved in writing by the authorized enforcement agent prior to the time of the test.

(4) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the authorized enforcement agent for any discharge to the storm drainage system.

(b) *Prohibition of illicit connections.* The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited, including, but not limited to, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(Code 1983, § 17-96; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-412. Suspension of MS4 access.**

(a) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend MS4 or storm drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of people, or to the MS4, storm drainage system, waters of the state, or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agent may take such steps as deemed necessary to prevent or minimize damage to the MS4, storm drainage system, waters of the state, or waters of the United States or to minimize danger to persons.

PROOFS

(b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 or storm drainage system in violation of this article may have their MS4 or storm drainage system access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agent will notify a violator of the proposed termination of its MS4 or storm drainage system access. The violator may petition the authorized enforcement agent for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 or storm drainage system access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agent.

(Code 1983, § 17-97; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-413. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit shall be required in a form acceptable to the city prior to the allowing of discharges to the MS4 or storm drainage system.

(Code 1983, § 17-98; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-414. Monitoring of discharges; access to facilities.**

This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

~~Access to facilities.~~

(1) The city shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in use which require proper identification and clearance before entry onto the premises, the discharger shall make the necessary arrangements so as to allow access to representatives of the authorized enforcement agent.

(2) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and for the performance of any additional duties, as defined by state and federal law.

(3) The city shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agent to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to the safe and easy access of the facility to be inspected and/or sampled shall be promptly removed by the operator upon the written or oral request of the city and shall not be replaced. The cost of clearing such access hall be borne by the facility operator.

(6) Unreasonable delays in allowing the city access to a permitted facility is a violation of the stormwater discharge permit and of this article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agent reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

(7) If the city has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agent may seek issuance of a search warrant from any court of competent jurisdiction.

PROOFS

(Code 1983, § 17-99; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-415. Requirements to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

The city will adopt requirements identifying best management practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, waters of the state, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of non-stormwater discharges to the MS4, storm drainage system, waters of the state, waters or the United States, or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of non-stormwater discharges. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Code 1983, § 17-100; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-416. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Code 1983, § 17-101; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-417. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of non-stormwater discharges or any materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, waters of the state, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services and shall notify the authorized enforcement agent in person or by phone or facsimile. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Code 1983, § 17-102; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-418. Enforcement; notice of violation.**

(a) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this article, the city or authorized enforcement agent may order compliance by written notice of violation to the responsible person. Notice of which shall be made by mailing by registered or certified mail with return receipt request. Such notice may require without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(5) The payment of a fine to cover administrative and remediation costs; and

(6) The implementation of structural or non-structural BMPs for source control or treatment.

PROOFS

(b) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a licensed contractor at the sole expense of the violator.

(Code 1983, § 17-103; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-419. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the violation by a written request for a hearing. If the person charged with a violation of this article makes written request for a hearing within 15 days from the date of the notice of violation, such hearing will then be conducted all within the manner specified by chapter 1, article II, division 2. Failure to timely request such hearing will be deemed a waiver of the right to a hearing and acknowledgment of the violation as charged, whereupon the department may cause the nuisance to be abated. Any expense borne by the city not voluntarily reimbursed by the owner may be recovered against the owner in the manner provided for by law.

(Code 1983, § 17-104; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-420. Enforcement measures after appeal.**

If the violation has not been corrected within 60 days pursuant to the requirements set forth in the notice of violation or the decisions of the appeals hearing, then a representative of the authorized enforcement agent shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property at the sole expense of the violator ~~in accordance~~ . It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agent or designated contractor to enter upon the premises for the purposes set forth in this section.

(Code 1983, § 17-105; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-421. Abatement cost to be liens.**

Within 60 days after abatement of the violation, the owner of the property will be notified in writing from the city of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days of the date of the notification. If the amount due is not paid within a timely manner as determined by the decision of the city or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Code 1983, § 17-106; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-422. ~~Injunc~~tion relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement agent may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Code 1983, § 17-107; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-423. Compensation action.**

(a) In lieu of enforcement proceedings, penalties, and remedies authorized by this article, the authorized enforcement agent may impose upon violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(b) The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agent to seek cumulative remedies.

(Code 1983, § 17-108; Ord. No. L-06, § 1, 3-3-2008)

PROOFS

**Sec. 36-424. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties, provided that any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Code 1983, § 17-109; Ord. No. L-06, § 1, 3-3-2008)

**Sec. 36-425. General penalty; continuing violation.**

(a) Any person that has violated or continues to violate this article shall be liable to the fullest extent of the law and shall be subject to the penalties as specified by section 1-7.

(b) The city may recover all attorney fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

(Code 1983, § 17-110; Ord. No. L-06, § 1, 3-3-2008)

PROOFS

Chapter 37

**RESERVED**

PROOFS

Chapter 38

# WATERWAYS*

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

## ARTICLE I. IN GENERAL

### Sec. 38-1. Authority of city to regulate waterways.

The city shall have the right to regulate the use of all waterways within the city limits and the conduct of all persons using same, consistent with federal or state regulations. All ordinances of the city regulating the conduct of persons on land shall apply to persons using waterways, insofar as same are properly applicable.

(Code 1960, § 29-1; Code 1983, § 21-1)

### Sec. 38-2. Swimming only area established.

(a) A restricted area, not in the state intracoastal waterway, for the purpose of swimming only and particularly for the purpose of swimming by young children be and the same is hereby established within the area described in this section.

(b) No boats, motorcraft, sailboat, water ski, jet ski, catamaran, surfboard, wind surfboard, or any device which floats under or over the water which is propelled by wind, by paddling or by motor, shall be authorized or allowed to operate at any time within the area described herein, with the exception that emergency vehicles, including emergency boats and police or other law enforcement authority boats, might operate when necessary within such area to apprehend the violators or to patrol the waters, if necessary, or to rescue individuals, children or people who are swimming within the area or need to be rescued.

(c) The area designated as the restricted area is described as follows: An area lying on the western shore of Jaycee Beach Park located on Hutchinson Island in the city. This area is within the Indian River Lagoon, but is not within the Intracoastal Waterway. It is an area located at a point with latitude 27°27'10" and longitude 80°17'24" on the north and bounded on the south by a point located at latitude 27°27'09" and longitude 80°17'23" to the south. Such two points being 130 feet west of the high water line of the shore of the Jaycee Beach Park being 180 feet long.

(d) The penalties for the violation of this section are the same penalties as set out in F.S. § 327.73~~ 1989~~.

(Code 1983, § 21-2; Ord. No. I-395, §§ 1—4, 9-17-1990)

### Secs. 38-3--38-22. Reserved.

## ARTICLE II. CITY MARINA

### Sec. 38-23. Purposes.

The purposes of this article are to establish the territorial limits and confines of the city marina and the office of marina manager, and to establish his authority and duties and to govern the operation of the marina and the use of marina facilities, including the berthing and docking of vessels therein, for the end and purpose that the public may obtain the maximum enjoyment and utilization thereof in accordance with the purposes intended and that the facilities may be conserved, maintained and protected for the public good.

(Code 1960, § 29-20; Code 1983, § 21-16)

### Sec. 38-24. Area designated.

Those lands owned by the city, including those submerged lands held by the city under deeds from the trustees of the internal improvement fund described as follows, shall henceforth be known as the city marina:

PROOFS

Commencing at the intersection of the south right-of-way of Avenue A, extended east to the east right-of-way of North Indian River Drive, extended; thence northwesterly along the east right-of-way line of North Indian River Drive to the bulkhead on the north side of Moore's Creek, as relocated, thence northeasterly along the bulkhead line on the north side of Moore's Creek, as relocated, to the west bulkhead line of Indian River, thence southeasterly across Moore's Creek at its intersection with Indian River, approximately 108 feet, more or less, to a point, 36 feet, more or less, northwesterly of the corner formed by the intersection of the bulkhead on the south side of Moore's Creek, as relocated, in the bulkhead on the west side of Indian River; thence running north 71°07′ east, a distance of 562 feet, more or less; thence running south 17°16′ east a distance 1,480 feet, more or less; thence running southwesterly a distance of 700 feet, more or less, to a point along the bulkhead on the west side of Indian River, thence northeasterly along the existing bulkhead to the point of termination of the bulkhead; thence northwesterly to a point in the bulkhead line on the west side of Indian River; thence northeasterly along the existing bulkhead to the point of termination of the bulkhead; thence northwesterly a distance of 260 feet, more or less, to a point in the bulkhead line on the westerly side of Indian River extended southwesterly; thence running north 20°52′19″ west, a distance of 410 feet; thence running southwesterly along the south right-of-way line of Avenue A, extended to the bulkhead line on the west side of Indian River.

(Code 1960, § 29-21; Code 1983, § 21-17)

**Sec. 38-25. Marina manager—Position created; appointment.**

The position of marina manager is hereby created. The marina manager shall be appointed by the city manager in accordance with the rules and regulations of the city civil service for unclassified employees.

(Code 1960, § 29-22; Code 1983, § 21-18)

**Sec. 38-26. Marina manager—Duties, generally.**

(a) The marina manager shall have full power and authority to have charge of and represent the city as its agent for the purpose of executing any and all dockage agreements, permits, assignments, notices and other documents pertaining to the operation and maintenance of the city marina; to collect all dockage fees and charges, subject to the authority of the director of finance under section 91 of the Charter; to render an accounting therefor to the director of finance; to sell oil, gasoline and marine supplies and equipment to persons who own, operate or possess boats and watercraft in and about the city marina; to assign, transfer and reassign berths; to protect and take care of the property of the city situated within the city marina; and to appoint agents or delegate any duties to the employees of the city marina.

(b) The marina manager shall be vested with full power and authority, together with all constituted authorities of the city, to enforce the provisions of this article.

(c) The marina manager shall have the power to prescribe rules and regulations, not inconsistent with the Charter and ordinances of the city, subject to approval by the city manager, for the conduct of the employees of the city marina; the conduct of its affairs; the distribution of labor among its employees; and the assigning of berths, hours of operation and custody of the books, papers and property of the city marina.

(Code 1960, § 29-23; Code 1983, § 21-19)

**Sec. 38-27. Use of facilities as acceptance of rules and article.**

Any person who shall utilize any of the facilities of the city marina shall be subject to all of the provisions of this article and any and all rules and regulations adopted hereunder, including provisions establishing a lien in favor of the city. All persons owning, operating or exercising control over any watercraft within the city marina shall be subject to and governed by the rules and regulations.

(Code 1960, § 29-36; Code 1983, § 21-20)

**Sec. 38-28. Dockage fees; establishment; payment; posting.**

All fees for the rental of berths and slips shall be fixed by the city manager, subject to review at any time by the city commission. Payment thereof shall be made to the city through the marina manager. The currently prevailing rates of fees for the rental of slips and berths and related services shall be posted at, in or near the office

PROOFS

of the marina manager.

(Code 1960, § 29-24; Code 1983, § 21-21)

**Sec. 38-29. Incoming watercraft to report to marina manager.**

The master, owner or operator of any watercraft entering the city marina not having a berth assignment, except for watercraft entering for the sole purpose of the purchase of oil, gas and/or marine equipment and supplies, shall, immediately upon arrival, report such arrival to the office of the marina manager for the purpose of obtaining a berth or slip assignment.

(Code 1960, § 29-25; Code 1983, § 21-22)

**Sec. 38-30. Assignment of slips or berths.**

(a) All slips or berths shall be assigned, transferred or reassigned by the marina manager, or his delegate.

(b) No berth or slip shall be initially assigned to any watercraft unless the owner of said watercraft, or his agent, shall first enter into a dockage agreement with the city marina and fees for rental and related services have been paid in advance.

(c) If there is no suitable berth or slip available for the watercraft, the marina manager shall place the name of the owner upon a waiting list.

(Code 1960, § 29-26; Code 1983, § 21-23)

**Sec. 38-31. Dockage agreement—Required for mooring or docking.**

No watercraft shall occupy, utilize or moor in or at any slip or berth within the marina until a written dockage agreement has been executed and the rental for such slip or berth, and any fees for related services, have been paid in advance, unless such mooring is for the purpose of making a bona fide inquiry as to the availability and/or cost of dockage; provided, however, that nothing provided in this section shall be construed to prohibit vessels or persons in distress from mooring or tying up without a dockage agreement to protect life or property, such mooring to be only for the period of the existence of the emergency.

(Code 1960, § 29-27; Code 1983, § 21-24)

**Sec. 38-32. Dockage agreement—Time limitation; required provisions.**

The dockage agreement shall be in writing on forms prescribed by the city manager. A dockage agreement shall not be entered into for any period of time in excess of 13 months. All dockage agreements are subject to the rules and regulations promulgated by the marina manager pursuant to section 38-26(c). The dockage agreement shall contain a provision referring to and incorporating the ordinances of the city pertaining to the city marina, the rules and regulations of the marina, a description of the watercraft, the documentation and/or registration number of the watercraft, the name and address of the owner of the watercraft, the right of lien and sale held by the city in accordance with F.S. § 328.17, that the owner would maintain sufficient insurance, that the owner would hold the marina harmless for any loss, damage or liability and the right of the marina to board and inspect watercraft, and in times of emergency, to take action, if the owner is not available, to preserve and protect the watercraft at owner's expense and risk.

(Code 1960, § 29-28; Code 1983, § 21-25)

**Sec. 38-33. Transferring berths without permission; subletting.**

(a) No watercraft shall be transferred by the owner or operator from one slip or berth to another berth. Every watercraft shall be docked or moored only in or at the slip or berth assigned to it by the dockage agreement or any subsequent reassignment by the marina manager. The city reserves the right to transfer any watercraft from one slip or berth to another, at the discretion of the marina manager.

(b) No slip or berth shall be sublet without the written permission of the marina manager.

(Code 1960, § 29-29; Code 1983, § 21-26)

PROOFS

**Sec. 38-34. Docking overnight transients; abandonment of slip or berth.**

The marina manager shall have the authority to dock transients on an overnight basis in empty berths or slips when he has information that the watercraft assigned to a berth or slip is or will be absent for such period of time. The owner of any watercraft shall notify the marina manager, or his delegate, of any intent to vacate the assigned slip or berth for a period of 72 hours or more. If the owner of any watercraft wishes to vacate an assigned slip or berth for a period of more than ten days, he must give written notice of such intention and payment in advance of all fees and charges becoming due. If any assigned slip or berth is vacated by the owner for more than ten days without having first given written notice of the same, as herein provided, the marina manager shall assume the space has been abandoned. He may immediately reassign such berth or slip. All fees paid by the owner shall be forfeited to the city.

(Code 1960, § 29-30; Code 1983, § 21-27)

**Sec. 38-35. Effect of sale on berth assignment.**

The sale or transfer of registration, title or other documents of any watercraft shall immediately cancel its slip or berth assignment, provided that the seller shall notify the marina manager in writing within 48 hours of such sale or transfer. The new owner shall apply for and enter into a dockage agreement with the city within five days of such sale or transfer.

(Code 1960, § 29-31; Code 1983, § 21-28)

**Sec. 38-36. Maintenance and condition of watercraft.**

(a) *State and federal regulations.* All watercraft shall be kept in a safe and presentable condition at all times, conforming to all state and federal regulations in regard to the operation, equipment and care of the watercraft.

(b) *Registration; certificate.* Every watercraft moored at the marina shall have a current state registration and a coast guard auxiliary or state marine patrol courtesy safety examination certificate from the earliest of either the date of first mooring or the date the vessel was in the state more than 90 consecutive days.

(c) *Repairs; permitted.* Owners may perform minor and routine maintenance and repairs to watercraft within the city marina, including, but not necessarily limited to, tune-ups and minor touch-up painting.

(d) *Repairs; prohibited.* No major repairs shall be performed within the marina. The following, without limitation, are major repairs: major exterior alteration, rebuilding and complete refinishing. Removal of machinery or engines may be performed by a boat repairman licensed by the city, the county or other proper governmental authority.

(e) *Repairs; interpretation.* The marina manager shall make the final determination of major/minor repairs and routine maintenance, giving full consideration to safety and fire hazards presented.

(Code 1960, § 29-32; Code 1983, § 21-29)

**Sec. 38-37. Mooring lines; liability of city; insurance.**

(a) The owner of any watercraft moored in the city marina shall be responsible for procuring and maintaining adequate mooring lines. If the marina manager shall determine that an emergency exists and the mooring lines maintained by the owner are inadequate, he may procure the necessary lines at the owner's expense.

(b) Neither the marina manager, his agents or employees, nor the city shall be liable in tort or contract for any damage caused to or by any watercraft.

(c) All watercraft shall be insured against liability for personal injury and property damage. Such insurance must be in an amount providing coverages for single incidents of not less than $75,000.00.

(Code 1960, § 29-33; Code 1983, § 21-30)

**Sec. 38-38. Littering; depositing of waste; trespassing.**

(a) No person shall deposit or leave any equipment, material, supplies or debris of any character upon the docks, piers, walkways or sidewalks in or adjacent to the city marina, unless the same is contained within a dock box. No dock boxes shall be maintained on any pier or dock without the approval of the marina manager.

PROOFS

(b) No person shall place, throw, discharge or deposit any waste, garbage, dead animal or fish, timber or other refuse on the marina grounds or into the waters of the city marina.

(c) No human wastes shall be discharged or dumped into the waters of the city marina, unless the same shall have been treated in accordance with applicable state and federal statutes and regulations.

(d) No person shall trespass upon any watercraft docked or berthed in the city marina, except that the city may inspect any watercraft to ensure compliance with the ordinances and the rules and regulations of the marina, and to permit the marina manager to go aboard any watercraft and to take security measures at any time he deems an emergency exists.

(e) It shall be unlawful for any person to enter on or go upon the slips or docks of the city marina, except the owners, their guests, authorized agents or any other persons having legitimate business upon the slips, docks or piers.

(Code 1960, § 29-34; Code 1983, § 21-31)

**State law reference—**Florida Litter Law of 1971, F.S. § 403.413.

**Sec. 38-39. Prohibited acts; additional regulations.**

(a) The following activities are prohibited within the city marina:

(1) Swimming.

(2) The use of any type of wood, charcoal or liquid fuel burner, grill or hibachi or any open flame of any kind, on any of the docks, piers or walkways within the marina or upon any vessel docked or moored therein, except at the head of Piers 2 and 6.

(3) Fishing or castnetting~~, as defined in section 12-18~~.

(4) The use of a bicycle or similar conveyance or roller skates upon piers, docks or walkways of the marina.

(b) The marina manager, subject to the approval of the city manager, may adopt such additional rules and regulations pertaining to activities within the city marina as he may find reasonable and necessary for its safe operation and maintenance.

(c) Any rules and regulations adopted by the marina manager, as provided herein, shall be delivered to owners of vessels docked or moored in the city marina and shall be posted in, at or near the office of the marina manager.

(Code 1960, § 29-35; Code 1983, § 21-32; Ord. No. K-215, § 1, 4-21-2003)

**Sec. 38-40. Lien for services.**

The city shall have a lien upon every vessel and watercraft utilizing the facilities and services of the city marina for the payment of all charges and fees becoming due.

(Code 1960, § 29-37; Code 1983, § 21-33)

**Secs. 38-41--38-68. Reserved.**

## ARTICLE III. BOATING SAFETY*

***State law reference—**Vessel safety, F.S. ch. 327; local boating regulations, generally, F.S. § 327.60

### DIVISION 1. GENERALLY

**Sec. 38-69. Definitions.**

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

~~For the purpose and intent of this chapter, the terms and words listed in this section shall have the meaning herein provided:~~

*Anchor* means any appliance used to secure a vessel other than to a pier which is carried aboard such vessel

PROOFS

as regular equipment when under way.

*Derelict vessel* means any boat which has been voluntarily abandoned and given up as worthless.

*Garbage* and *trash* mean refuse accumulations of animal, fruit or vegetable matter, or any waste material consisting of papers, wrappers, cans, junk or debris.

*Mooring* means any appliance used to secure a vessel other than to a pier.

*Operate* means to navigate or otherwise use a vessel.

~~*Person* means an individual, partnership, firm, corporation, association or other entity.~~

*Pier* means any fixed or floating structure as part of or affixed to land such as a wharf, dock, float or other loading facility.

*Prohibited area* means any navigable waters of the United States within the territorial limits of the city and all the inland lakes, rivers and canals under the jurisdiction of the city, except those controlled and excluded by F.S. § 327.60.

*Sewage* means any substances that contain any of the waste products, excrement or other discharge from the bodies of human beings or animals unprocessed by a U.S. Coast Guard approved marine sanitation device, which may be discharged into a prohibited area.

*Vessel* means watercraft of every description used as a means of transportation on water, in addition to the definitions contained F.S. § 327.02.

(Code 1983, § 21-46; Ord. No. H-189, § 1(a—j), 8-17-1981)

**Sec. 38-70. Applicability.**

The provisions of this article shall be operative only when not in conflict with F.S. ch. 327 or regulations thereunder and shall not apply in emergency situations.

(Code 1983, § 21-47; Ord. No. H-189, § 1, 8-17-1981)

**Sec. 38-71. Remedies.**

In addition to any criminal penalty imposed for violation of this article, the city may institute any civil action or proceeding to prevent, enjoin or abate any act, conduct or condition which is prohibited hereunder.

(Code 1983, § 21-48; Ord. No. H-189, § 1, 8-17-1981)

**Sec. 38-72. Law adopted.**

The city hereby adopts the Florida Boat Registration and Safety Law, excepting the penalty provision thereof, being F.S. ch. 327, including F.S. §§ 327.01 through 327.71, as ~~and for~~ an ordinance of the city. The same is incorporated into this Code as fully as if set out at length. For purposes of enforcement of the provisions of said ordinance, the law enforcement officers of the city may make or cause any inspections of any boats thereunder with just cause and may enforce said ordinance as provided by law.

(Code 1983, § 21-49; Ord. No. H-189, § 1, 8-17-1981)

**Sec. 38-73. Mooring.**

It is unlawful for any person to anchor, moor or park in a secured position or cause to do same or permit any other person under his control or command to do so to any vessel in the prohibited area, and to live aboard such vessel, for more than 96 continuous hours in any consecutive 30-day period, and provided, further, that any such person or persons may live aboard the vessel in excess of the period otherwise permitted here if such vessel is anchored, moored or parked at the city marina or a marina licensed under section 22-19, if any such marina is equipped to service live-aboards with a sewage pump-out facility acceptable to the state department of environmental protection. No vessel or watercraft provided with living quarters or upon which people live or reside shall berth, anchor or moor in any such licensed marina within the city, unless the vessel or watercraft is self-propelled, seaworthy and is capable of being moved under its own power. Floating homes, defined as any vessel or watercraft capable of live-aboard convenience without integral mechanical propulsion, shall be prohibited at all marinas within the city as well as within the prohibited area.

PROOFS

(Code 1983, § 21-50; Ord. No. H-189, § 1, 8-17-1981; Ord. No. J-391, § 1, 3-2-1998)

~~**Sec. 21-51. Marine sanitation devices.**~~

~~The city adopts the Environmental Protection Agency regulations of January 29, 1976, pertaining to marine sanitation devices, as the same may be amended, modified and revised, as and for an ordinance of the city. The same is incorporated into this code as fully as if set out at length.~~

~~(Code 1983, § 21-51; Ord. No. H-189, § 1, 8-17-1981)~~

**Sec. 38-74. Unlawful discharge; garbage or trash.**

It is unlawful for any person to throw, discharge, deposit or leave, or to cause or permit to be thrown, discharged, deposited or left, from any vessel any garbage, trash or refuse matter of any description into the waters under jurisdiction of the city.

(Code 1983, § 21-52; Ord. No. H-189, § 1, 8-17-1981)

**State law reference**—Florida Litter Law of 1971, F.S. § 403.413.

**Sec. 38-75. Derelicts and unlawful abandonment of vessels.**

It is unlawful for any person to cause any ship, boat or vessel to become a derelict, or to abandon same at any pier, dock or shore to which it may be moored or tied.

(Code 1983, § 21-53; Ord. No. H-189, § 1, 8-17-1981)

~~**Sec. 38-76. Use of vessel as place of business.**~~

~~No vessel of any kind whatsoever moored or docked in any waterway in the city shall be used as a place from which business or professional services are conducted, except for the sale or attempt to sell the vessel.~~

(Code 1983, § 21-54; Ord. No. H-189, § 1, 8-17-1981)

**Secs. 38-77--38-95. Reserved.**

DIVISION 2. NO WAKE AND MINIMUM WAKE ZONES*

***State law reference**—Boating restricted areas authorized, F.S. § 327.46.

**Sec. 38-96. Definitions.**

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

~~For the purpose and intent of this article, the following terms, phrases, words and derivations shall have the meanings herein provided:~~

*Idle speed* means the lowest speed at which a boat or watercraft can operate and maintain steering control.

*Minimum wake* means that a vessel or watercraft shall not proceed at a speed greater than the minimum speed which is reasonable and prudent to avoid creating an excessive wake. A vessel or watercraft that is operating on a plane is not proceeding at minimum wake speed. A vessel or watercraft that is in the process of coming off plane and settling into water, which action creates a wake greater than a minimum wake, is not proceeding at minimum wake speed. A vessel or watercraft that either produces a minimum wake, or is completely off plane, has settled into water and is proceeding without any wake or a minimum wake is proceeding at minimum wake speed. The term "slow speed" shall be synonymous with the term "minimum wake."

*No wake* means that a vessel or watercraft shall not proceed at a speed greater than the minimum speed necessary to maintain steerageway. The term "no wake" shall be synonymous with the term "idle speed."

*Operate* means to navigate or otherwise use a vessel.

~~*Person:* An individual, partnership, firm, corporation, association or other entity.~~

*Vessel* means watercraft of every description used as a means of transportation on water, in addition to the definitions contained in ~~subparagraphs (1), (2), (10), and (13) of Section~~ F.S. § 327.02.

PROOFS

(Code 1983, § 21-76; Ord. No. I-112, § 1, 5-20-1985)

**Sec. 38-97. Speed of vessels; excessive or damaging wakes.**

No person shall operate a vessel or allow a vessel to be operated in the waters of the city in such a manner as to create an excessive or damaging wake in areas designated "no wake zones," or at a speed greater than the maximum speed designated for the area. For the purposes of this section, the term "excessive or damaging wake" means a wake created by the passage of a vessel through the water which is capable of causing damage to other watercraft, docks, seawalls, or other property. In waterways so designated, all watercraft shall be operated at the slowest speed reasonably necessary to maintain steerageway and to conform to the dictates of safe navigation. In areas designated as "no wake zones," creation of any wave exceeding a vertical height of 12 inches from trough to crest shall constitute prima facie evidence of an excessive wake, or one having damaging capability.

(Code 1983, § 21-77; Ord. No. I-112, § 2, 5-20-1985)

**Sec. 38-98. Posting of areas.**

The city commission of the city shall post or cause to be posted in all areas identified hereafter, the speed limit established for each of said areas. In addition, the city commission may, wherein their judgment the unregulated operation of vessels presents specific hazards to persons or property in areas not specifically identified herein, establish a controlled speed zone and post or cause to be posted the speed limit established for each such area on an emergency basis.

(Code 1983, § 21-78; Ord. No. I-112, § 3, 5-20-1985)

**Sec. 38-99. Areas defined.**

(a) The following described areas of the city, as charted on National Ocean Survey Chart 11475, are hereby designated a "no wake zone":

(1) All of the waters within the limits and confines of the city marina and Moore's Creek, in addition to that section of the city marina entrance channel easterly of said waters extending northward through the entrance channel to Channel Marker 11.

(2) That section of the southwest corner of the city harbor, commonly known as the Turning Basin, north of the Peter C. Cobb Bridge which lies south of a line beginning at the shoreline nearest the eastern terminus of Fisherman's Wharf Drive extending easterly into the water approximately 30 yards, all lying north of the Peter C. Cobb Bridge, and westerly to the shoreline of the South Bridge boat ramps located at the northwest terminus of said bridge.

(3) That section of Taylor Creek beginning the east side of the F.E.C. Railroad Bridge Crossing and all waters easterly to Channel Marker 4.

(4) That section of the city cut which lies east of a line beginning at the shoreline nearest the northeast terminus of the Banty Saunders Bridge commencing at Channel Marker 21 and continuing easterly through the city cut to Channel Marker 19.

(5) That section of the city cut which lies east of a line beginning at the shoreline of the city cut northerly to Channel Marker 14 continuing northeasterly in the city cut to a point approximately 30 yards northeast of the Little Jim Bridge, then continuing southeasterly under Little Jim Bridge, through the Little Jim Cut to Channel Marker 11.

(6) All of the waters of the city inlet range which lie east of a line beginning at the shoreline of Causeway Island at a point approximately 250 yards west of the United States Coast Guard Station, bounded on the north by the south edge of the city inlet channel, and then extending easterly along the south edge of the city inlet channel toward the Atlantic Ocean to a point approximately 100 yards east of Channel Marker 7 and extending southerly to the shoreline of Hutchinson Island, including all areas of the Pelican Yacht Club and Faber Point.

(7) That section of Faber Cove from a point in Faber Cove Channel commencing at Channel Marker 12A and continuing easterly into Faber Cove, and all of its shorelines, ending at a point approximately 75 yards easterly of the Colonnades Dock.

PROOFS

(8) The waters of the two canal areas adjacent to Surfside Park Subdivision in the southeast corner of Thumb Point Cove, terminating at the entrance to said canals.

(b) The following described areas of the city, as charted on the National Ocean Survey Chart 11475, are hereby designated a "minimum wake zone":

(1) That section of the city marina entrance channel between Channel Marker 11 and Channel Marker 5.

(2) That section of the city cut between Channel Marker 19 and Channel Marker 14.

(3) All of the waters of the city inlet range which lie east of a line beginning at the shoreline of Causeway Island at a point approximately 250 yards west of the U.S. Coast Guard station, all northward of the south edge of the city inlet channel the entire width of said channel, and then extending easterly through the city inlet channel toward the Atlantic Ocean to a point approximately 100 yards east of Channel Marker 7.

(4) That section of Faber Cove commencing at a point approximately 75 yards easterly of the Colonnades Dock and continuing to the northeast terminus of Faber Cove and all of its shorelines.

(c) The following described areas of the city, as charted on National Ocean Survey Chart 11474, are hereby designated a "no wake zone":

The section within 500 feet of the Jaycee Park public boat ramps located from the western shoreline at coordinates 27°27'8.04"N, 80°17'22.64"W. The area designated as the restricted area is described as follows: an area lying on the western shore of Hutchinson Island in the city. It is an area located at a point with latitude 27°27'12.96"N and longitude 80°17'23.79"W to the north, latitude 27°27'8.25"N and longitude 80°17'28.13"W to the west, and latitude 27°27'3.18"N and longitude 80°17'22.60"W to the south.

(Code 1983, § 21-79; Ord. No. I-112, § 4, 5-20-1985; Ord. No. 19-072, § 1, 12-16-2019)

**Sec. 38-100. Intracoastal waterway excluded.**

The regulations and restrictions contained in this article shall not be so construed as to apply to any portion of the state intracoastal waterway.

(Code 1983, § 21-80; Ord. No. I-112, § 5, 5-20-1985)

**Secs. 38-101--38-128. Reserved.**

DIVISION 3. IDLE SPEED AND SLOW SPEED ZONES*

***State law reference**—Boating restricted areas authorized, F.S. § 327.46.

**Sec. 38-129. Purpose.**

The city, in order to help in the protection of an endangered species called the manatee, hereby determines to designate certain areas within the Indian River, as located within the city as idle speed zones or slow speed zones, excluding the state intracoastal waterway.

(Code 1983, § 21-91; Ord. No. I-219, § 1, 5-18-1987)

**Sec. 38-130. Definitions.**

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

~~For the purpose and intent of this article, the following terms, phrases, words and derivations shall have the meanings herein provided:~~

*Idle speed* means the lowest speed at which a boat or watercraft can operate and maintain steering control.

*Slow speed* means that speed no greater than is reasonable and prudent to avoid either intentionally or negligently annoying, molesting, harassing, disturbing, colliding with or injuring or harming manatees, and which comports with the duty of all persons to use due care under the following circumstances:

(1) A motorboat in a slow speed zone that is operating on a plane is not proceeding at slow speed;

PROOFS

(2) A motorboat that produces no wake or minimum wake is proceeding at slow speed;

(3) A motorboat that is in the process of coming off plane and settling into the water, which action creates more than a minimum wake, is not proceeding at slow speed;

(4) A motorboat that is completely off plane and which has settled into the water, and is proceeding without wake or with minimum wake, is proceeding at slow speed.

*Operate* means to navigate or otherwise use a vessel.

~~*Person* means an individual, partnership, firm, corporation, association or other entity.~~

*Vessel* means watercraft of every description used as a means of transportation on water, in addition to the definitions contained in F.S. § 327.02~~(1), (2), (10) and (13)~~.

(Code 1983, § 21-92; Ord. No. I-219, § 2, 5-18-1987)

**Sec. 38-131. Speed zones designated.**

(a) *Idle speed zones.* The following described areas of the city are hereby designated as idle speed zones:

(1) That part of the Indian River in the ~~Fort Pierce area of St. Lucie County, Florida,~~ city area of the county lying below the mean high water line within the following described tract:

Commence at a point one-half mile south of the Henry D. King Municipal Electric Station, lying below the mean high water line, on the western shore of the Indian River; thence run 80° east-northeast a distance of one-half mile, more or less, to a point on the western boundary of the Intracoastal Waterway; thence along the western boundary of the Intracoastal Waterway north-northwest to a point on the south side of the North Beach Causeway; thence meander along the south bank of the North Beach Causeway to a point lying below the mean high water line on the western shore of the Indian River; thence meander along the western shoreline of the Indian River, below the mean high water line, to the point of beginning.

~~AND~~

(2) That part of Taylor Creek in the ~~Fort Pierce area of St. Lucie County, Florida,~~ city area of the county lying below the mean high water line within the following described tract:

Commencing at the confluence of Indian River and Taylor Creek, meandering along both banks of Taylor Creek to a termination point at the South Florida Water Management District structure, numbered S-50, lying in section 4, Township 35 South, Range 40 East.

(b) *Slow speed zones.* The following described areas of the city are hereby designated as slow speed zones:

(1) That part of the Indian River in the ~~Fort Pierce area of St. Lucie County, Florida,~~ city area of the county lying below the mean high water line within the following described tract:

Beginning at a point on the westerly shoreline of the Indian River, below the mean high water line and being 5,280 feet more or less south of the Henry B. King Municipal Electric Station; thence 80° northeasterly a distance of 3,280 feet more or less to a point, which point is on the city limit line; thence northwesterly along the said city limit line a distance of 1,920 feet more or less to a point; thence northeasterly along the said city limit line a distance of 3,360 feet more or less to a point; thence 18° northwesterly a distance of 4,000 feet more or less to a point, which point is the southerly shoreline of Causeway Island, below the mean high water line; thence meander southwesterly along the said southerly shoreline of Causeway Island a distance of 282 feet more or less to a point; thence meander northwesterly along the westerly shoreline of said Causeway Island a distance of 1,760 feet more or less to a point; thence meander southwesterly along the southerly shoreline of said Causeway Island a distance of 1,920 feet more or less to a point; thence meander southeasterly along the easterly shoreline of said Causeway Island a distance of 720 feet more or less to a point, which point is the southeast corner of Fort Pierce Utility Authority Wastewater treatment plant property; thence meander southwesterly along the southerly property line of said Fort Pierce Utility Authority Wastewater treatment plant a distance of 480 feet more or less to a point, which point is the southwest corner of the said Fort Pierce Utility Authority Wastewater Treatment Plant property; thence meander northwesterly along the westerly property line of said Fort Pierce Utility Authority Wastewater treatment plant property a distance of 1,280 feet more or less to a

PROOFS

point; thence meander northwesterly along the westerly shoreline of Causeway Island a distance of 800 feet more or less to a point, which point is the South Beach Causeway; thence meander northeasterly along the northerly shoreline of said Causeway Island a distance of 2,400 feet more or less to a point; thence northeasterly along the said northerly shoreline of Causeway Island a distance of 880 feet more or less to a point, which point is on the northerly shoreline of Causeway Island and being 3,520 feet more or less easterly of the Intracoastal Waterway; thence 18° northwesterly a distance of 2,480 feet more or less to a point; thence due west a distance of 1,920 feet more or less to a point; thence 56° northwesterly a distance of 1,680 feet more or less to a point, which point is on an existing island; thence 26° northwest a distance of 940 feet more or less to a point; thence 28° northwest a distance of 940 feet more or less to a point; thence 12° northwest a distance of 3,105 feet more or less to a point, which point is on the city limit line; thence westerly along the said city limit line a distance of 800 feet more or less to a point, which point is on the westerly boundary of the Intracoastal Waterway; thence southeasterly along the said westerly boundary of the Intracoastal Waterway a distance of 16,080 feet more or less to a point; thence southwesterly a distance of 3,200 feet more or less to a point, which point is the westerly shoreline of the Indian River, below the mean high water line; thence meander along the said westerly shoreline of the Indian River a distance of 2,640 feet more or less to the point of beginning.

(Code 1983, § 21-93; Ord. No. I-219, § 3, 5-18-1987)

**Sec. 38-132. Posting of areas.**

The city commission shall post or cause to be posted in all areas identified hereafter the speed limits established for those areas designated as idle speed zones and slow speed zones.

(Code 1983, § 21-94; Ord. No. I-219, § 4, 5-18-1987)

**Sec. 38-133. Intracoastal waterway excluded.**

Regulations and restrictions contained in this article shall not be so construed as to apply to any portion of the state intracoastal waterway. Said intracoastal waterway is described in that certain document, which is filed with the city clerk's office and attached to a copy of this division.

(Code 1983, § 21-95; Ord. No. I-219, § 5, 5-18-1987)

~~**Sec. 21-96. Effective date of article.**~~

~~This article shall be and become effective upon completion of the first phase of the Harbor Town Marina Development, or the Fort Pierce City Marina Expansion, whichever occurs first.~~

~~(Code 1983, § 21-96; Ord. No. I-219, § 7, 5-18-1987)~~

## ~~ARTICLE IV. BULKHEADS~~

~~**Sec. 21-66. Lines established.**~~

~~There are hereby established bulkhead lines for that area of the body of water known as Indian River which lies within the corporate limits of the city, such bulkhead lines being more particularly described as follows:~~

~~*Area 1.* Beginning at a point on the south line of section 23, township 35 south range 40 east, St. Lucie County, Florida, 25 feet easterly from the intersection of said section line and the existing line of vegetation on the west shore of Indian River, as measured at right angles to said shoreline; run thence northwesterly, parallel to and 25 feet easterly from the existing line of vegetation on the west shore of Indian River to the north line of Citrus Avenue extended easterly, as now laid out and platted in the city.~~

~~*Area 2.* Beginning at a point on the north line of Citrus Avenue extended easterly, as said street is now laid out and platted in the city, said point being 25 feet east of the intersection of the north line of Citrus Avenue and the line of vegetation on the west shore of Indian River, as measured at right angles thereto; thence run northerly in a straight line to the southeast corner of the existing concrete bulkhead on the easterly boundary of Mary Ann Subdivision, as per plat thereof recorded in Plat Book 7, page 37, St. Lucie County, Florida, Public Records; thence northwesterly, along the existing concrete bulkhead line to a point of intersection with the north line of Atlantic Avenue extended easterly; thence in a northeasterly direction to a point in Indian River, said point being at the intersection of the north line of~~

PROOFS

Orange Avenue extended easterly and the east bulkhead line of the City of Fort Pierce Municipal Yacht Basin extended southerly; thence northwesterly:

__ Along the southerly extension of the east bulkhead line of the municipal yacht basin,

__ Along the line of the east bulkhead of the municipal yacht basin, and

__ Along the line of the existing bulkheads of the City of Fort Pierce Indian River Memorial Park property,

to its intersection with the southerly R/W line of new State Road A-1-A, thence northeasterly along a curve concave northerly having a central angle of 27°-27'-30" and a radius of 2009.86 feet an arc distance of 139.01 feet to the end of said curve, thence north 62°-33'-32" east a distance of 132.00 feet, thence north 27°-26'-28" west a distance of 200 feet to the northerly R/W line of new State Road A-1-A, thence south 62°-33'-32" west a distance of 132.00 feet to the beginning of a curve to the right, thence southwesterly along said curve having a central angle of 27°-27'-30" and a radius of 1809.86 feet an arc distance of 113.94 feet to the point of intersection of said northerly R/W line with the existing bulkhead line of the City of Fort Pierce Indian River Memorial Park property; thence northerly along said existing bulkhead line to the end of the existing concrete bulkhead, thence easterly, to a point in Indian River 23.5 feet south of the southwest corner of the property of O. G. Simonsen on the south side of Seaway Drive; thence parallel to and 23.5 feet southerly from the south boundary of the said Simonsen's property, run easterly, to a point in Indian River, 23.5 feet south of the southeast corner of said Simonsen's property; thence in a straight line run northeasterly to the corner of existing concrete bulkhead at the southeast corner of property of Charles Lowe on the south side of Seaway Drive; thence northwesterly, southwesterly, northwesterly, northeasterly, northwesterly, southwesterly and northwesterly, along the existing bulkhead line bounding the City of Fort Pierce Harbor Pier property and the property of the Indian River Refrigeration Terminal Company, to a point on the west shore of Indian River; said point being the point of beginning of the submerged lands described in a deposit receipt agreement from the trustees of the Internal Improvement Fund of the State of Florida to the Fort Pierce Port and Terminal Company, as recorded in Deed Book 231, pages 573-575, of the St. Lucie County, Florida, Public Records; thence from said point of beginning run north 70°-14½' east, 700 feet; thence north 19°-45½' west, 700 feet; thence north 70°-14½' east, 650 feet; thence north 22°-50' west, parallel to the Intracoastal Waterway, 1910 feet; thence south 74°-24' west, 1093.15 feet to a point on the west shore of Indian River, said point being at the intersection of the south bank of Taylor's Creek and west shore of Indian River.

__ *Area 3.* Commencing at the southwest corner of section 3, township 35 south range 40 east, St. Lucie County, Florida, run thence east 2240 feet; thence north 720 feet; thence north 70 degrees, 58½ minutes east, 1200 feet; thence south 19 degrees, 01½ minutes east, 85 feet; thence north 70 degrees, 16 minutes east, 1892 feet to a point 117 minutes m/l westerly of a cross on the deck at the east end of the existing South Bridge across the Indian River; said point being the point of beginning.

From said point of beginning run south 12 degrees 50 minutes east 77.4 feet; thence south 34 degrees 30 minutes east 500 feet to a point on the northerly extension of an existing bulkhead on the westerly side of the City of Fort Pierce Sewage Treatment Plant; thence south 20 degrees 50 minutes east along said northerly extension of said bulkhead a distance of 1345.45 feet to a point in Indian River; thence north 64 degrees 50 minutes east, parallel to and 1900 feet south of the centerline of existing right-of-way of Seaway Drive on Causeway Island, 41.44 feet; thence north 14 degrees 35 minutes east, 1350 feet; more or less, to the point of intersection of the property line between Handelman Enterprises, Inc., and the land of Fort Pierce Port and Terminal Company, and the southerly shore of Causeway Island; thence along existing bulkhead line on the southerly and easterly boundary of property of Handelmann Enterprises, Inc., run as follows:

North 89 degrees 48½ minutes east, 1024.7 feet.

North 66 degrees 12 minutes east, 376.6 feet.

North 55 degrees 38 minutes east, 250.0 feet.

North 30 degrees 28 minutes east, 377.1 feet.

North 10 degrees 02 minutes east, 164.3 feet.

PROPOSED

Thence continue northeast, east, southeast and southwest around the perimeter of the existing bulkhead lines bordering Faber Cove to the north line of the plat of Thumb Point, as recorded in Plat Book 10, page 79, St. Lucie County, Florida, Public Records; thence southwesterly across Lots 4, 5, 6, 7, 8, 9 and 10 of Block 1 of said plat of Thumb Point, parallel to and 140 feet in distance from the westerly line of Bayshore Drive; thence in a straight line across Lots 11, 12, 13, 14, 15 and 16 of said Block 1, Plat of Thumb Point, to a point on the southerly line of Lot 16, 150 feet from the westerly line of Bayshore Drive; thence southwesterly, southerly, southeasterly, easterly, northeasterly, and easterly, around the perimeter of Block 1 of aforesaid Plat of Thumb Point, at a distance of 150 feet from the westerly and southerly line of Bayshore Drive to a point on the line between Government Lots 6 and 7, section 1, township 35 south, range 40 east, 20 feet south of the northeast corner of said Government Lot 7.

*Area 4.* Beginning at a point on the line between Government Lots 6 and 7, section 1, township 35 south, range 40 east, St. Lucie County, Florida, said point being 20 feet south of the northwest corner of said Government Lot 6, run thence southeasterly in a straight line to a point 250 feet west of the intersection of the centerline of Fernandina Street and Crestview Drive, as the same is shown on plat of Tropical Beach, Blocks 3 and 4, as recorded in Plat Book 10, page 9, St. Lucie County, Florida, Public Records, said point being 25 feet, more or less, west of the existing east shoreline of Indian River; thence, meandering a line 25 feet west of the existing east shoreline of Indian River, run to the northwest corner of Lot 6, Block 3 of the plat of Surfside, Unit One, recorded in Plat Book 10, page 17, St. Lucie County, Florida, Public Records; thence southwesterly, along the west line of Block 3 of said plat of Surfside, Unit One, to the southwest corner of Lot 1 of said Block 3; thence continue southwesterly, southeasterly, southwesterly, northwesterly, southwesterly, southeasterly, southwesterly and northwesterly along the perimeter of the boat channels embraced in Block 11 of Surfside, Unit Two, as the same is shown on plat thereof recorded in Plat Book 11, page 8, St. Lucie County, Florida, Public Records, to a point 25 feet west of the existing east shoreline of Indian River; thence southwesterly, meandering a line parallel to and 25 feet west of the easterly shoreline of Indian River, to the south line of Government Lot 2, section 12, township 35 south, range 40 east.

*Area 5.* Commencing at the Southwest Corner of section 3, township 35 south, range 40 east, St. Lucie County, Florida, run thence east 2240 feet; thence north 720 feet, thence north 70 degrees 58½ minutes east 1200 feet; thence south 19 degrees 1½ minutes east, 85 feet; thence north 70 degrees 16 minutes east, 1892 feet to a point 117 feet m/l westerly of a cross on the deck at the east end of the existing South Bridge across the Indian River, said point being the point of beginning; from said point of beginning run north 12 degrees 50 minutes west, 122.6 feet; thence north 9 degrees 45 minutes, east 300 feet; thence north 37 degrees 15 minutes east, 300 feet; thence north 60 degrees 50 minutes east, 300 feet; thence north 77 degrees 15 minutes east 300 feet; thence north 69 degrees 15 minutes east for a distance of 300 feet, more or less to a point which is 450 feet north of the centerline of the existing right-of-way of Seaway Drive as measured at right angles thereto; thence run north 64 degrees 50 minutes east and parallel to said centerline of Seaway Drive for a distance of 2670 feet more or less to an intersection with the northerly extension of an existing bulkhead at the east side of the United States Coast Guard Buoy Depot; thence southerly along said extension and existing bulkhead 175 feet more or less to a southeasterly corner of said existing bulkhead; thence easterly along a line having a back angle of 90 degrees measured from north to east a distance of 75 feet; thence southeasterly a distance of 175 feet more or less to a northeasterly corner of an existing bulkhead; thence continue in a southeasterly direction along said existing bulkhead a distance of 93 feet to a point, said point being a metal disc embedded in the bulkhead and an easterly extension of the centerline of Seaway Drive to the west; thence south 85 degrees east a distance of 475 feet to a P.C. of a curve to the left having a radius of 545.67 feet and subtending a central angle of 19 degrees 25 minutes; thence along said curve a distance of 184.91 feet to a P.C.C. of a second curve to the left having a radius of 268.57 feet and subtending a central angle of 96 degrees 25 minutes; thence along said second curve a distance of 451.95 feet to its P.T.; thence along a line in a northwesterly direction a distance of 163 feet more or less to a point on the westerly line of Lot 14, Block 19, Fort Pierce Beach Subdivision, said point also being the intersection of the westerly extension of the centerline of Binney Drive with the face of an existing bulkhead; thence meander along

PROOFS

the north line of said Fort Pierce Beach Subdivision to the existing south revetment wall; thence along said south revetment wall easterly to its intersection with the Atlantic Ocean.

The bulkhead lines established by this section are maximum and where bulkhead lines now exist future walls shall be constructed in such a manner as to avoid offsets or abrupt transition curves, or an abrupt change in shorelines. No fill or filling or other creation or extension of land shall be made or maintained in the area described herein, east of, south of, and west of the bulkhead lines herein established.

(Code 1960, § 29-2)

**State law reference**—Bulkhead lines, F.S. § 253.1221; filling land, F.S. § 253.123 et seq.

**Sec. 21-67. Permits for construction of fills and islands—application; approval.**

Any person desiring to construct islands or add to or extend existing lands bordering on the waters of the Indian River within the corporate limits of the city by pumping, dredging or dumping sand, rock or earth or by any other means shall first make application to the city commission for permission to do so. Such written application shall be accompanied by a plan or drawing showing the proposed construction of bulkhead and fill and the manner in which said construction will be accomplished and shall also show the area from which any fill material is to be dredged if the proposed construction is intended to be created from dredged material. Such written application shall be accompanied by a location map prepared by a registered engineer showing survey ties to the nearest government land corner or street intersections of plats of record or other points of reference as recorded in the public records of the county, together with detailed plans and specifications showing elevations and contours. In the event such application is found by the city commission not to be violative of any statute, zoning law, ordinance or other restriction which may be applicable thereto, that no harmful obstruction to or alteration of the natural flow of the adjacent navigable waters will arise from the proposed construction, or that no harmful or increased erosion, shoaling of channels or stagnant areas of water will be created thereby and that no material injury or monetary damage to adjoining land will accrue therefrom, the same shall be granted to the applicant, subject to the approval of the trustees of the internal improvement trust fund of the state. All persons acting under this section shall comply with all requirements of law.

(Code 1960, § 29-3; Code 1983, § 21-67)

**State law reference**—Application for filling land, F.S. § 253.124.

**Sec. 21-68. Same—expiration; revocation.**

All permits issued under section 21-67 shall be valid for three years from the date thereof, but shall be automatically revoked if the proposed work is not completed within such period, except for good cause shown. Such permits shall also be subject to revocation for noncompliance therewith or a violation thereof; provided, nothing contained in section 21-67 shall be construed as authorizing the extension of land or placing of any fill easterly of, southerly and westerly of the bulkhead lines established in section 21-66, nor beyond any bulkhead line now or hereafter established by the city, the county, the state, the United States of America or any of their authorized agencies.

(Code 1960, § 29-4; Code 1983, § 21-68)

**c. 21-69. Permits for bank and shore protection.**

Any person desiring to construct a riprap shoreline protection barrier along waterways within the city for the purpose of providing bank and shore protection shall obtain a permit in the manner specified by sections 21-67 and 21-68 above. Any such bulkhead shall consist of natural, mined limerock or other similar mined stone that shall be hard and durable, free of open or incipient cracks, soft seams or other structural defects, using broken stone with a specific gravity of at least 2.30, with such stones being rough and angular in appearance and shall meet the following gradation and thickness requirements:

Weight maximum: Seven hundred five (705) pounds.

Weights fifty (50) percent: Three hundred (300) pounds.

Weight minimum: Fifty-five (55) pounds.

Thickness (minimum blanket): 30 inches.

PROOFS

~~ninety-seven (97) percent of the material by weight shall be smaller than the weight maximum. At least fifty (50) percent of the material by weight shall be greater than weight fifty (50) percent. At least eighty-five (85) percent of the material by weight shall be greater than weight minimum. In the event, following initial installation, the shoreline protection barrier no longer meets these specifications herein for slope and thickness, the property owner shall obtain a permit for its repair with such repair to be completed within 60 days thereinafter. The requirements of this section are in addition to, and not in place of, any requirements otherwise imposed by either state or federal regulations.~~

~~(Code 1983, § 21-69; Ord. No. K-100, § 1, 9-4-2001)~~

PROOFS

Chapters 39--100

**RESERVED**

PROOFS

Subpart B

# LAND DEVELOPMENT ORDINANCES*

***State law reference—**Community Planning Act, F.S. § 163.2511 et seq.; Municipal Home Rule Powers Act, F.S. ch. 166.

Chapter 101

GENERAL AND ADMINISTRATIVE PROVISIONS

## ARTICLE I. IN GENERAL

### Sec. 101-1. Comprehensive plan.

(a) *Authority.* This section is adopted in compliance with and pursuant to the Community Planning Act (F.S. § 163.2511 et seq.).

(b) *Purpose and intent.* It is hereby declared that the purpose and intent of this section is to preserve and enhance present advantages; encourage the most appropriate use of land, water and resources consistent with the public interest; overcome present handicaps; and deal effectively with future problems which may result from the use and development of land within the incorporated area of the city. Through the use of the comprehensive plan and those elements adopted herein by this section, it is intended to preserve, promote and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement, fire protection and general welfare, facilitate the adequate and efficient provision of transportation, water, sewerage, parks and recreational facilities, solid waste, drainage and other services; and conserve, develop, utilize and protect natural and historic resources.

(c) *Adoption; repeal of prior comprehensive plan.* The city comprehensive plan, with its elements, directives, goals, objectives, policies, implementation strategies and maps, is hereby adopted and is the official comprehensive plan for the incorporated area of the city. By adoption of the city comprehensive plan, the 1981 Comprehensive Plan and Ordinance No. H-185 are hereby repealed.

(d) *Interpretation.* The provisions of this section and of the comprehensive plan shall be construed in pari materia with the Community Planning Act (F.S. § 163.2511 et seq.) ~~and Chapter 9J-5, Florida Administrative Code~~. Definitions provided in the Community Planning Act (F.S. § 163.2511 et seq.) as they apply to the interpretation of this section, are incorporated by reference as the same may from time to time be amended.

(Code 1983, § 22-20; Ord. No. I-362, § 1, 2-20-1990; Ord. No. K-441, § 4, 1-16-2007)

### Secs. 101-2--101-20. Reserved.

## ARTICLE II. CITY PLANNING BOARD*

***State law reference—**Local planning agency, F.S. § 163.3174.

### Sec. 101-21. Appointment; qualifications of members; terms.

There shall be appointed by the city commission a city planning board (referred to in this article as the board) consisting of seven members who have been residents of the city for the last two years. Each member of the city commission shall appoint one member, to serve concurrently with the appointee's term. Additionally, two at-large members shall be appointed by majority vote of the city commission. Each at-large member shall serve for a term of two years. Any member may be removed with or without cause by the city commission. ~~The members of the city commission and the city manager shall be ex officio members of the city planning board.~~

(Code 1960, § 2-10; Code 1983, § 2-221; Ord. No. K-458, § 1, 11-20-2006; Ord. No. 17-024, § 1, 8-21-2017; Ord. No. 18-002, § 1, 2-5-2018)

PROOFS

**Sec. 101-22. Meetings; records; custodian; absence of members.**

(a) The board shall meet at least once each calendar month and more often at the call of the chairperson or upon call by the mayor-commissioner. Any proposal submitted to the board by the city commission shall be acted upon within 30 days after such proposal is submitted in writing to the secretary. In the event that a regular meeting is not scheduled within 15 days, then a special meeting may be called to act upon such proposal. ~~All meetings of the board shall be public, and complete records of its deliberations shall be kept. These records shall be available to the public.~~ The secretary shall be custodian of the records of the board and he need not be a member of the board, provided that if not a member of the board, he shall not be entitled to vote.

(b) Absence from three consecutive regular meetings of the board shall operate to vacate the seat of a member unless such absence is excused by the board by resolution setting forth the fact of such excuse duly entered upon the minutes.

(Code 1960, § 2-11; Code 1983, § 2-222)

**Sec. 101-23. Powers and duties.**

The board shall have the following powers and duties:

(1) *Personnel.* The board is authorized to employ personnel necessary to make surveys and compile data essential to the preparation of a plan for municipal improvements and otherwise to assist the board in the execution of its powers and duties under this article. The employment of such personnel and the amount of salary to be paid shall be approved by the city commission. The board shall not in any manner obligate the city commission without prior approval of the city commission.

(2) *Officers.* Elect its own chairperson, vice-chairperson and secretary.

(3) *Procedures.* Adopt procedures for its guidance, provided the same are consistent with the ordinances of the city and applicable state laws.

(4) *Disposal of city property.* No real property shall be leased by or disposed of by the city until proposal for the leasing or disposition of the same is submitted to the board for its recommendation; provided, however, the city commission shall have authority to overrule the disapproval of the board on any such proposal.

(5) *Official city map.* Draft an official map of the city with the assistance of the director of public works.

(6) *Neighborhoods.* Make and adopt plans for the improvement and development of neighborhoods.

(7) *Public relations.* Promote public interest in and understanding of the master plan and other proposals submitted by the board.

(8) *Budget.* Submit annually to the city manager, not less than 90 days prior to the beginning of the budget year, a list of recommended capital improvements which the board considers necessary or desirable to be constructed during the next ensuing three-year period and establish a priority of such recommended improvements for such period of time.

(9) *Recommend public buildings and lands.* Recommend the erection and use of a building or the use of premises in any zoning district when found to be necessary for the public health, convenience, safety or welfare for the following purposes: a public utility; any municipal purpose; community center; cemetery; golf course; educational, philanthropic, charitable or religious use; public or private school (except child nurseries and kindergartens); public or private parks or playgrounds.

(10) *Voting.* All recommendations from the planning board, for either approval or disapproval of any measure, petition, plan, program or proposal of any nature, shall be by a majority of the members serving on said board. Such recommendations from the board shall be in writing and shall indicate thereon the names of the members of the board present at the meeting where the recommendations were made and the disposition of the votes of the members of the board, which writing can consist of a copy of the minutes of said board's meeting. If the board is unable to arrive at or make any recommendation hereunder then such inaction shall also be reported in writing in the same manner above prescribed.

(11) *Annexation.* Review applications for voluntary annexation to city and make recommendation to city

PROOFS

commission.

(Code 1960, § 2-12; Code 1983, § 2-223; Ord. No. I-103, § 1, 3-4-1985; Ord. No. 17-024, § 1, 8-21-2017)

**Sec. 101-24. Evaluation and appraisal of comprehensive plan.**

(a) The board is designated as the local planning agency for purposes of the Community Planning Act (F.S. § 163.2511 et seq.). It shall prepare periodic reports on the comprehensive plan, which shall be sent to the city commission at least once every ~~two~~ seven years after the adoption of the comprehensive plan, or element or portion thereof. Reports may be transmitted at lesser intervals, as may be required or upon request of the city commission. The report shall represent an assessment and evaluation of the success or failure of the comprehensive plan, or element or portion thereof, and shall contain appropriate statements related to:

(1) The major problems of development, physical deterioration and the location of land uses and the social and economic effects of such uses in the area;

(2) The condition of each element in the comprehensive plan at the time of adoption and at date of report;

(3) The comprehensive plan objectives as compared with actual results at date of report;

(4) The extent to which unanticipated and unforeseen problems and opportunities occurred between date of adoption and date of report.

(b) The report shall be transmitted to the state land planning agency, to the regional agency and to the St. Lucie County Planning Agency. Action on the report by the city commission constitutes action as for an amendment to the comprehensive plan, or portion or element thereof. The city commission may adopt the report or a portion or portions thereof or may adopt the report with changes or modifications after taking the steps required by F.S. § 163.3184, and subject to the limitations of F.S. § 163.3187. The adoption of the report amends the comprehensive plan, or element or portion thereof, to the extent specified in the report required by this section.

(Code 1983, § 2-224; Ord. No. H-243, § 1, 12-20-1982)

PROOFS

Chapter 102

**RESERVED**

PROOFS

Chapter 103

# BUILDINGS AND BUILDING REGULATIONS*

***State law reference**—Municipal Home Rule Powers Act, F.S. ch. 166; Florida Building Code, F.S. § 553.70 et seq.

## ARTICLE I. IN GENERAL

### Sec. 103-1. Removal of condemned buildings.

The owner of any building ordered removed by resolution of the city commission, in accordance with section 24-107, shall not thereafter cause said building to be relocated within the city limits.

(Code 1983, § 5-2; Ord. No. H-188, § 1, 8-17-1981)

### Sec. 103-2. Tents for public assembly.

(a) *Generally.* No tent for public assembly shall be erected, constructed or maintained until it shall conform with the requirements of this section. For the purposes of this section, the term "tents for public assembly" means any tent with an expected occupancy of 50 or more people at any one time.

(b) *Application; information required.* Applicants for the erection of tents for public assembly shall apply in writing to the building official and furnish the following information:

(1) The proposed location and duration.

(2) A copy of an approved permit for the tent from the county fire district.

~~Reserved.~~

(c) *Application requirements.*

(1) Apply for a temporary building permit from the building department.

(2) Furnish an insurance certificate showing that a minimum of $50,000.00 for one or more accidents and $30,000.00 aggregate for bodily injury and $10,000.00 property damage will be in effect for the dates the tent will be erected.

(3) Approved temporary use permit per section 125-320.

(d) *Health; safety; miscellaneous.* The following provisions shall be observed:

(1) Tent exits, aisles, seating, etc., shall conform with the building code and other requirements for places of assembly. All exits shall be kept free and clear of obstructions while the tent is occupied by the public.

(2) Ground within and adjacent to tents shall be cleared of all underbrush or similar fire hazards.

(3) Sanitary facilities, both male and female, shall be provided.

(Code 1960, § 6-61; Code 1983, § 5-3; Ord. No. K-125, § 1, 12-17-2001; Ord. No. L-268, § 1, 10-1-2012)

### Secs. 103-3--103-22. Reserved.

## ARTICLE II. BUILDING CODE

### DIVISION 1. GENERALLY

### Sec. 103-23. Adopted.

The Florida Building Code (FBC), as described in F.S. ch. 553, and as published by the respective publishers, plus any administrative amendments, is hereby adopted by reference as the building code of the city, to apply to the incorporated areas of the city. One copy of such code shall be filed in the office of the city clerk and shall be available for inspection by the public during business hours of such office. ~~F.S. § 553.73(5), the initial adoption of,~~

PROOFS

and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use statewide without adoptions by local government.

*Sec. 101 General.*

*Sec. 101.1 Title.* These regulations shall be known as the Florida Building Code, hereinafter referred to as "this code."

*Sec. 101.2 Scope.* The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures as herein amended.

Exceptions:

(i) Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the Florida Building Code, Residential.

(ii) Existing buildings undergoing repair, alterations or additions and change of occupancy shall be permitted to comply with the current edition of the Florida Existing Building Code.

*Sec. 101.2.1 Unsafe Buildings.* All buildings which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the International Property Maintenance Code, subject to all amendments, modifications or deletions hereinafter contained, or other local ordinance, including Article II of chapter 24 of this Code.

*Sec. 101.2.2 Reserved.*

*Sec. 101.3 Intent.* The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

*Sec. 101.3.1 Quality Control.* Quality control of materials and workmanship is not within the purview of this code except as it relates to the purposes stated herein.

*Sec. 101.3.2 Permitting, Plan Review and Inspection.* The permitting, plan review or inspection of any building, system or plan by this jurisdiction, under the requirements of this code, shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. This jurisdiction shall not be liable in tort for damages or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting. Further, no building d department employee shall be liable in tort for damages from such conditions, in accordance with F.S. § 768.28(9)(a).

*Sec. 101.4 Referenced Codes.* The other codes listed in sections 54.1 through 54.8 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

*Sec. 101.4.1 Electrical.* The provisions of Chapter 27 of the Florida Building Code, Building, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

*Sec. 101.4.1.1 Underground Electrical Service.* All new or replacement utility services shall be served by means of underground lateral service from the distribution point to the

PROOFS

building in accordance with the requirements as set forth by the city utilities authority. Approval to activate electrical service shall not be granted if there is failure to comply with this provision.

*Sec. 101.4.2 Gas.* The provisions of the Florida Building Code, Fuel Gas, shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

*Sec. 101.4.3 Mechanical.* The provisions of the Florida Building Code, Mechanical, shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

*Sec. 101.4.4 Plumbing.* The provisions of the Florida Building Code, Plumbing, shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

*Sec. 101.4.5 Reserved.*

*Sec. 101.4.6 Fire Prevention.* For provisions related to fire prevention, refer to the Florida Fire Prevention Code. The Florida Fire Prevention Code shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

*Sec. 101.4.7 Energy.* The provisions of Chapter 13 of the Florida Building Code, Building, shall apply to all matters governing the design and construction of buildings for energy efficiency.

*Sec. 101.4.8 Accessibility.* For provisions related to accessibility, refer to Chapter 11 of the Florida Building Code, Building.

*Sec. 102 Applicability.*

*Sec. 102.1 General.* Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

*Sec. 102.1.1* The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code, Building, to prevent the sitting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

*Sec. 102.2 Building.* The provisions of the Florida Building Code shall apply to the construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or facilities. Additions, alterations, repairs and changes of use or occupancy group in all buildings and structures shall comply with the provisions provided in chapter 34 of this code. The following buildings, structures,

PROOFS

and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the legislature and provided by law:

1. Building and structures specifically regulated and preempted by the federal government.
2. Railroads and ancillary facilities associated with the railroad.
3. Nonresidential farm buildings on farms.
4. Temporary buildings or sheds used exclusively for construction purposes.
5. Mobile or modular structures used as temporary offices, except that the provisions of Part V (§§553.501-553.513, FS) F.S. ch. 553, pt. II (F.S. § 553.501 et seq.) relating to accessibility by persons with disabilities and permits shall be required for structural support and tie down, electric supply and all other such utility connections to such mobile or modular structures as required by this jurisdiction.
6. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
7. Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.
8. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this subsection, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

*Sec. 102.2.1* In addition to the requirements of F.S. §§ 553.79 and 553.80, facilities subject to the provisions of F.S. ch. 395 F.S. ch. 400, pt. II (F.S. § 400.011 et seq.) shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of F.S. ch. 395, and F.S. ch. 400, pt. II, and the certification requirements of the federal government.

*Sec. 102.2.2* Buildings or structures for residential uses moved into or within a county or municipality shall not be required to be brought into compliance with the state minimum building code in force at the time the building or structure is moved, provided:

A. The building or structure is structurally sound, meeting the wind speed requirements of the new location and is in occupiable condition for its intended use;

B. The occupancy use classification for the building or structure is not changed as a result of the move;

C. The building is not substantially remodeled;

D. Current fire code requirements for ingress and egress are met;

E. Electrical, gas and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; and

F. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the applicable state statutes for all buildings or structures of the same residential occupancy class.

*Sec. 102.2.3* The building official shall apply the same standard to a moved residential building or structure as that applied to the remodeling of any comparable residential building or structure to determine whether the moved structure is substantially remodeled. The cost of the foundation on which the moved building or structure is placed shall not be included in the cost of remodeling for purposes of determining whether a moved building or structure has been substantially remodeled.

PROOFS

*Sec. 102.2.4* This section does not apply to the jurisdiction and authority of the department of agriculture and consumer services to inspect amusement rides or the department of financial services to inspect state-owned buildings and boilers.

*Sec. 102.2.5* Each enforcement district shall be governed by a board, the composition of which shall be determined by the affected localities. At its own option, each enforcement district or local enforcement agency may promulgate rules granting to the owner of a single-family residence one or more exemptions from the Florida Building Code relating to:

A. Addition, alteration or repair performed by the property owner upon his own property, provided any addition or alteration shall not exceed 1,000 square feet or the square footage of the primary structure, whichever is less.

B. Addition, alteration or repairs by a nonowner within a specific cost limitation set by rule, provided the total cost shall not exceed $5,000 within any 12-month period.

C. Building and inspection fees. Each code exemption, as defined in this section, shall be certified to the local board ten days prior to implementation and shall be effective only in the territorial jurisdiction of the enforcement district or local enforcement agency implementing it.

*Sec. 102.2.6.* This section does not apply to swings and other playground equipment accessory to a one- or two-family dwelling. Exception: Electrical service to such playground equipment shall be in accordance with chapter 27 of this code.

*Sec. 102.3 Application of References.* References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

*Sec. 102.4 Referenced Codes and Standards.* The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

*Sec. 102.5 Reserved.*

*Sec. 102.6 Existing Structures.* The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, or the Florida Fire Prevention Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

*Sec. 102.7 Relocation of Manufactured Buildings.*

1. Relocation of an existing manufactured building does not constitute an alteration.

2. A relocated building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code shall be applicable. If the existing building was manufactured in compliance with the Florida Building Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.

*Sec. 102.8 Rules of Construction.* The rules set out in this section shall be observed, unless such construction is inconsistent with the manifest intent of this chapter. The rules of construction and definitions set out here shall not be applied to any section of this chapter which contains any express provisions excluding such construction, or where the subject matter or content of such section would be inconsistent with this section.

*Sec. 102.8.1 Generally.* All provisions, terms, phrases and expressions contained in this division shall be liberally construed in order that the true intent and meaning of the administration of the jurisdiction may be fully carried out. Terms used in this division, unless otherwise

PROOFS

specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms.

*Sec. 102.8.2 Text.* In case of any difference of meaning or implication between the text of this division and any figure, the text shall control.

*Sec. 102.8.3 Delegation of Authority.* Whenever a provision appears requiring the building official or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the building official or other officer to designate, delegate and authorize professional level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

*Sec. 102.8.4 Month.* The word "month" shall mean a calendar month.

*Sec. 102.8.5 Shall, may.* The word "shall" is mandatory; "may" is permissive. The word "shall" takes precedence over "may."

*Sec. 102.8.6 Written or in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or otherwise.

*Sec. 102.8.7 Year.* The word "year" shall mean a calendar year, unless a fiscal year is indicated.

*Sec. 102.8.8 Interpretation.* Interpretations of this chapter shall be made by the building official.

*Sec. 102.9 Words Defined.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Abandon or abandonment.*

(i) Termination of a construction project by a homeowner or contractor without just cause or proper notification to the owner, including the reason for termination.

(ii) Failure of a homeowner or contractor to perform work without just cause for 90 days.

(iii) Failure to obtain an approved inspection within 180 days from the previous approved inspection.

*Appraised value.* For the purpose of this section, appraised value is defined as either:

(i) One hundred and twenty percent of the assessed value of the structure as indicated by the county property appraiser's office; or

(ii) The value as indicated in a certified appraisal from a state-certified appraiser.

*Assessed value.* The value of real property and improvements thereon as established by the county property appraiser.

*Authorized agent.* A person specifically authorized by the holder of a certificate of competency to obtain permits in his stead.

*Basic wind speed line.* As directed by the state legislature, the exact location of the wind speed lines shall be established by local ordinance using recognized physical landmarks such as major roads, canals, rivers and lake shores whenever possible as adopted by the Florida Building Code. The city has two wind speeds, 160 mph and 150 mph. The windspeed line, as indicated on the modified state map, runs north to south in line extremely close to 25th Street. 25th Street is chosen to represent the windspeed line for the city. The windspeed line will run north to south down the center of 25th Street. The land eastward of this line, including the barrier island, shall be in the 160 mph wind zone. The land westward of this line shall be in the 150 mph wind zone. All projects shall be properly designed according to such windspeed zone.

*Building shell.* The structural components that completely enclose a building, including, but not limited to, the foundation, structural frame, floor slabs, exterior walls and roof system.

*Building system.* A functionally related group of elements, components and/or equipment,

PROOFS

such as the electrical, plumbing and mechanical systems of a building.

*Certificate of occupancy (C.O.).* An official document evidencing that a building satisfies the requirements of the jurisdiction for the occupancy of a building.

*Certificate of Completion (C. of C.).* An official document evidencing that a building satisfies the requirements of the jurisdiction for the completion of a building.

*Change of occupancy*. A change from one building code occupancy classification or subclassification to another.

*Commercial building.* Any building, structure, improvement or accessory thereto, other than a one- or two-family dwelling.

*Demolition.* The act of razing, dismantling or removal of a building or structure, or portion thereof, to the ground level.

*Examination.* An exam prepared, proctored and graded by a recognized testing agency unless otherwise implied in context or specifically stated otherwise.

*Inspection warrant.* A court order authorizing the official or his designee to perform an inspection of a particular property named in the warrant.

*Intensification of use*. An increase in capacity or number of units of a residential or commercial building.

*Permit.* An official document authorizing performance of a specific activity regulated by this chapter.

*Permit card or placard.* A document issued by the jurisdiction evidencing the issuance of a permit and recording of inspections.

*Replacement value*. The estimated current replacement cost of the building or structure in kind. Such value shall be determined by using the most recent Building Valuation Data for Florida as compiled by the International Code Council (ICC) using the Marshall Valuation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California or on the contract price given by the applicant for the project, whichever is higher. (The data are only intended to be used for determining market value and is not intended to be used as an estimating guide.)

*Site*. The physical clearing of the site in preparation for foundation work including, but not limited to, site clearing, excavation, dewatering, pilings and soil testing activities.

*Sec. 103 Building and Code Enforcement Department Building official.*

*Sec. 5-1-103.1 Establishment.* There is hereby established a department to be called the Building and Code Enforcement Department and the person in charge shall be known as the Building Official. All code officials employed by the department shall be certified in accordance with Chapter 468, Part XII, Florida Statutes.

Sec. 5-1-103.2 Reserved.

Sec. *5-1-103.3 Restrictions on Employees.* An officer or employee connected with the department shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system or in the making of plans or of specifications thereof, within the jurisdiction of the department, unless he is the owner of such, which is inconsistent with his duties or conflict with the interest of the department.

Sec. *5-1-103.4 Records.* The Building Official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

Sec. *5-1-103.5 Liability.* Any officer or employee charged with the enforcement of this code, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may occur

PROOFS

to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provisions of this code shall be defended by the Office of the City Attorney until the final termination of the proceedings, unless such person is found to have acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the safety, health, and welfare of the public.

*Sec. 104 Duties and Powers of the Building Official.*

*Sec. 104.1 General.* The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code, and shall not have the effect of waiving requirements specifically provided for in this code.

*Sec. 104.2 Right of Entry.*

*Sec. 104.2.1* Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code. If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

*Sec. 104.2.2* When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

*Sec. 104.3 Stop-work orders.* Upon notice from the building official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping the work.

*Sec. 104.4 Revocation of Permits.* The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any provisions of this code.

*Sec. 104.4.1 Misrepresentation of Application.* The building official may revoke a permit or approval, issued under the provisions of this code, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

*Sec. 104.4.2 Violation of Code Provisions.* The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

*Sec. 104.5 Unsafe Buildings or Systems.* All buildings, structures, electrical, gas, mechanical or plumbing

PROOF

systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the International Property Maintenance Code or other local ordinance, including article II of chapter 24 of this Code.

*Sec. 104.6 Requirements Not Covered by Code.* Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the building official.

*Sec. 104.7 Reserved.*

*Sec. 104.8 Reserved.*

*Sec. 104.9 Approved Materials and Equipment.* Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

*Sec. 104.9.1 Used Materials and Equipment.* The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be re-used unless approved by the building official.

*Sec. 104.10 Reserved.*

*Sec. 104.11 Alternative Materials, Design and Methods Of Construction And Equipment.* The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the SFPE Engineering Guide to Performance Based Fire Protection Analysis and Design of Buildings, or other methods approved by the building official may be used. The building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternative.

*Sec. 104.11.1 Research Reports.* Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

*Sec. 104.11.2 Tests.* Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

*Sec. 104.11.3 Accessibility.* Alternate designs and technologies for providing access to and usability of a facility for persons with disabilities shall be in accordance with section 11-2.2.

*Sec. 105 Permits.*

*Sec. 105.1 Required.* Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the

PROOFS

installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

*Sec. 105.1.1 Annual Facility Permit.* In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical, plumbing or interior nonstructural office system, the building official is authorized to issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The building official shall be notified of major changes and shall retain the right to make inspections at the facility site as deemed necessary. An annual facility permit shall be assessed an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall contain a general description of the parameters of work intended to be performed during the year.

*Sec. 105.1.2 Annual Permit Records.* The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

*Sec. 105.1.3 Food Permit.* As per F.S.§ 500.12, a food permit from the Department of Agriculture and Consumer Services is required of any person who operates a food establishment or retail store.

*Sec. 105.2 Work Exempt from Permit.* Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code. Permits shall not be required for the following:

*Gas.*

(i) Portable heating appliance.

(ii) Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

*Mechanical.*

(ii) Portable heating appliance.

(ii) Portable ventilation equipment.

(iii) Portable cooling unit.

(iv) Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

(v) Replacement of any part which does not alter its approval or make it unsafe.

(vi) Portable evaporative cooler.

(vii) Self-contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

(viii) The installation, replacement, removal, or metering of any load management control device.

*Plumbing.*

(i) The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

(ii) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or

PROOFS

require the replacement or rearrangement of valves, pipes or fixtures.

*Sec. 105.2.1 Emergency repairs.* Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

*Sec. 105.2.2 Minor repairs.* Ordinary minor repairs or installation of replacement parts may be made with the prior approval of the building official without a permit, provided the repairs do not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; additionally, ordinary minor repairs shall not include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring systems or mechanical equipment or other work affecting public health or general safety, and such repairs shall not violate any of the provisions of the technical codes.

*Sec. 105.3 Application for permit.* To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building department for that purpose. Permit application forms shall comply with the requirements of section 713.135(6) and (7). Each application shall be inscribed with the date of application, and the code in effect as of that date. For a building permit for which an application is submitted prior to the effective date of the latest edition of Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

*Sec. 105.3.1 Action on application.* The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable. When authorized through contractual agreement with the school board, in acting on applications for permits, the building official shall give first priority to any applications for the construction of, or addition or renovation to, any school or educational facili

*Sec. 105.3.1.1* If a state university, state community college, or public school district elects to use the city's code enforcement offices, fees charged by the city for enforcement of the Florida Building Code on buildings, structures, and facilities of state universities, state colleges, and public school districts shall not be more than the actual labor and administrative costs incurred for plans review and inspections to ensure compliance with the code.

*Sec. 105.3.1.2* No permit may be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit provides to the enforcing agency which issues the permit any of the following documents which apply to the construction for which the permit is to be issued and which shall be prepared by or under the direction of an engineer registered under F.S. ch. 471:

A. Electrical documents for any new building or addition which requires an aggregate service capacity of 600 amperes (240 volts) or more on a residential electrical system or 800 amperes (240 volts) or more on a commercial or industrial electrical system and which costs more than $50,000.00.

B. Plumbing documents for any new building or addition which requires a plumbing system with more than 250 fixture units or which costs more than $50,000.00.

C. Fire sprinkler documents for any new building or addition which includes a fire

PROOFS

sprinkler system which contains 50 or more sprinkler heads. A Contractor I, Contractor II, or Contractor IV, certified under §633.521 F.S. § 633.318, may design a fire sprinkler system of 49 or fewer heads and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition or deletion of not more than 49 heads, notwithstanding the size of the existing fire sprinkler system.

D. Heating, ventilation, and air-conditioning documents for any new building or addition which requires more than a 15-ton-per-system capacity which is designed to accommodate 100 or more persons or for which the system costs more than $50,000.00. This subsection does not include any document for the replacement or repair of an existing system in which the work does not require altering a structural part of the building or for work on a residential one-family, two-family, three-family or four-family structure. An air-conditioning system may be designed by an installing air-conditioning contractor certified under F.S. ch. 489 to serve any building or addition which is designed to accommodate fewer than 100 persons and requires an air-conditioning system with value of $50,000.00 or less; and when a 15-ton per system or less is designed for a singular space of a building and each 15-ton system or less has an independent duct system. Systems not complying with the above require design documents that are to be sealed by a professional engineer.

Example 1. When a space has two 10-ton systems with each having an independent duct system, the contractor may design these two systems since each unit (system) is less than 15 tons.

Example 2. Consider a small single story office building which consists of six individual offices where each office has a single three-ton package air conditioning heat pump. The six heat pumps are connected to a single water cooling tower. The cost of the entire heating, ventilation and air conditioning work is $47,000.00 and the office building accommodates fewer than 100 persons. Because the six mechanical units are connected to a common water tower this is considered to be an 18-ton system. It, therefore, could not be designed by a mechanical or air conditioning contractor.

Vote. It was further clarified by the commission that the limiting criteria of 100 persons and $50,000.00 apply to the building occupancy load and the cost for the total air conditioning system of the building.

Any specialized mechanical, electrical, or plumbing document for any new building or addition which includes a medical gas, oxygen, steam, vacuum, toxic air filtration, halon, or fire detection and alarm system which costs more than $5,000.00.

Documents requiring an engineer seal by this part shall not be valid unless a professional engineer who possesses a valid certificate of registration has signed, dated, and stamped such document as provided in F.S. § 471.025.

*Sec. 105.3.2 Time limitation of application.* An application for a permit for any proposed work shall be deemed to have been abandoned, becoming null and void 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing prior to the abandonment date and justifiable cause demonstrated.

*Sec. 105.3.3* The building department may not issue a building permit for any building construction, erection, alteration, modification, repair or addition unless the permit either includes on its face or there is attached to the permit the following statement:

"Notice. In addition to the requirements of this permit, there may be additional restrictions

PROOFS

applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies."

*Sec. 105.3.4* A building permit for a single-family residential dwelling must be issued within 30 working days of application therefor unless unusual circumstances require a longer time for processing the application or unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

*Sec. 105.3.5 Identification of minimum premium policy.* Except as otherwise provided in F.S. ch. 440, Workers' Compensation, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees as provided in F.S. §§ 440.10 and 440.38.

*Sec. 105.3.6 Asbestos Removal.* Moving, removal or disposal of asbestos-containing materials on a residential building where the owner occupies the building, the building is not for sale or lease, and the work is performed according to the owner-builder limitations provided in this subsection. To qualify for exemption under this subsection, an owner must personally appear and sign the building permit application. The permitting agency shall provide the person with a disclosure statement in substantially the following form: Disclosure Statement. State law requires asbestos abatement to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own asbestos abatement contractor even though you do not have a license. You must supervise the construction yourself. You may move, remove or dispose of asbestos-containing materials on a residential building where you occupy the building and the building is not for sale or lease, or the building is a farm outbuilding on your property. If you sell or lease such building within one year after the asbestos abatement is complete, the law will presume that you intended to sell or lease the property at the time the work was done, which is a violation of this exemption. You may not hire an unlicensed person as your contractor. Your work must be done according to all local, state and federal laws and regulations, which apply to asbestos abatement projects. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

*Sec. 105.3.8 Public Right-of-way.* A permit shall not be given by the building official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application for right-of-way permits from the authority having jurisdiction over the street, alley or public lane.

*Sec. 105.4 Conditions of the of Permit.*

*Sec. 105.4.1 Permit Intent.* A permit issued shall be constructed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction or violations of this code. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced.

*Sec. 105.4.1.1.* If work has commenced and the permit is revoked, becomes null and void, or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work.

*Sec. 105.4.1.2.* If a new permit is not obtained within 180 days from the date the initial permit became null and void, the building official is authorized to require that any work which

PROOFS

has been commenced or completed be removed from the building site. Alternately, a new permit may be issued on application, providing the work in place and required to complete the structure meets all applicable regulations in effect at the time the initial permit became null and void and any regulations which may have become effective between the date of expiration and the date of issuance of the new permit.

*Sec. 105.4.1.3.* Work shall be considered to be in active progress when the permit has received an approved inspection within 180 days. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process.

*Sec. 105.4.1.4.* The fee for renewal reissuance and extension of a permit shall be set forth in the Fee Schedule.

*Sec. 105.5 Reserved.*

*Sec. 105.6 Reserved.*

*Sec. 105.7 Placement of Permit.* The building permit or copy shall be visible from the street and kept in a location on the site of the work until the completion of the project.

*Sec. 105.5 Expiration.* Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Failure to obtain an approved inspection within 180 days of the previous approved inspection shall constitute suspension or abandonment. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. Permits issued for the demolition of a structure shall expire 60 days from the date of issuance. For a justifiable cause, one extension of time for a period not exceeding 30 days may be allowed. Such request shall be in writing to the building official.

*Sec. 105.6 Suspension or Revocation.* The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

*Sec. 105.7 Reserved.*

*Sec. 105.8 Notice of Commencement.* As per F.S. § 713.135, when any person applies for a building permit, the authority issuing such permit shall print on the face of each permit card in no less than 18-point, capitalized, boldfaced type:

"WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT."

*Sec. 105.9 Asbestos.* The building department shall require each building permit for the demolition or renovation of an existing structure to contain an asbestos notification statement which indicates the owner's or operator's responsibility to comply with the provisions of F.S. § 469.003 and to notify the department of environmental protection of his intentions to remove asbestos, when applicable, in accordance with state and federal law.

*Sec. 105.10 Certificate of Protective Treatment for Prevention of Termites.* A weather resistant jobsite posting board shall be provided to receive duplicate treatment certificates as each required protective treatment is completed, providing a copy for the person the permit is issued to and another copy for the building permit files. The treatment certificate shall provide the product used, identity of the applicator, time and date of the treatment, site location, area treated, chemical used, percent concentration and number of gallons used, to establish a verifiable record of protective

PROOFS

treatment. If the soil chemical barrier method for termite prevention is used, final exterior treatment shall be completed prior to final building approval.

*Sec. 105.11 Notice of Termite Protection.* A permanent sign which identifies the termite treatment provider and need for reinspection and treatment contract renewal shall be provided. The sign shall be posted near the water heater or electric panel.

*Sec. 105.12 Work Starting Before Permit Issuance.* Upon approval of the building official, the scope of work delineated in the building permit application and plan may be started prior to the final approval and issuance of the permit, provided any work completed is entirely at risk of the permit applicant and the work does not proceed past the first required inspection.

*Sec. 105.13 Phased Permit Approval.* After submittal of the appropriate construction documents, the building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

*Sec. 105.14 Permit Issued on Basis of an Affidavit.* Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the building official, are hazardous or complex, the building official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity to the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the building official written affidavit that the work has been done in conformity to the reviewed plans and with the structural provisions of the technical codes. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the building official. The building official shall ensure that any person conducting plans review is qualified as a plans examiner under F.S. ch. 468, pt. XII (F.S. § 468.601 et seq.) and that any person conducting inspections is qualified as a building inspector under F.S. ch. 468, pt. XII.

*Sec. 106 Construction Documents.*

*Sec. 106.1 Submittal Documents.* Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a design professional where required by the statutes. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a design professional.

Exception. The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code. If the design professional is an architect or engineer legally registered under the laws of this state regulating the practice of architecture as provided for in F.S. ch. 481, pt. II (F.S. § 481.301 et seq.), or engineering as provided for in F.S. ch. 471 and 61G15 Florida Administrative Code then he shall affix his official seal, original signature and date to said drawings, specifications and accompanying data, as required by state statute. If the design professional is a landscape architect registered under the laws of this state regulating the practice of landscape architecture as provided for in F.S. Chapter 481, Part II, then he shall affix his seal, original signature and date to said drawings as defined in 481.303(b)(a) (b)(e)(d), FS. § and 61G1 Florida Administrative Code.

*Sec. 106.1.1 Information on Construction Documents.* Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction

PROPOSED

documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official (see also section 106.3.5).

*Sec. 106.1.1.1 Fire Protection System Shop Drawings.* Shop drawings for the fire protection system shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in chapter 9.

*Sec. 106.1.1.2 Roof Assemblies.* For roof assemblies required by the code, the construction documents shall illustrate, describe, and delineate the type of roofing system, materials, fastening requirements, flashing requirements and wind resistance rating that are required to be installed. Product evaluation and installation shall indicate compliance with the wind criteria required for the specific site or a statement by an architect or engineer for the specific site must be submitted with the construction documents.

*Sec. 106.1.2 Additional Data.* The building official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the building official to be prepared by an architect or engineer shall be affixed with their official seal, signature and date as state law requires.

*Sec. 106.1.3 Quality of Building Plans.* The building official may establish through departmental policy, standards for plans and specifications, in order to provide conformity to its record retention program. This policy may include such things as minimum size, shape, contrast, clarity, or other items related to records management, such as building plans shall be drawn to a minimum one-eighth inch scale upon substantial paper, cloth or other acceptable medium.

*Sec. 106.1.4 Hazardous Occupancies.* The building official may require the following:

A. *General site plan.* A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent accessways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.

B. *Building floor plan.* A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire-rated assemblies with their hourly rating, location of liquid-tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class of the hazardous materials stored.

*Sec. 106.2 Reserved.*

*Sec. 106.3 Examination of Documents.* The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

Exceptions.

(i) Building plans approved pursuant to F.S. § 553.77(6) and state-approved manufactured buildings are exempt from local codes enforcing agency plan reviews except for

PROOFS

provisions of the code relating to erection, assembly or construction at the site. Erection, assembly (including utility crossover connections) and construction at the site are subject to local permitting and inspections.

(ii) Industrial construction on sites where design, construction and fire safety are supervised by licensed design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to approval of the building official, from review of plans and inspections, providing the appropriate licensed design and inspection professionals certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and fire safety inspectors.

*Sec. 106.3.1 Approval of Construction Documents.* When the building official issues a permit, the construction documents shall be endorsed, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

*Sec. 106.3.2 Previous Approvals.* This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

*Sec. 106.3.3 Reserved.*

*Sec. 106.3.4 Reserved.*

*Sec. 106.3.4.1 Reserved.*

*Sec. 106.3.4.2 Reserved.*

*Sec. 106.3.4.3* Certifications by contractors authorized under the provisions of F.S. § 489.115(4)(b) shall be considered equivalent to sealed plans and specifications by a person licensed under F.S. ch. 471 or 481 by local enforcement agencies for plans review for permitting purposes relating to compliance with the wind resistance provisions of the code or alternate methodologies approved by the state building commission for one- and two-family dwellings. Local enforcement agencies may rely upon such certification by contractors that the plans and specifications submitted conform to the requirements of the code for wind resistance. Upon good cause shown, local government code enforcement agencies may accept or reject plans sealed by persons licensed under F.S. ch. 471, 481 or 489.

*Sec. 106.3.5 Minimum Plan Review Criteria for Buildings.* The examination of the documents by the building official shall include the following minimum criteria and documents; a floor plan, site plan, foundation plan, floor/roof framing plan or truss layout and all exterior elevations: commercial buildings:

*Building.*

1. Site requirements. Parking fire access, vehicle loading driving/turning radius, fire hydrant/water supply/post indicator valve (PIV), setback/separation (assumed property lines), location of specific tanks, water lines and sewer lines.

2. Occupancy group and special occupancy requirements shall be determined.

3. Minimum type of construction shall be determined (Table 503).

4. Fire-resistant construction requirements shall include the following

PROOFS

components: fire-resistant separations; fire-resistant protection for type of construction protection of openings and penetrations of rated walls; fire blocking and draft stopping calculated fire resistance.

5. Fire suppression systems shall include: early warning smoke evacuation systems schematic fire sprinklers standpipes pre-engineered systems riser diagram same as above.

6. Life safety systems shall be determined and shall include the following requirements: occupant load and egress capacities, early warning, smoke control, stair pressurization and systems schematic.

7. Occupancy load/egress requirements shall include occupancy load, gross net means of egress, exit access, exit, exit discharge, stairs' construction/geometry and protection, doors, emergency lighting and exit signs, specific occupancy requirements, construction requirements and horizontal exits/exit passageways.

8. Structural requirements shall include: soil conditions/analysis, termite protection, design loads, wind requirements, building envelope, structural calculations (if required), foundation, wall systems, floor systems, roof systems, threshold inspection plan and stair systems.

9. Materials shall be reviewed and shall at a minimum include the following: wood, steel, aluminum, concrete, plastic, glass, masonry, gypsum board and plaster, insulating (mechanical) and roofing insulation.

10. Accessibility requirements shall include the following: site requirements, accessible route, vertical accessibility, toilet and bathing facilities, drinking fountains, equipment, special occupancy requirements and fair housing requirements.

11. Interior requirements shall include the following: interior finishes (flame spread/smoke develop), light and ventilation and sanitation.

12. Special systems: elevators, escalators and lifts.

13. Swimming pools: barrier requirements, spas and wading pools.

*Electrical.*

1. Electrical wiring: services, feeders and branch circuits, overcurrent protection, grounding, wiring methods and materials and GFCI's.

2. Equipment.

3. Special occupancies.

4. Emergency systems.

5. Communication systems.

6. Low voltage.

7. Load calculations.

*Plumbing.*

1. Minimum plumbing facilities.

2. Fixture requirements.

3. Water supply piping.

4. Sanitary drainage.

PROOF

5. Water heaters.
6. Vents.
7. Roof drainage.
8. Back flow prevention.
9. Irrigation.
10. Location of water supply line.
11. Grease traps.
12. Environmental requirements.
13. Plumbing riser.

*Mechanical.*

1. Energy calculations.
2. Exhaust systems, clothes dryer exhaust, kitchen equipment exhaust and specialty exhaust systems.
3. Equipment.
4. Equipment location.
5. Make-up air.
6. Roof-mounted equipment
7. Duct systems.
8. Ventilation.
9. Combustion a
10. Chimneys replaces and vents.
11. Appli ces.
12. B ers.
13. efrigeration.
14. Bathroom ventilation.
15. Laboratory.

*Gas.*

1. Gas piping.
2. Venting.
3. Combustion air.
4. Chimneys and vents.
5. Appliances.
6. Type of gas.
7. Fireplaces.
8. LP tank location.
9. Riser diagram/shutoffs.

*Demolition.*

1. Asbestos removal.

*Residential (one- and two-family) building.*

PROOFS

1. Site requirements: Setback/separation (assumed property lines) and location of septic tanks.
2. Fire-resistant construction (if required).
3. Fire.
4. Smoke detector locations.
5. Egress. Egress window size and location and stairs construction requirements.
6. Structural requirements shall include: wall section from foundation through roof, including assembly and materials, connector tables, termite protection, design loads, wind requirements, building envelope, structural calculations (if required), foundation wall systems and floor systems, roof systems.
7. Accessibility requirements: show/identify accessible and bath.

*Manufactured/mobile homes.*

1. Site requirements: Setback/separation (assumed property lines), location of septic tanks (if applicable).
2. Structural: Wind zone anchoring blocking.
3. Plumbing: List potable water source and meter size (if applicable).
4. Mechanical: Exhaust systems clothes dryer exhaust kitchen equipment exhaust.
5. Electrical exterior disconnect location.

Exemptions. Plans examination by the building official shall not be required for the following work:

1. Replacing existing equipment such as mechanical units, water heaters, etc.
2. Minor electrical, plumbing and mechanical repairs.
3. Annual maintenance permits.
4. Prototype plans except for local site adaptions, siding, foundations and/or modifications, except for structures that require waiver.
5. Manufactured buildings plan except for foundations and modifications of buildings on site.

*Sec. 106.4 Amended Construction Documents.* Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the reviewed construction documents shall be resubmitted for approval as an amended set of construction documents.

*Sec. 106.5 Retention Of Construction Documents.* One set of approved construction documents shall be retained by the building official as required by state statutes.

*Sec. 106.6 Affidavits.* The building official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The building official may, without any examination or inspection, accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the building official copies of inspection reports as inspections are performed and upon

PROOFS

completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the building official relies upon such affidavit, the architect or engineer shall assume full responsibility for compliance with all provisions of the technical codes and other pertinent laws or ordinances. The building official shall ensure that any person conducting plans review is qualified as a plans examiner under F.S. ch. 468, pt. XII (F.S. § 468.601 et seq.) and that any person conducting inspections is qualified as a building inspector under F.S. ch. 468, pt. XII.

*Sec. 107 Temporary Structures and Uses.*

*Sec. 107.1 General.* The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

*Sec. 107.2 Conformance.* Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

*Sec. 107.3 Temporary Power.* The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the Chapter 27 of the Florida Building Code, Building.

*Sec. 107.4 Termination of Approval.* The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

*Sec. 108 Fees.*

*Sec. 108.1 Prescribed Fees.* A permit shall not be issued until fees authorized under F.S. § 553.80 have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical or gas systems, has been paid.

*Sec. 108.2 Schedule of Permit Fees.* On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the fee schedule as adopted by the city.

*Sec. 108.2.1 Types of Fees Enumerated.* Fees may be charged for but not limited to the following: permits; plans examination; certificates of competency (including fees for applications, examinations, renewal, late renewal, and reciprocity); re-inspections; administrative fees (including fees for investigative and legal costs incurred in the context of certain disciplinary cases heard by the board); variance requests; administrative appeals; violations; and other fees as established by ordinance.

*Sec. 108.3 Building Permit Valuation.* If, in the opinion of the building official, the claimed valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates, and/or bona fide signed contracts (excluding land value) to meet the approval of the building official. The value of new buildings shall be determined by using the most recent Building valuation data as compiled by the International Code Council (ICC), semi-annually, using the Marshall Valuation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California or on the contract price given by the applicant for the project, whichever is higher. (The data are only intended to be used for determining permit fees and is not intended to be used as an estimating guide.) For permitting purposes, valuation of buildings and systems shall be total replacement value to include structural, electric, plumbing, mechanical, interior finish, normal site work (excavation and backfill for buildings), architectural and design fees, marketing costs, overhead and profit; excluding only land value.

PROOFS

*Sec. 108.4 Work Commencing Before Permit Issuance.* Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the building official's approval or the necessary permits shall be subject to an additional fee of 100 percent of the usual permit fee in addition to the required permit fees or as provided by local ordinance. This provision shall not apply to emergency work when delay would clearly have placed life or property in imminent danger. But in all such cases, the required permits must be applied for within three business days and any unreasonable delay in obtaining those permits shall result in the charge of a double fee. The payment of a double fee shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a permit. The building official may grant extensions of time or waive fees when justifiable cause has been demonstrated in writing.

*Sec. 108.5 Reserved.*

*Sec. 108.6 Reserved.*

*Sec. 109 Inspections.*

*Sec. 109.1 General.* Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval, as a result of an inspection, shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. The building official shall be permitted to require a boundary line survey prepared by a qualified surveyor whenever the boundary lines cannot be readily determined in the field. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Sec. *109.1.1 Manufacturers and Fabricators.* When deemed necessary by the building official, he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes.

Sec. *109.1.2 Inspection Service.* The building official may make, or cause to be made, the inspections required by section 109. He may accept reports of department inspectors, independent inspectors or of recognized inspection services, provided that after investigation he is satisfied as to their licensure, qualifications and reliability. A certificate required by any provision of this code shall not be based on such reports unless the same are recorded by the building code inspector or the architect or engineer performing building code inspections in a manner specified by the building official. The building official shall ensure that all persons making such inspections shall be certified in accordance to F.S. ch. 468.

Sec. *109.2 Preliminary Inspection.* Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

Sec. *109.3 Required Inspections.* The building official upon notification from the permit holder or his agent shall make the following inspections, and such other inspections as deemed necessary; and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

*Building.*

(i) *Foundation Inspection.* To be made after trenches are excavated and forms erected and shall at a minimum include the following building components:

A. Stem-wall;

PROOFS

B. Monolithic slab-on-grade;

C. Piling/pile caps;

D. Footers/grade beam.

1.1 Slab Inspection. To be made after the reinforcement is in place, all concealed conduit, piping, ducts and vents are installed and the electrical, plumbing and mechanical work is complete. Slab shall not be poured until all required inspections have been made and passed.

A foundation/form board survey prepared and certified by a registered surveyor shall be required for all new construction prior to approval of the slab inspection. The survey shall certify placement of the building on the site, illustrate all surrounding setback dimensions and shall be available at the job site for review by the building inspector. In lieu of providing a survey, the contractor may elect to uncover all property line markers and string-up all property lines in preparation for inspection.

(ii) *Framing Inspection*. To be made after the roof, all framing, fireblocking and bracing is in place, all concealing wiring, all pipes, chimneys, ducts and vents are complete and shall at a minimum include the following building components:

A. a. Window/door framing and installation.

b. Vertical cells/columns.

c. Lintel/tie beams.

d. Framing/trusses/bracing/connectors (including truss layout and engineered drawings).

e. Draft.

f. Stopping/fire blocking.

g. Curtain wall framing.

h. Energy insulation.

i. Accessibility.

B. Insulation inspection. To be made after the framing inspection is approved and the insulation is in place.

C. Gypsum Board Nailing Inspection.

(iii) *Sheathing Inspection*. To be made either as part of a dry-in inspection or done separately at the request of the contractor after all roof and wall sheathing and fasteners are complete and shall at a minimum include the following building components:

A. Roof sheathing.

B. Wall sheathing.

C. Sheathing fasteners.

D. Roof/wall dry-in.

E. Sheathing/cladding inspection window/door buck attachment.

Note. Sheathing fasteners installed and found to be missing the structural member (shiners) shall be removed and properly reinstalled prior to installation of the dry-in material.

(iv) *Roofing Inspection*. To be made as two inspections and shall at a minimum include the following building components:

A. Dry-in.

B. Insulation.

PROOFS

C. Roof coverings (including in progress).

D. Flashing.

(v) *Final Inspection*. To be made after the building is completed and ready for occupancy.

(vi) *Swimming Pool Inspection*.

A. First inspection to be made after excavation and installation of reinforcing steel, bonding and main drain and prior to placing of concrete shell. Underground electric inspection.

B. Underground plumbing inspection including a pressure test deck inspection: to be made prior to installation of the deck material (with forms, deck drains, and any reinforcement in place.

C. Final inspection to be made when the swimming pool is complete and all required enclosure requirements are in place.

D. In order to pass final inspection and receive a certificate of completion, a residential swimming pool must meet the requirements relating to pool safety features as described in § 424.2.17.

(vii) *Demolition Inspections*.

A. First inspection to be made after all utility connections have been disconnected and secured in such manner that no unsafe or unsanitary conditions shall exit during or after demolition operations.

B. Final inspection to be made after all demolition work is completed.

(viii) *Manufactured Building Inspections*. The building department shall inspect construction of foundations; connecting buildings to foundations; installation of parts identified on plans as site installed items; joining the modules, including utility crossovers; utility connections from the building to utility lines on site; and any other work done on site which requires compliance with the Florida Building Code. Additional inspections may be required for public educational facilities. See § 423.27.20.

*Electrical.*

1. *Underground inspection (including bonding and ground)*. To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.

2. *Rough-In inspection*. To be made after the roof, framing, fireblocking and bracing is in place and prior to the installation of wall or ceiling membranes.

3. *Final inspection*. To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

*Plumbing.*

1. *Underground inspection*. To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.

2. *Rough-in inspection*. To be made after thereof, framing, fireblocking and bracing is in place and all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling membranes.

3. *Final inspection*. To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

Note. See section P312 of the Florida Building Code, Plumbing, for

PROOFS

required tests.

*Mechanical*.

1. *Underground inspection*. To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.
2. *Rough-in inspection*. To be made after the roof, framing, fire blocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.
3. *Final inspection*. To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

*Gas*.

1. *Rough piping inspection*. To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.
2. *Final piping inspection*. To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.
3. *Final inspection*. To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to ensure compliance with all the requirements of this code and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

*Site Debris*.

1. The contractor and/or owner of any active or inactive construction project shall be responsible for the cleanup and removal of all construction debris or any other miscellaneous discarded articles prior to receiving final inspection approval. Construction job sites must be kept clean, such that accumulation of construction debris must not remain on the property for a period of time exceeding 14 days.
2. All debris shall be kept in such a manner as to prevent it from being spread by any means.

*Sec. 109.3.3 Reinforcing Steel And Structural Frames.* Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining a release from the building official.

*Sec. 109.3.4 Termites.* Building components and building surroundings required to be protected from termite damage in accordance with section 1503.6, section 2304.11 or section 2304.11.6.1, specifically required to be inspected for termites in accordance with section 2116, or required to have chemical soil treatment in accordance with section 1816 shall not be covered or concealed until the release from the building official has been received.

*Sec. 109.3.5 Shoring.* For threshold buildings, shoring and associated formwork or falsework shall be designed and inspected by a state-licensed professional engineer, employed by the permit holder or subcontractor, prior to any required mandatory inspections by the threshold building inspector.

*Sec. 109.3.6 Threshold building.*

PROOF

*Sec. 109.3.6.1* The building and code enforcement department shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to the enforcing agency prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plans is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents.

*Sec. 109.3.6.2* The special inspector shall inspect the shoring and reshoring for conformance to the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building which does not meet the minimum size, height, occupancy, occupancy classification or number of stories criteria which would result in classification as a threshold building under F.S. § 553.71(7) may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code, Building.

*Sec. 109.3.6.3* The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed or registered under F.S. ch. 471 as an engineer or under F.S. ch. 481 as an architect.

*Sec. 109.3.6.4* The building department shall require th[illegible]on every threshold building:

*Sec. 109.3.6.4.1* The special inspector, upon c[illegible]pletion of the building and prior to the issuance of a certificate of occupancy[illegible]e a signed and sealed statement with the enforcement agency in substantially[illegible]he following form:

"To the best of my knowledge[illegible]d belief, the above described construction of all structural load-bearing com[illegible]ents complies with the permitted documents, and the shoring and reshorin[illegible]onforms to the shoring and reshoring plans submitted to the enforcement ag[illegible]y."

*Sec. 109.3.6.4.2* Any p[illegible]posal to install an alternate structural product or system to which building [illegible]es apply be submitted to the enforcement agency for review for compliance w[illegible]h the codes and made part of the enforcement agency's recorded set of permit [illegible]cuments.

*Sec. 109.3.6.4.3* All shoring and reshoring procedures, plans and details be submitted to the [illegible]forcement agency for record keeping. Each shoring and reshoring installation [illegible]ll be supervised, inspected and certified to be in compliance with the shoring documents by the contractor.

*Sec. 09.3.6.4.4* All plans for the building which are required to be signed and sealed by the architect or engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the plans and specifications comply with the applicable minimum building codes and the applicable fire-safety standards as determined by the local authority in accordance with this section and F.S. ch. 633.

*Sec. 109.3.6.5* The building department may issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in F.S. § 489.105(3)(a), or to a licensed building contractor, as defined in F.S. § 489.105(3)(b), within the scope of her or his license. The named contractor to whom the building permit is issued shall have the responsibility for supervision, direction, management and control of the construction activities on the project for which the building permit was issued.

*Sec. 109.3.6.6* The building department may allow a special inspector to conduct the minimum structural inspection of threshold buildings required by this code, F.S. 553.73, without duplicative inspection by the building department. The building

PROOFS

official is responsible for ensuring that any person conducting inspections is qualified as a building inspector under F.S. ch. 468, pt. XII (F.S. § 468.601 et seq.) or certified as a special inspector under F.S. ch. 471 or 481. Inspections of threshold buildings required by F.S. § 553.79(5) are in addition to the minimum inspections required by this code.

*Sec. 109.3.9 Reserved.*

*Sec. 109.3.10 Reserved.*

*Sec. 109.4 Reserved.*

*Sec. 109.5 Inspection Requests.* It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

*Sec. 109.6 Approval Required.* Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

*Sec. 110 Certificate of Occupancy.*

*Sec. 110.1 Use and Occupancy.* No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

*Sec. 110.2 Certificate Issued.* After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of chapter 3.
9. The type of construction as defined in chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

*Sec. 110.3 Temporary Occupancy.* The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during

PROOFS

which the temporary certificate of occupancy is valid.

*Sec. 110.4 Revocation.* The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

*Sec. 111 Service Utilities.*

*Sec. 111.1 Connection of Service Utilities.* No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official. See section 101.4.1.1, Underground Electrical Service.

*Sec. 111.2 Temporary connection.* The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

*Sec. 111.3 Authority to Disconnect Service Utilities.* The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

*Sec. 112 Reserved.*

*Sec. 113 Reserved.*

*Sec. 114 Stop-work order.*

*Sec. 114.1 Authority.* Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop-work order.

*Sec. 114.2 Issuance.* The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop-work order, the cited work shall immediately cease. The stop-work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

*Sec. 114.3 Unlawful Continuance.* Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

*Sec. 120 Severability.*

*Sec. 120.1 Severability.* If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

*Sec. 121 Violations and Penalties.*

*Sec. 121.1 Penalties.* Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor of the second degree. an offense. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued. Upon conviction of any such violation, such person shall be punished within the limits as provided by

PROOFS

law and local ordinance.

*Sec. 131 Wind Speed.*

*Sec. 131.1 Wind Lines.* As directed by the state legislature the exact location of the wind speed lines shall be established by local ordinance using recognized physical landmarks such as major roads, canals, rivers and lake shores whenever possible as adopted by the Florida Building Code.

The jurisdiction of the City of Fort Pierce has two wind speeds, 160 mph and 150 mph. The wind speed line, as indicated on the modified state map, runs north to south in the line extremely close to 25th Street. 25th Street is chosen to represent the wind speed line for the City of Ft. Pierce. The wind speed line will run north to south down the center of 25th Street. The land eastward of this line, including the barrier island shall be in the 160 mph wind zone. The land westward of this line shall be in the 150 mph wind zone. All projects shall be properly designed according to such wind speed zone. Both the modified state map and the chosen City of Fort Pierce wind line speed map will be kept on file in the office of the city clerk and in the building department.

*Sec. 132 Appendices.*

*Sec. 132.1 Adoption of Appendices to the Florida Existing Building Code.*

*Sec. 132.2 Appendix B; Standard for Rehabilitation; The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.*

*Sec. 140 Appeals.*

a. The city construction board of adjustment and appeals is abolished. However, all prior actions and orders imposed by the construction board of adjustment and appeals shall remain in full force and effect.

b. Decisions of the building official regarding interpretations of the Florida Building Code or Florida Accessibility Code for Building Construction, may be appealed pursuant to F.S. § 553.775.

(Code 1983, § 5-1; Ord. No. K-125, § 1, 12-17-2001; Ord. No. K-412, § 1, 3-20-2006; Ord. No. L-252, §§ 1, 2, 4-2-2012; Ord. No. 18-041 , §§ 1—6, 12-3-2018; Ord. No. 19-010, §§ 1—4, 3-18-2019)

**Sec. 103-24. Florida Building Code amendments.**

Florida Building Code amendments are as follows:

*Sec. 1.1 FBC Administrative Amendments.*

*107.3.5 Minimum plan review criteria for buildings.*

*Commercial Buildings: Building.*

1. Structural requirements shall include:

Flood requirements in accordance with section 1612, including lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), flood damage-resistant materials.

*Residential (one- and two-family).*

2. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (nonconversion agreement), equipment, and flood damage-resistant materials.

*1.2 FBC Technical Amendments.*

*Chapter 11 additions.*

*1101.1 Scope.* An addition to a building or structure shall comply with the state codes, as adopted for new construction, without requiring the existing building or structure to comply with any requirements of those codes or of these provisions, except as required by this chapter. Where an addition impacts the existing building or structure, that portion shall comply with this code.

PROOFS

*[BS] 1103.5 Flood Hazard Areas.* Additions and foundations in flood hazard areas shall comply with the following requirements:

(i) For horizontal additions that are structurally interconnected to the existing building:

A. If the addition and all other proposed work, when combined, constitute substantial improvement, the existing building and the addition shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

B. If the addition constitutes substantial improvement, the existing building and the addition shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

C. The addition shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

(ii) For horizontal additions that are not structurally interconnected to the existing building:

A. The addition shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

B. If the addition and all other proposed work, when combined, constitute substantial improvement, the existing building and the addition shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

(iii) For vertical additions and all other proposed work that, when combined, constitute substantial improvement, the existing building shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

(iv) For a raised or extended foundation, if the foundation work and all other proposed work, when combined, constitute substantial improvement, the existing building shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

(v) For a new foundation or replacement foundation, the foundation shall comply with section 1612 of the Florida Building Code, Building, or section R322 of the Florida Building Code, Residential, as applicable.

(Code 1983, § 5-1.1; Ord. No. 19-005 , §§ 3, 4, 3-18-2019)

**Sec. 5-4. Imposition of land use fee for issuance of building permits on Hutchinson Island.**

*Legislative findings.* The City Commission of the City of Fort Pierce, Florida, finds, determines and declares that the rapid growth and burgeoning population of the area east of the Indian River, known also as Hutchinson Island, requires the imposition of charges, in addition to all other charges levied pursuant to law, for the purpose of providing funds for the preservation and expansion of recreational facilities on the island, including property acquisition, development of publicly owned properties, dune restoration and preservation, and other infrastructure improvements necessary to preserve and create recreational opportunities on the island.

*Purpose.* The purpose of this section is to promote the public health, safety and general welfare of the people of Fort Pierce, and more particularly the persons who will reside in the structures subject to this section; to provide for infrastructure improvements to existing recreational facilities; to provide for the preservation of existing beach/ocean front recreational facilities through appropriate dune restoration and preservation; to provide for acquisition of beachfront or other property on the island for use as parks or other recreational facilities; to otherwise develop or enhance the recreational characteristics of publicly owned property on lands east of the Indian River.

*Application.* This section shall apply to lands located within the City of Fort Pierce which are east of the Indian River.

*Land use fee.* The City Commission of the City of Fort Pierce finds and determines that a land use fee of

PROOFS

~~one thousand dollars ($1,000.00) per dwelling unit is a fair, reasonable and equitable charge to be imposed for the purpose of providing funds which, together with other available funds, will be used to provide for construction, improvement and acquisition of recreational facilities as noted above. Such fee will be assessed to dwelling units which are approved as density bonuses pursuant to section 22-27.1 of the Code of Ordinances of the City of Fort Pierce, Florida. It is further determined that units of a higher intensity of development impose a greater burden upon the recreational facilities of the island and should pay a fee not in excess of the proportional impact which such higher intensity development may reasonably be expected to make on the recreational requirements of the area. Such fee shall be paid at the time a certificate of occupancy is issued.~~

~~(c) *Application of fees.* The fees and charges collected pursuant to this section shall be used solely to protect, preserve, acquire and improve recreational facilities on Hutchinson Island and to otherwise promote and implement the goals and objectives set forth in the recreation and open space element for Planning Area 13 of the Fort Pierce Comprehensive Plan.~~

~~(d) *Trust fund.* There is hereby created and established a separate and distinct trust fund for the City of Fort Pierce as follows:~~

~~(1) All funds collected pursuant to this section shall be deposited in the trust fund hereby created and shall be solely for the purposes above set forth. The funds may be used in areas within the city located east of the Indian River if the city commission determines that the use is consistent with the purpose herein provided for. The City Commission of the City of Fort Pierce, Florida, shall constitute the trustees of such trust fund and shall have sole and exclusive jurisdiction to determine application of the proceeds thereof.~~

~~(2) The funds shall be deposited in an interest bearing account at an institution to be determined by the city commission.~~

~~(e) *Exclusions.* This section shall not apply to public housing operated by any governmental authority, publicly owned governmental buildings and public utilities.~~

~~(f) *Credits.* In the event any person, firm or corporation, after July 1, 1985, donates funds to the City of Fort Pierce, Florida, to be used for the purposes of providing recreational improvements contemplated by this section such person, firm or corporation shall be given a credit against the charges imposed by this section to the extent of the funds so donated.~~

~~(Code 1983, § 5-4; Ord. No. I-115, §§ 1—8, 7-1-1985; Ord. No. I-469, § 5, 7-15-1991)~~

~~**Editor's note**— Ordinance No. I-115, §§ 1—8, adopted July 1, 1985, did not specifically amend the Code; hence codification herein as § 5-4 was at the discretion of the editor.~~

**Secs. 103-25--103-51. Reserved.**

DIVISION 2. PERMIT FEES

**Sec. 103-52. Fees; payment required.**

(a) On all buildings, structures, sites, alterations or other activities requiring a building permit, as set forth in this Code and/or the state building code, a fee shall be paid as required. Plan review fees, miscellaneous fees, incentive fees and penalty fees are in addition to the permit fee. The plan review fee shall be paid at the time of permit submittal prior to review taking place. The permit fee and applicable fees shall be paid at the time of the issuance of the permit, in accordance with the schedules set forth in this article.

(b) All incentive, optional service fees, penalty fees and miscellaneous fees shall be paid prior to such service being rendered and/or prior to final approval by the department.

(c) For the purposes of this article, the term "valuation" means the total value of work or total contract price including all materials and labor, for which the permit is being issued, including, but not limited to, electrical, gas, mechanical and plumbing equipment, permanent systems and appurtenances, including, but not limited to, equipment for which services and systems are designed for; regardless of whether the labor or materials are donated or obtained at discounted rates, overhead and profit. The building official shall make the final determination if there is a dispute regarding the valuation. The building official shall determine valuation by using the total contract price

PROOFS

submitted or the most recent building valuation data as ~~complied~~ by the International Code Council (ICC), whichever is greater.

(Code 1983, § 5-266; Ord. No. I-256, § 1, 2-16-1988; Ord. No. 18-029 , § 1, 9-4-2018)

**Sec. 103-53. Permit and plan review fee schedule.**

Permit and plan review fees shall be as established by resolution.

~~Permit Type and Fees:~~

~~(Plan review fees are in addition to permit fees and are listed below)~~

| | | |
|---|---|---|
| ~~*Permits based on valuation:*~~ | | ~~*Fee:*~~ |
| ~~(1)~~ | ~~Additions, new buildings, manufactured buildings, mobile homes:~~ | |
| | ~~(a) Commercial:~~ | ~~Fee is calculated by multiplying the valuation times .0125.~~ |
| | ~~(b) Residential:~~ | ~~Fee is calculated by multiplying the valuation times .005.~~ |
| ~~(2)~~ | ~~After the fact permit (work already started or completed):~~ | ~~Double the fee, calculated by multiplying the fee determined by this article times two~~ |
| ~~(3)~~ | ~~All other construction except flat rate permits as noted below:~~ | ~~Construction valuation under $8000.00 – Flat fee of $100.00~~<br>~~Or~~<br>~~Construction valuation $8,000.00 or more – The fee is calculated by multiplying the valuation times .0125~~ |
| ~~*Flat rate permits:*~~ | | ~~*Fee:*~~ |
| ~~(4)~~ | ~~Demolitions:~~ | |
| | ~~(a) Single family or one and two family structures:~~ | ~~$300.00~~ |
| | ~~(b) Miscellaneous residential demolition – including but not limited to interior demolition, fences, outbuildings, pools, other attached structures:~~ | ~~$150.00~~ |
| | ~~(c) Commercial structures:~~ | ~~$500.00~~ |
| | ~~(d) Miscellaneous commercial demolition – Including but not limited to: interior demolition, fences, outbuildings under 500 square feet, pools, signs, other attached structures:~~ | ~~$250.00~~ |
| ~~(5)~~ | ~~Development permit:~~ | ~~$100.00 for values under $5,000.00~~<br>~~$200.00 for values $5,000.00 or more~~ |
| ~~(6)~~ | ~~Moving of structure(s):~~ | ~~$500.00 per structure~~ |
| ~~(7)~~ | ~~Residential flat fee permits:~~<br>~~(Regulated by the Florida Residential Code.)~~ | |
| | ~~(a) Electric (not including photovoltaic):~~ | ~~$100.00~~ |
| | ~~(b) Fence:~~ | ~~$75.00~~ |

PROOFS

| | | |
|---|---|---|
| | (c) Mechanical (a/c change out only): | $150.00 |
| | (d) Plumbing (water heater or re-pipe only): | $100.00 |
| (8) | Temporary construction trailer: | $250.00 per six months.<br>(Upon approval by all required departments) |
| (9) | Temporary power pole: | Residential: $100.00<br>Commercial: $250.00 |
| (10) | Temporary tent: | $100.00 per tent |
| (11) | Temporary miscellaneous permit with an inspection: | $75.00 |
| *Plan Review Type:* | | *Fee:* |
| (1) | First plan review: | |
| | (a) New residential construction or addition: | The fee is calculated by multiplying the valuation times .003. Minimum fee of $75.00 |
| | (b) All other permit types: | The fee is calculated by multiplying the valuation times .005. Minimum fee of $75.00 |
| | Note: plan review fee for single opening replacement in a multi-family dwelling: | When only one opening (window or door) is being replaced in a multi-family building or development of ten units or more, only one plan review fee will be charged for a state product approval or Miami Dade Notice of Acceptance. Each different PA/NOA will have a separate plan review fee. |
| (2) | Flood review fee for structures over 50 percent substantial improvement, substantial damage, new construction or additions within the SFHA:<br>(This fee will still be charged if an initial determination of substantial damage or substantial improvement is made and the scope of work is reduced, or an alternate source of market value is provided to remove the determination of substantial damage or substantial improvement.) | The fee is calculated by multiplying the valuation times .0025 |
| (3) | Revised plan review: | |
| | (a) 1st revision: | Valuation under $5000.00: $25.00 per page<br>Valuation $5000.00 or more: $50.00 per page |
| | (b) 2nd revision: | Valuation under $5000.00 $50.00 per page<br>Valuation $5000.00 or more $100.00 per page |
| | (c) 3rd or subsequent revision:<br>(If 3rd revision is to correct the same deficiency, refer to section 5-270(5). | Valuation under $5000.00: $100.00 per page<br>Valuation $5000.00 or more: $200.00 per page |

(Code 1983, § 5-267; Ord. No. I-256, §§ 2—8, 2-16-1988; Ord. No. I-345, § 1, 9-5-1989; Ord. No. J-346, § 1, 8-4-1997; Ord. No. J-526, § 1, 10-18-1999; Ord. No. K-55, § 1, 2-20-2001; Ord. No. K-115, § 1, 10-15-2001; Ord. No. K-125, § 4, 12-17-2001; Ord. No. K-205, § 1, 3-17-2003; Ord. No. K-241, § 1, 10-20-2003; Ord. No. K-332, § 1, 4-4-2005; Ord. No. L-91, § 1, 9-21-2009; Ord. No. L-137, § 1, 10-4-2010; Ord. No. L-213, § 1, 6-20-2011; Ord. No. L-248, § 1, 3-5-2012; Ord. No. 15-056, § 1, 1-4-2016 ; Ord. No. 18-029 , § 1, 9-4-2018)

PROOFS

**Sec. 103-54. Miscellaneous fee schedule.**

Fees for the following shall be as established by resolution:

(1) Appeal or variance request of floodplain management ordinances.
(2) Building code surcharge per F.S. §§ 468.631 and 553.721.
(3) Business tax inspection.
(4) Certificate of occupancy (CO) or certificate of completion (CC).
(5) Change of contractor.
(6) Change of subcontractor.
(7) Completion of DBPR probation forms.
(8) Conversion of paper plans to other format.
(9) Electronic building permit processing fee.
(10) Expired permit inspection to confirm that no work was performed and to close the permit.
(11) Flood zone verification letter.
(12) Liens and permits; summary of search and findings.
(13) Permit extension (justifiable cause must be demonstrated for each request).
(14) Permit renewal (first) (justifiable cause must be demonstrated for each request).
(15) Permit renewal (second) (justifiable cause must be demonstrated for each request).
(16) Permit renewal (third and each subsequent) (justifiable cause must be demonstrated for each request).
(17) Permit to comply condemnations.
(18) Pre-application meeting (this fee is in addition to the fee charged by planning and zoning).
(19) Pre-construction meeting.
(20) Re-issuance of certificate of occupancy (CO) or certificate of completion (CC).
(21) Re-issuance of permit card.
(22) Re-stamping of plans.
(23) Routing fee.
(24) Subcontractor agreements.
(25) Special inspector/threshold inspector required.

| ~~Type of service or fee:~~ | | ~~Fee:~~ |
|---|---|---|
| ~~(1)~~ | ~~Appeal or variance request of floodplain management ordinances:~~ | ~~$500.00~~ |
| ~~(2)~~ | ~~Building code surcharge per F.S. §§ 468.631 and 553.721:~~ | ~~A total of 2.5 percent on all plan review and permit fees. Minimum fee of $4.00~~ |
| ~~(3)~~ | ~~Business tax inspection:~~ | ~~Inspection: $75.00~~<br>~~Re-inspection(s): $75.00~~ |
| ~~(4)~~ | ~~Certificate of occupancy (CO) or certificate of completion (CC):~~ | ~~$50.00~~ |
| ~~(5)~~ | ~~Change of contractor:~~ | ~~$50.00~~ |
| ~~(6)~~ | ~~Change of subcontractor:~~ | ~~$25.00~~ |

PROOFS

| | | |
|---|---|---|
| (7) | Completion of DBPR probation forms: | $50.00 per request |
| (8) | Conversion of paper plans to other format: | $25.00 per hour, $25.00 minimum fee |
| (9) | Electronic building permit processing fee: | $5.00 |
| (10) | Expired permit inspection to confirm that no work was performed and to close the permit: | $75.00<br>If it is found that work was done, the renewal fee shall apply in addition to this fee. |
| (11) | Flood zone verification letter: | $25.00 |
| (12) | Liens and permits – Summary of search and findings: | $25.00 per parcel requested for the first ten addresses or units.<br>$10.00 for each additional ten addresses or units within the same parcel. |
| (13) | Permit extension:<br>(Justifiable cause must be demonstrated for each request.): | $100.00 for 1st 30 day extension.<br>$250.00 for 2nd 30 day extension (or renewal fee, whichever is less).<br>$500.00 for 3rd and each subsequent 30 day extension (or renewal fee, whichever is less). |
| (14) | Permit renewal (First):<br>(Justifiable cause must be demonstrated for each request.) | ½ of the permit fee using current fee schedule<br>plus $50.00 renewal fee<br>plus state surcharge (based on permit fee only)<br>or<br>$75.00 permit fee<br>plus $50.00 renewal fee<br>plus $4.00 minimum state surcharge<br>Whichever is greater (minimum fee of $129.00). |
| (15) | Permit renewal (Second):<br>Justifiable cause must be demonstrated for each request.) | Permit fee using current fee schedule<br>plus $50.00 renewal fee<br>plus state surcharge (based on permit fee only). |
| (16) | Permit renewal (third and each subsequent):<br>(Justifiable cause must be demonstrated for each request.) | Permit fee using current fee schedule<br>plus $100.00 renewal fee<br>plus state surcharge (based on permit fee only). |
| (17) | Permit to comply condemnations: | Permit fee using current fee schedule<br>plus $250.00 rehabilitation fee<br>plus state surcharge (based on permit fee only)<br>or<br>Permit fee using current fee schedule<br>plus $500.00 demolition fee<br>plus state surcharge (based on permit fee only). |
| (18) | Pre-application meeting: | $100.00 |

PROOFS

| | | |
|---|---|---|
| | (This fee is in addition to the fee charged by planning and zoning) | |
| (19) | Pre-construction meeting: | $100.00 |
| (20) | Re-issuance of certificate of occupancy (CO) or certificate of completion (CC): | $50.00 per page |
| (21) | Re-issuance of permit card: | $25.00 per card |
| (22) | Re-stamping of plans: | Residential—$75.00 plus cost of copies<br>Commercial—$150.00 plus cost of copies |
| (23) | Routing fee: | $15.00 per required review—(planning and zoning, engineering, solid waste, fire department, urban forester, sea turtle lighting reviewer, flood zone reviewer). |
| (24) | Subcontractor agreements: | $25.00 Residential per agreement<br>$50.00 Commercial per agreement |
| (25) | Special inspector/Threshold inspector required: | $50.00 |

(Code 1983, § 5-268; Ord. No. 18-029 , § 1, 9-4-2018; Ord. No. 19-010, § 5, 3-18-2019)

**Sec. 103-55. Incentive and optional service fee schedule.**

Fees for following shall be as established by resolution:

(1) After-hours inspections; other than during regular working hours.

(2) Early start request for construction.

(3) Expedited plan review.

(4) Stocking permit.

(5) Temporary use agreement.

(6) Temporary use agreement change or extension.

| Type of service or fee: | | Fee: |
|---|---|---|
| (1) | After-hours inspections—Other than during regular working hours: | Residential: Fee is $100.00 per hour, minimum of two hours per permit, per trade<br>Commercial: Fee is $250.00 per hour, minimum of two hours per permit per trade |
| (2) | Early start request for construction: | Valuations under $5000: $100.00<br>Valuations $5000.00 or more: $500.00 |
| (3) | Expedited plan review: | Valuation under $200,000: $500.00 for the 1st hour. $250.00 for each additional hour<br>Valuation $200,000 or more: $1,000.00 for the 1st hour.<br>$250.00 for each additional hour |
| (4) | Stocking permit: | $500.00 |
| (5) | Temporary use agreement: | $500.00 |
| (6) | Temporary use agreement change or | $750.00 |

PROOFS

| | | |
|---|---|---|
| | ~~extension:~~ | |

(Code 1983, § 5-269; Ord. No. 18-029 , § 1, 9-4-2018)

**Sec. 103-56. Penalty fee schedule.**

Fees for the following shall be as established by resolution:

(1) Hazardous condition on construction site.

(2) No construction bathroom on site 72 hours after NTC.

(3) No trash container on site 72 hours after NTC.

(4) Re-inspection:

a. First re-inspection.

b. Second and subsequent re-inspection to correct the same deficiency in the first inspection and first re-inspection.

(5) Revised plan review; third or more plan revision to correct the same code violation noted in previous plan review rejections.

(6) Stop-work order.

(7) Uncontained trash and debris on construction site.

(8) Unlawful continuance after SWO.

| ~~Type of service or fee:~~ | | ~~Fee:~~ |
|---|---|---|
| ~~(1)~~ | ~~Hazardous condition on construction site:~~ | ~~$500.00~~ |
| ~~(2)~~ | ~~No construction bathroom on site 72 hours after NTC:~~ | ~~$100.00~~ |
| ~~(3)~~ | ~~No trash container on site 72 hours after NTC:~~ | ~~$100.00~~ |
| ~~(4)~~ | ~~Re-inspection:~~ | |
| | ~~(a) 1st re-inspection:~~ | ~~Residential: $50.00 per permit, per trade~~<br>~~Commercial: $100.00 per permit, per trade~~ |
| | ~~(b) 2nd and subsequent re-inspection to correct the same deficiency in the 1st inspection and 1st re-inspection:~~ | ~~Residential—$200.00~~<br>~~Commercial—$400.00~~ |
| ~~(5)~~ | ~~Revised plan review—3rd or more plan revision to correct the same code violation noted in previous plan review rejections:~~ | ~~four times (x) the plan review fee accessed~~ |
| ~~(6)~~ | ~~Stop-work order:~~ | ~~$100.00 before any further work may commence~~ |
| ~~(7)~~ | ~~Uncontained trash and debris on construction site:~~ | ~~1st offense—$125.00~~<br>~~2nd offense—$250.00~~<br>~~Additional offenses—$500.00~~ |
| ~~(8)~~ | ~~Unlawful continuance after SWO:~~ | ~~$500.00 before any further work may commence~~ |

(Code 1983, § 5-270; Ord. No. 18-029 , § 1, 9-4-2018)

PROOFS

**Secs. 103-57--103-85. Reserved.**

## ARTICLE III. CONTRACTORS*

***State law reference—**Construction contractors, F.S. § 489.101 et seq.; electrical contractors, F.S. § 489.501 et seq.

### DIVISION 1. GENERALLY

**Sec. 103-86. Definitions.**

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

*Board of examiners* or *board* means the board of examiners of contractors provided for in this article.

*Certificate* means a certificate of competency or a competency card.

*Contractor* (and the various classes of contractors) shall be defined as provided in F.S. §§ 489.105 and 489.505.

*Owner-builder* shall be defined as provided in F.S. §§ 489.103(7)(a) and 480.503(6). For the purposes of this chapter, the application for a building permit for the construction of more than one residence, duplex or commercial property in one year's time shall be construed as engaging in the construction business as an unlicensed contractor.

*Specialty contractors* means contractors who specialize in one or more of the crafts of the building construction and related contracting trades and whose scope of work and responsibility is limited to a particular phase of the building construction and related contracting trades as described in Florida Administrative Rule 61G4-15 or in this section. Specific requirements and license type for each classification, incorporated herein by reference, are listed on the city building department's webpage and are available in the building department.

*Acoustical/suspended ceiling contractor* means a contractor qualified to install, maintain, repair, alter or extend any acoustical/suspended acoustical ceiling system.

*Aluminum contractor with concrete* means a contractor whose services are limited to fabrication, installation, maintenance, repair, alteration or extension of accessories such as metal siding, soffits, gutters, awnings and prefabricated rooms. These contractors may also form, place reinforcing steel and miscellaneous steel and pour, place and finish concrete incidental to aluminum accessories. An aluminum contractor with concrete may also perform the scope of a canvas and fabric contractor and a hurricane protection contractor.

*Aluminum contractor without concrete* means a contractor whose services are limited to fabrication, installation, maintenance, repair, alteration or extension of accessories such as metal siding, soffits, gutters, awnings and prefabricated rooms. An aluminum contractor without concrete may also perform the scope of a canvas and fabric contractor and a hurricane protection contractor.

*Aluminum siding contractor* means a contractor whose services are limited to fabrication, installation, maintenance, repair, alteration or extension of aluminum siding, soffit, fascia and gutters. This work includes installation of insulation behind the siding and repair of the substrate incidental to the siding installation.

*Aluminum structure contractor* means a contractor whose services are limited to fabricating, assembling, handling, erecting, installing, dismantling, adjusting, altering, repairing, servicing and design work when not prohibited by law, in accordance with accepted engineering data and/or according to manufacturer's specifications. The scope of work shall include and be limited to screened porches, screened enclosures, pool enclosures, pre-formed panel-post and beam roofs, mobile home panel roof-overs, residential glass window and door enclosures, vinyl panel window enclosures, single story self-contained aluminum utility storage structures (not to exceed 500 square feet) siding, soffit, fascia and gutters. It shall be limited to the construction of wood framing for the walls of uninhabitable utility storage structures, raised wood decks for enclosures and the repair and/or replacement of wood incidental to the aluminum construction work. The scope of work shall also include masonry concrete work and be limited to foundations, slabs and block kneewalls incidental to the aluminum construction work. Scope of work excludes any work that alters the structural integrity of the building, including, but not limited to, roof trusses, lintels, load-bearing walls, and foundations. An aluminum

PROOFS

structure contractor may also perform the scope of a canvas and fabric contractor and a hurricane protection contractor.

*Apartment maintenance technician* means a contractor whose services are limited to apartment complexes with at least 100 apartments; equipment to be repaired is already installed on the property; equipment is commonly installed in similar locations; the equipment is not being modified except to replace components necessary to return the equipment to its original condition and the partial disassembly associated with the replacement. The equipment is repaired with new parts that are functionally identical to the parts being replaced. The individual repair does not involve replacement parts that cost more than $1,000.00. The repair may not be so extensive as to be a functional replacement of the electric water heater or the existing electric heating, ventilating, or air-conditioning system being repaired. For purposes of this section, an individual repair may not be part of a larger project that is divided into parts to avoid this restriction.

*Asphalt/concrete maintenance sealing and coating contractor* means a contractor qualified to fill potholes, coat an existing concrete or asphalt surface by squeegee, broom or mechanical applicator; and apply striping. Such contractor is not permitted to cut out existing concrete or asphalt for replacement; scope of work excludes paving.

*Canvas and fabric contractor* means a contractor qualified to manufacture, install, repair, maintain alter or extend canvas or other approved cloth/synthetic cover materials over a rigid metal frame or to any building or structure designed to be used as protection against sun and weather. Excludes aluminum and/or awning fabrication, installation and repair.

*Carpentry contractor* means a contractor qualified to install products in a building, including, but not limited to, rough framing, structural and nonstructural trusses, conventional rafters, metal framing, sheathing, wood decks and work of the finish carpentry contractor.

*Communication and sound system contractor* means a contractor qualified to install, maintain, repair, alter or extend wiring, apparatus, circuits and equipment operating at less than 50 volts, raceways, computer wiring, conduit for private telephone, cable television systems, intercom and public address systems. This contractor may connect to an existing power circuit beyond the last over current device, but shall not install burglar and fire alarm systems.

*Concrete forming and finishing contractor* means a contractor qualified to batch and mix aggregates, cement and water to agreed specifications, to construct forms and framework for the casting and shaping of concrete and pressure injected footings; to place and erect reinforcing steel and miscellaneous embedded steel; and to place, finish and coat concrete.

*Demolition contractor* means a contractor qualified to demolish and remove structures, such as dwellings, commercial buildings and foundations.

*Dredging contractor* means a contractor qualified to dredge using mechanical or hydraulic dredging methods and equipment; also provides for sediment disposal.

*Drywall contractor (gypsum drywall)* means a contractor qualified, and whose scope shall be limited to, the installation of gypsum drywall products to wood and metal studs. The scope also includes the installation of all necessary and incidental metal accessories, including nonloadbearing metal studs, runners, hangers, channels, drywall metal suspension accessories and prefabricated ceiling materials; and the preparation of the surface over which drywall product is to be applied. This shall include the application of base and finish coats specifically designed for the gypsum drywall products.

*Excavation contractor* means a contractor qualified to excavate, trench, dig or remove materials such as rock, gravel and sand to construct or excavate canals, lakes, levees, including the clearing of land of surface debris and vegetation, the grubbing of roots, the removal of debris; and leveling of related surfaces.

*Exterior surface coating contractor* means a contractor qualified to lath and plaster, plaster and stucco or otherwise coat surfaces with a mixture of sand or other aggregate gypsum plaster, Portland cement plaster or quick-lime and water, or any natural or synthetic materials as to create a permanent surface coating. This contractor may also apply and affix metal lath or any other product prepared or manufactured, including the

PROOFS

placing of metal studs and runners to which lath is to be applied, to provide key or suction bases for the support of the plaster coating.

*Fence contractor* means a contractor qualified to construct, install, maintain, repair, extend or alter fencing, including, but not limited to, metal, wood, precast concrete and prefabricated fences, child safety barriers and automatic gates. Excludes electrical wiring and installation.

*Finish carpentry contractor* means a contractor qualified to install finished wood products in a building, including, but not limited to, paneling, trim, cabinetry, interior doors, and all hardware incidental thereto.

*Garage door installation contractor* means a contractor qualified to install, maintain, repair, alter or extend residential or commercial type garage doors, including all hardware and operating devices. Excludes electrical wiring and installation.

*Glass and glazing contractor* means a contractor qualified to select, cut, assemble and install all makes and kinds of glass and glass work; and execute the glazing frames, panels, sash and door, add holding metal frames, ornamental decorations, mirrors, tub and shower enclosures.

*Gunite contractor* means a contractor qualified to mix materials and apply gunite or shotcrete.

*Hurricane protection contractor* means a contractor qualified to fabricate, install, maintain, repair or replace exterior opening protection assemblies, including, but not limited to, shutters and awnings that are designed to protect residential and commercial structures from hurricane and storm force winds and wind-borne debris. This contractor may brace existing garage doors to comply with this code, but shall not install new garage doors. Excludes electrical wiring and installation.

*Insulation contractor* means a contractor qualified to install, maintain, repair, alter or extend any insulation primarily installed to prevent loss or gain of heat from internal or external sources in pipes, vessels, ducts or built-up refrigerated boxes or rooms. This scope includes acoustical insulation and radiant barriers.

*Irrigation sprinkler contractor* means a contractor qualified to install, maintain, repair, alter or extend, all piping, sprinkler heads, control system components, pump, and chemical injectors for irrigation of lawns and plant materials. Electrical work is limited to 50 volts except for connection of pigtailed equipment or replacement of identical controls and motors.

*Land clearing contractor* means a contractor qualified to clear the land of vegetation, the grubbing of roots, the removal of surface debris and leveling of the surface lands incidental to the land clearing action.

*Lightning protection systems contractor* means a contractor qualified to install, maintain, repair or alter any lightning protection system, including all terminals, conductors, ground rods, fittings and all other system fastenings, connections and bonding necessary to complete a system designed to protect structures and open spaces. Excludes electrical wiring and installation.

*Marine contractor* means a contractor qualified with the experience and skill to construct, maintain, alter, install or repair seawalls, rip rap walls, bulkheads, revetments, docks, piers, wharfs, groins, boat lifts, davits, dune crossovers and other marine structures, including pile driving framing, concrete, masonry, dredge and fill. Excludes electrical wiring and installation.

*Masonry contractor* means a contractor qualified to select, cut and lay brick, concrete block, horizontal reinforcement incidental to the placement of the units or any other unit masonry products, lay brick and other baked clay products, rough cut and dress stone, artificial stone and precast blocks, structural glass brick or block, but shall not place, pour or finish concrete.

*Metal building contractor* means a contractor qualified to erect single story metal buildings, including site work, concrete, masonry, siding, roofing, windows and doors. Excludes the scope of electrical, plumbing, gas and HVAC.

*Painting and decorating contractor* means a contractor qualified to prepare surfaces, apply paints by any method, brush, roller or sprayer; coatings and other finishes; all types of faux finish applications, paper hanging, sandblasting, waterproofing, cleaning and painting of roofs.

PROOFS

*Paver brick/paver block system contractor* means a contractor qualified with the knowledge, skill and experience to prepare the base, provide for proper drainage, to select, cut and lay paver units. The contractor shall not place or finish concrete, except that which is required for the placing of the paver system. The contractor shall subcontract any additional concrete work over and above that which is required by the manufacturers' specifications for paver unit installation to a qualified contractor.

*Paving contractor* means a contractor qualified with asphalt and concrete experience and skill to construct roads, airport runways and aprons, parking lots, driveways, sidewalks, curbs and gutters, property line walls, storm drainage facilities, paver brick/paver brick systems and to perform the excavating, clearing and grading incidental thereto.

*Pile driving contractor* means a contractor qualified to drive piling, including sheet piling and construction foundations, including the excavating, forming and placing of reinforcing steel and concrete and performing other work incidental thereto.

*Pre-stressed, pre-cast concrete erection contractor* means a contractor qualified to erect structural precast concrete units such as deck, beams, girders, walls columns and stairs that are or may be used as structural members for buildings and structures, including welding and rigging in connection therewith and to erect precast concrete systems for guard rails and decorative panels above the ground floor, including such minor field fabrication as may be necessary.

*Reinforcing steel contractor* means a contractor qualified to fabricate, place and tie steel reinforcing bars (rods) of any profile, perimeter, or cross-section that are or may be used to reinforce concrete buildings and structures in such a manner that under all agreed specifications, steel reinforcing bars (rods) for concrete building and structure can be fabricated, placed and tied.

*Siding, window and door contractor* means a contractor qualified to install siding, windows and doors including vinyl, wood or aluminum siding, and all types of windows and doors. This includes the work necessary to prepare or repair the substrate to accomplish proper installation, but excludes any structural alterations.

*Sign contractor, non-electrical,* means a contractor qualified to install, paint, repair, add to or change interior or exterior nonelectrical signs according to the building code.

*Structural steel erection contractor* means a contractor qualified to erect structural steel shapes and plates, including such minor field fabrication as may be necessary of any profile, perimeter or cross-section that are or may be used as structural members for buildings and structures, including riveting, welding and rigging, only in connection therewith.

*Tile and marble contractor* means a contractor qualified to prepare the base and set tile and marble.

*Tile, terrazzo and marble contractor* means a contractor qualified to prepare the base, set, repair and refinish tile, terrazzo and marble.

*Tree removal contractor* means a contractor qualified to trim, prune, plant, and remove trees; includes climbing trees and ladders for the purpose of trimming and related work.

*Welding contractor* means a contractor qualified with experience in fabrication or sculpturing processes that join materials, usually metals or thermoplastics, by causing fusion.

*State certification* means certification of a contractor by examination from the state construction industry licensing board as provided in section F.S. §§ 489.111 and 489.511.

(Code 1960, § 6-16; Code 1983, § 5-16; Ord. No. I-251, § 1, 2-16-1988; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 1, 1-17-2017)

**Sec. 103-87. Violations.**

In addition to other penalties, a conviction of and/or finding of violation of any provision of this article shall revoke the license or certificate of the person so convicted or found to have violated provisions of this chapter, or the business organization of which the person so convicted or found to have violated provisions of this chapter was a member, or the business organization of which the person so convicted or found to have violated provisions of

PROOFS

this chapter was an officer or director.

(Code 1960, § 6-29; Code 1983, § 5-17; Ord. No. 17-001 , § 2, 1-17-2017)

**Sec. 103-88. Exemptions.**

This article shall not apply to exemptions as provided in F.S. § 489.103 and 489.503.

(Code 1960, § 6-27; Code 1983, § 5-18; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 3, 1-17-2017)

**Sec. 103-89. Board of examiners of contractors—Members; officers generally; meetings; rules.**

(a) There shall be appointed by a majority vote of the city commission a board of examiners of contractors, consisting of nine members who have been residents of the county for at least two years prior to the date of their appointment. The term of office of each member of the board shall be for four years, but the city commission may remove any member of the board without cause, notice or hearing. After having served four consecutive terms, a member shall not be eligible for reappointment to the board for a period of two years. Members appointed to fill vacancies caused by death, resignation or removal shall serve during the unexpired terms of their predecessors. The board shall consist of three consumer representatives, and six members licensed in the state from any of the following fields: architect; engineer; swimming pool, roofing, or other specialty contractor; general, residential, or building contractor; electrical contractor; plumbing contractor; or mechanical or air-conditioning contractor. The consumer representatives may be any resident of the city who is not, and has never been, a member or practitioner of a profession regulated by the board or a member of any closely related profession.

(b) The board shall elect a chairperson and such other officers as may be necessary from among its members.

(c) The board shall hold not less than four regular meetings each fiscal year, one in July, one in October, one in January and one in April. The meetings shall be called by the chairperson of the board and in his absence by the vice-chairperson of the board. Absence from two consecutive meetings of the board shall vacate the seat of that member, unless such absence is excused by the board.

(d) The board shall have the authority to make such by-laws, and procedural rules necessary to the orderly conduct of its meetings. Any such rule must be consistent with the Charter and ordinances of the city, and both state and federal law.

(e) Six members of the board shall constitute a quorum and a majority vote of those present shall be required to make any decisions.

(Code 1960, § 6-17; Code 1983, § 5-19; Ord. No. 1-14, § 1, 6-6-1983; Ord. No. I-251, §§ 2, 3, 2-16-1988; Ord. No. K-101, § 1, 9-17-2001; Ord. No. K-253, § 1, 11-17-2003; Ord. No. 17-001 , § 4, 1-17-2017; Ord. No. 17-016, § 2, 4-17-2017; Ord. No. 17-037 , § 1, 12-18-2017; Ord. No. 18-035, § 1, 10-15-2018)

**Sec. 103-90. Board of examiners of contractors—Secretary; duties; authority.**

The ~~director of building and community response~~ building official, or his designee, shall serve as the secretary of the board. The secretary shall keep a record of all the proceedings of the board, together with the necessary register showing all applicants for examination and licenses, showing thereon for each the date of application, name, qualifications, place of business and place of residence and whether the application was granted or refused. Such secretary shall prepare a roster of all contractors who have been granted a certificate as required in this article, in accordance with the provisions hereof.

(Code 1960, § 6-18; Code 1983, § 5-20; Ord. No. I-251, § 4, 2-16-1988; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 18-035, § 2, 10-15-2018)

**Secs. 103-91. Conduct of board members.**

(a) Any board member found guilty or responsible for committing a violation related to the construction industry by any city, county or state shall submit the order determining such violation or guilt to the city clerk within seven days of the date of the order.

(b) Any applicant seeking board appointment previously found guilty or responsible for committing a violation related to the construction industry by any city, county or state shall submit the order determining such violation or guilt to the city clerk therein with their application for appointment.

PROOFS

(Code 1983, § 5-21; Ord. No. 18-035, § 3, 10-15-2018)

**Secs. 103-92--103-129. Reserved.**

DIVISION 2. CERTIFICATION AND REGISTRATION

**Sec. 103-130. Purpose and intent.**

The purpose of this division is to provide a practical and adequate control of all contractors in the construction trades in the city by regulating annual registration and competency cards, assurance of their proper coverage of required insurance and to ensure the highest standard of building within the city. It is the intent of the city commission to protect the health, safety, and welfare of the residents of the city through the regulation of the construction and home improvement industries.

(Code 1960, § 6-31; Code 1983, § 5-31; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 18-035, § 4, 10-15-2018)

**Sec. 103-131. Certificate of competency; manner of obtaining.**

A contractor's certificate of competency shall be obtained in the following manner:

(1) Any person required or desiring to be qualified as a contractor shall make application on a form provided by the city. A non-refundable application fee as provided in section 103-135 shall be paid upon submittal of the application. The application shall be retained by the city together with all supporting papers.

(2) Should the applicant be a business organization, the application shall be executed by the president or one legally qualified to act for the business organization, who shall show his authority to so act on the application, and shall name an authorized agent on behalf of the business organization showing his authority.

a. To act for the business organization in all matters in any manner connected with the contracting business.

b. To take the qualifying examination for the business organization, unless holding a current certificate of competency of the class and type necessary.

The business organization shall be qualified only through the qualifications of such agent taking the examination, or through an agent currently qualified and if the agent (qualifier) shall sever his affiliation with such business organization, the certificate of competency held by such business organization shall be automatically ~~cancelled.~~ The agent (qualifier) shall be restricted to the work of a business organization he is currently qualifying.

(3) No application shall be considered by the board unless the applicant provides all information required by 5:00 p.m. on the Tuesday prior to the scheduled board meeting, which shall include:

a. A statement of applicant's proposed contracting business.

b. The type of certificate being applied for.

c. The name, residence and business address of applicant.

d. If applicant is a business organization, the name and business address of the business organization, the name and residence of all directors and officers and their interest therein and the name and address of the applicant's qualified representative and information contained above. If applicant is a business organization, the certificate of incorporation.

e. A sworn financial statement of the applicant, a credit report submitted directly from the credit reporting agency and an agreement authorizing the secretary of the board to obtain from any source dealing with the applicant, even though confidential, such additional information concerning the applicant's financial condition as the secretary deems necessary. The financial statement and credit report shall not be older than six months at the time of submittal.

f. A sworn list of businesses owned and operated or managed by applicant or in which the applicant has had an interest of any kind, or been employed by, during the past five years and the addresses of these businesses.

PROOFS

g. Three letters of recommendation from reputable persons in a business or profession, not related by blood or marriage to the applicant, vouching for the applicant's reputation as to honesty, integrity and good character.

h. A sworn statement under oath that the applicant has not been convicted of a misdemeanor involving moral turpitude or felony during the past five years and that he is not presently charged with committing a felony or misdemeanor involving moral turpitude; if this is not the case, applicant shall specify the details of the conviction or charge.

i. That the applicant has a practical and working knowledge of the statutes of the state and ordinances of the city applicable to the business in which he seeks to engage, including, but not limited to, the zoning and building codes of the city.

j. That the applicant has a practical and working knowledge of the business of contracting or subcontracting in which he seeks to engage.

k. An original and complete certificate of insurance issued by an insurance company authorized to do business in the state, as required in section 103-137.

l. Copy of a current business tax receipt issued by a county or municipality.

m. Proof of having obtained a score of 70 percent or higher on the required contractor competency examinations or the required general specialty examinations. A letter of reciprocity in accordance with section 103-138 shall be accepted.

(Code 1960, § 6-19; Code 1983, § 5-32; Ord. No. I-251, § 5, 2-16-1988; Ord. No. K-101, § 1, 9-17-2001; Ord. No. K-253, § 2, 11-17-2003; Ord. No. K-378, § 1, 9-19-2005; Ord. No. 17-001 , § 5, 1-17-2017)

**Sec. 103-132. Investigation of applicants.**

The board of examiners of contractors shall not issue a certificate of competency unless, by a majority vote of the board members present, the board finds:

(1) That the applicant, or if applicant is a business organization, then the qualified representative, has made a score of 70 percent or higher on the contractor competency examinations or general specialty examinations and has the necessary experience for the type of certificate applied for.

(2) That the credit report and financial statement of the applicant, or if applicant is a business organization, then the credit report of the business organization, shows that the applicant is financially able to engage in the contracting business for which a license is required so that the public will be protected. If the credit report of the business organization does not, in the opinion of the board, establish that the applicant is financially able to engage in the contracting business for which a license is required so that the public will be protected, the board shall request and review individual credit reports for each officer of the corporation.

(3) That the applicant and each officer of the business organization possesses a reputation of honesty, integrity and good character and has not been convicted of a misdemeanor involving moral turpitude or a felony in the past five years. This shall be determined by the board from the information contained in the letters of recommendation submitted by the applicant and any other statements submitted to or obtained by the board of examiners of contractors or its investigators. The lack of honesty, integrity or good character may be established by competent evidence that:

a. Applicant has committed an act within the last three years which, if committed or done by a licensed contractor, would be grounds for suspension or revocation of the contractor's license.

b. Applicant has committed an act within the past three years involving dishonesty, fraud, deceit or lack of integrity whereby the applicant has been benefited or whereby some injury has been sustained by another.

c. Applicant has in the past five years refused to pay just bills of at least five different persons or has been adjudged bankrupt.

d. Applicant has been convicted of a misdemeanor involving moral turpitude or felony during the past

PROOFS

five years.

(Code 1960, §§ 6-20, 6-32; Code 1983, § 5-33; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 6, 1-17-2017; Ord. No. 18-035, § 5, 10-15-2018)

**Sec. 103-133. Certificate of competency; issuance; duration; denial.**

If, upon the investigation and examination the board, in the exercise of its reasonable discretion, shall ascertain and determine that the applicant is a fit, proper and qualified person to engage in the business of contracting or subcontracting, as the case may be, within the city, the board shall cause its certificate of competency to be issued to the applicant; otherwise, the application shall be denied and refused. Such certificates of competency shall specify the types of contracting work which the registrant is qualified to perform in the city, and shall show upon the face thereof that they, and the licenses issued pursuant thereto, are subject to revocation or suspension. Each certificate of competency shall remain in effect until it is revoked or suspended. If any application is denied and refused, the applicant may renew his application at the expiration of six months from the date it was denied or refused; provided, however, that the board, for good cause shown, may shorten such period. Should any applicant be denied a license the applicant may, within 15 days from notice of such denial, appeal the denial to the city commission, which shall consider the appeal and either affirm the action of the board or order the issuance of a license.

(Code 1960, § 6-21; Code 1983, § 5-34; Ord. No. K-101, § 1, 9-17-2001)

**Sec. 103-134. Expiration; renewal; certificate of competency.**

(a) All certificates of competency shall expire annually at midnight on September 30. Certificate holders are responsible for annual renewal of their certificates.

(b) A certificate may be renewed on payment of an annual renewal fee as provided in section 103-135. Failure to renew the certificate within 12 months of the renewal due date shall cause the certificate to automatically expire and become null and void, and it shall be unlawful thereafter for any person to engage or offer to engage or hold himself out as engaging in contracting under the expired certificate. Such expired certificate may not be renewed. Individuals holding such expired certificate who desire to engage in the business of contracting shall be considered applicants for an original certificate and must re-apply under the provisions of section 103-131.

(c) A person who holds a valid current certificate may go on inactive status, during which time he shall not engage in contracting. Inactive competency cards shall expire one year from the date of their issuance; they may not be renewed. The holder of the card may, during its term, convert the card to an active competency card upon the payment of the required fees as provided in section 103-135.

(d) All contractors shall report to the city within seven days any change of address of business.

(Code 1960, § 6-33; Code 1983, § 5-35; Ord. No. K-101, § 1, 9-17-2001; Ord. No. K-253, § 3, 11-17-2003; Ord. No. 17-001 , § 7, 1-17-2017)

**Sec. 103-135. Fees.**

(a) Contractors shall pay the following fees for a certificate of competency~~:~~. All such fees shall be in the amount established by resolution.

(1) Application for a certificate of competency: non-refundable fee~~, one hundred twenty-five dollars ($125.00)~~.

(2) Initial issuance of a certificate of competency for contractors, other than those with current certification issued by the state construction industry licensing board or state electrical contractors' licensing board,~~: Fee, fifty dollars ($50.00).~~ charged in addition to the fee of a temporary certificate of competency, if applicable.

(3) A certificate may be renewed upon payment of an annual renewal~~:~~ fee~~, seventy-five dollars ($75.00),~~ on or before September 30 (hereinafter referred to as the "renewal due date"). All certificates not renewed on or before the renewal due date shall be considered delinquent and subject to a delinquency penalty as follows: 25 percent of the annual renewal fee if paid within three months of the renewal due date; 50 percent of the annual renewal fee if paid within four to six months of the renewal due date; 75 percent of the annual renewal fee if paid within seven to nine months of the renewal due date; and double the annual

PROOFS

renewal fee if paid within ten to 12 months of the renewal due date.

(4) Replacement competency card~~: Fee, twenty dollars ($20.00)~~.

(b) Contractors having a current valid certificate of competency shall pay the following fees in the amount established by resolution for a change to the status of the certificate:

(1) Placement of certificate of competency into inactive status~~: Fee, twenty-five dollars ($25.00)~~.

(2) Return inactive status of a certificate of competency to active status~~: Fee, fifty dollars ($50.00)~~.

(3) Change from business entity to another business entity~~: Fee, sixty dollars ($60.00)~~.

(4) Amend filed business organization name to another~~: Fee, fifty dollars ($50.00)~~.

(5) Change from an individual to a qualifying business~~: Fee, seventy-five dollars ($75.00)~~.

(6) Change from a qualifying business to an individual~~: Fee, seventy-five dollars ($75.00)~~.

(7) Business name change~~: Fee, one hundred dollars ($100.00)~~.

(8) Qualify an additional business entity~~: Fee, one hundred dollars ($100.00)~~.

(c) Miscellaneous fees:

(1) Service user fee.~~ Fee, twenty-five dollars ($25.00).~~

(2) Letters of reciprocity~~: Fee, thirty-five dollars ($35.00)~~.

(3) Temporary certificate of competency pursuant to subsection 103-138(b)~~: Fee, fifty dollars ($50.00)~~.

(4) Emergency certificate of competency pursuant to subsection 103-144~~: Fee, two hundred fifty dollars ($250.00)~~.

(5) Sponsorship fee per exam~~: Fee, one hundred fifty dollars ($150.00)~~.

(d) All fees are non-refundable.

(Code 1960, § 6-34; Code 1983, § 5-36; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 8, 1-17-2017; Ord. No. 18-035, § 6, 10-15-2018)

**Sec. 103-136. State certified contractors.**

(a) A state certified contractor who possesses a certificate of competency issued by the state department of professional regulation may contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.

(b) A state-certified contractor shall present to the building official at the time of each application for a building permit or related permit evidence of current state certification, proof of a current business tax receipt for a primary place of business, and an original certificate of insurance as required in section 103-137.

(c) Voluntary application for a competency card may be made by a state-certified contractor who desires the city to maintain his records on file. He shall complete the appropriate application form, attach a copy of his state certification, a copy of his current business tax receipt for a primary place of business, and provide an original certificate of insurance required in section 103-137; and pay a service user fee as provided in section 103-135, to have such documents stored and kept on file to avoid the requirement of presenting such documents for every permit sought as provided in section 103-135.

(Code 1960, § 6-35; Code 1983, § 5-37; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 9, 1-17-2017)

**Sec. 103-137. Insurance required; cancellation.**

(a) Every contractor ~~granted a license~~ regulated under the terms of this article shall, when actively engaged in contracting, be required to maintain at all times with a duly licensed casualty insurance company authorized to do business in the state, public liability insurance and property damage insurance as follows:

(1) General and building contractors. Public liability insurance with minimum limits of not less than $300,000.00 and property damage insurance with a minimum limit of not less than $50,000.00 for any one accident.

PROOFS

(2) All other contractors. Public liability insurance with minimum limits of not less than $100,000.00 and property damage insurance with a minimum limit of not less than $25,000.00.

(3) Every contractor granted a license under the terms of this article shall, when actively engaged in contracting, be required to maintain at all times workers' compensation insurance as set out in the Workers' Compensation Law of the state. If the business has no employees, an approved notice of election to be exempt from the provisions of the Workers' Compensation Law form shall be provided.

(b) At the time application is made for a building permit and before such permit can be issued, the contractor shall have on file with the city a certificate signed by a qualified agent of the casualty insurance company stating that policies have been issued to the licensee for employee liability insurance or workers' compensation insurance, public liability insurance and public property damage insurance; the minimum limits of each; the policy number; the name of the company; the effective date of such policies; together with a statement and copy of an endorsement placed on such policies.

(c) In the event of a cancellation of a policy, as set out herein, the certificate of competency of that party shall be automatically revoked. The certificate of competency may be reinstated when the certificate holder has furnished proof to the city of compliance with the above insurance provisions.

(Code 1960, § 6-23; Code 1983, § 5-47; Ord. No. I-251, § 6, 2-16-1988; Ord. No. K-101, § 1, 9-17-2001)

**Sec. 103-138. Reciprocity.**

(a) The board may, by reciprocity, grant a certificate of competency to any applicant who has obtained a certificate of competency in any other county or municipality of the state having code licensing requirements and conducting examinations which are, in the reasonable opinion of the board, substantially similar to those of the city, upon payment of the application fee for the applicant's classification, as herein set out, and furnishing all information to the board in writing as required by section 103-131, and providing proof that the applicant has met all other criteria pursuant to this chapter.

(b) Notwithstanding subsection (a) of this section, the ~~director of building and community response~~ building official, or his designee, is authorized, by such reciprocity, at his reasonable discretion, to grant a temporary certificate of competency to an applicant who has obtained a certificate of competency in any other county or municipality of the state having code licensing requirements and conducting examinations which are, in the reasonable opinion of the ~~irector of building and community response~~ building official, or his designee, substantially similar to those of the city, upon payment of the application fee for the applicant's classification as herein set out, furnishing all information in writing as required by section 103-131, and providing proof that the applicant has met all other criteria pursuant to this chapter. The temporary competency cards issued by the ~~irector of building and community response~~ building official response pursuant to this procedure shall be valid until the next board meeting at which action is taken by the board to approve or disapprove the application for certificate of competency. Following the approval or disapproval for certificate of competency by the board, the temporary certificate of competency shall be nullified.

(c) The burden of showing the substantial similarity of the code licensing requirements, demonstrating compliance with the requirements of section 103-131, and proving that the applicant has met all other criteria pursuant to this chapter shall be on the applicant.

(d) A certificate issued through reciprocity shall be subject to each of the other provisions of this article.

(Code 1960, § 6-28; Code 1983, § 5-48; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 10, 1-17-2017; Ord. No. 18-035, § 7, 10-15-2018)

**Sec. 103-139. Effect of issuance.**

The issuance of a certificate of competency under this article shall be evidence that the ~~licensee~~ holder is entitled to all the rights and privileges of a contractor in the division for which the certificate of competency is issued and while the certificate of competency remains unrevoked or unexpired.

(Code 1960, § 6-24; Code 1983, § 5-49; Ord. No. 18-035, § 8, 10-15-2018)

PROOFS

**Sec. 103-140. Types of discipline.**

An order of the board finding a respondent guilty of misconduct shall include one or more of the following disciplinary measures:

(1) *Reprimand.* The board may order a reprimand for minor misconduct by a respondent. A reprimand shall state findings of the board that the conduct of the respondent, falls below the acceptable standards of conduct in the business of contracting but does not justify suspension or revocation of the competency card. A memorandum of such reprimand shall thereafter be made a part of the record of the proceedings and a part of the respondent's record maintained by the city.

(2) *Suspension.* The board may suspend the certificate of competency of the respondent for a definite period of time. During such suspension, the respondent shall not requalify to obtain a certificate of competency within the city. Upon the expiration of the suspension period and the satisfaction of all conditions accompanying the suspension, the respondent shall become eligible to apply for reinstatement of his certificate of competency. If any disciplinary actions have resulted in a suspension of 180 days, or longer, the application shall be subject to the same requirements as though the applicant were applying for an original certificate of competency, including the payment of fees.

(3) *Revocation.* The board may revoke the respondent's certificate of competency. No application for reinstatement or the issuance of a new certificate of competency may be accepted or considered by the board within five years after the date of revocation.

(4) *Other certificates.* If the board suspends any certificate of competency held by any contractor it may, simultaneously, suspend or revoke any other certificate of competency issued by the city to that contractor.

(5) *Work in progress.* The board may permit any disciplined contractor to complete projects for which a building permit has been issued, even though the competency card upon which said permit was issued has been suspended or revoked.

(Code 1983, § 5-50; Ord. No. K-101, § 1, 9-17-2001)

**Sec. 103-141. Disciplinary procedures.**

(a) Any person, including, but not limited to, the ~~director of building and community response~~ building official of the city, may prefer charges against the holder of a contractor's certificate of competency issued pursuant to the provisions of this subchapter or a contractor certified by the state. Such charges shall be made in writing and sworn to by the complainant or complaining witness and submitted to the building official. The building official shall mail a copy of such charges to the respondent within 15 days from the receipt thereof.

(b) The complaint shall be referred to the board for a hearing on the complaint proceedings of the board may be informal in nature and the board shall not be bound by the rules of evidence. The board shall be entitled to rely on such evidence as is regularly relied upon in the ordinary course of the conduct of business.

(c) The proceedings shall not be delayed, deferred or suspended without the approval of the board even though the respondent is made a party of civil litigation, or is a defendant or is acquitted in a criminal action, notwithstanding that either of such proceedings involves the subject matter of the investigation.

(d) At the hearing the respondent and complainant shall be allowed to testify and to produce evidence and other witnesses in his behalf. The respondent and complainant may be accompanied by counsel. The respondent and complainant shall be given an opportunity to make a statement personally or by counsel, verbally or in writing, sworn or unsworn, explaining, refuting or admitting the alleged charges. The respondent and complainant shall be granted the right to be present at any hearing when evidence is to be presented to the board of examiners of contractors and to call witnesses or present evidence and to cross-examine, subject to reasonable limitation.

(e) If the respondent admits to the alleged charges the board may immediately make a finding of violation without further testimony. If the respondent fails to appear, the board may make its determination based upon the sworn complaint.

(f) Upon conclusion of the formal hearing, the board shall make a determination. If the respondent is found to be guilty of misconduct by the board, the board shall thereupon enter its findings, an order of guilt and determine

PROOFS

the proper disciplinary action to be imposed upon the respondent.

(g) If a complaint is brought against a respondent whose competency card is in a state of expiration, or expires prior to the hearing, the proceedings on the complaint shall be stayed; provided, however, that the competency card may not be renewed, re-issued or activated until the board has disposed of the complaint.

(h) Quorum/vote. No fewer than six members shall constitute a quorum. All findings of guilt and recommendations of discipline shall be by affirmative vote of a majority of the committee members present, which majority must number at least four members.

(i) Appeal. Any decision of the board imposing disciplinary action on a respondent may be appealed by the respondent to the city commission within 15 days of the date of the board's decision; provided, however, a written notice of such appeal shall be filed with the city clerk within such a period of time. The city clerk shall notify all interested parties of the date fixed for hearing the appeal, which date shall be not less than 30 days after the date of the filing of the notice of appeal. The hearing on appeal shall be, to the extent possible, upon the record and shall not be a hearing de novo. The city commission shall review the transcript of the hearing before the contractors examining board together with any tangible evidence considered by the board that determined its decision. The city commission may also entertain any additional testimony or evidence offered by the respondent or other interested party that was not brought out at the board hearing.

(j) Stay on appeal. Any decision of the board imposing disciplinary action upon a respondent, other than revocation, which has been appealed by the respondent shall be automatically stayed upon receipt of the written notice of appeal by the city clerk.

(Code 1983, § 5-51; Ord. No. K-101, § 1, 9-17-2001; Ord. No. K-253, § 4, 11-17-2003; Ord. No. 17-001 , § 11, 1-17-2017; Ord. No. 18-035, § 9, 10-15-2018)

**Sec. 103-142. Grounds for revocation or suspension.**

The board shall have the power, in addition to all other powers provided for in this division, to revoke or suspend the certificate of any contractor approved hereunder, who shall be found to have violated any one or more of the following acts or omissions:

(1) Obtaining a certificate by fraud or misrepresentation;

(2) Committing fraud or deceit in the practice of contracting;

(3) Committing incompetency or misconduct in the practice of contracting; and

(4) Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.

(5) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project may be presumed abandoned after 90 days if the contractor terminates the project without just cause or without proper notification to the owner, including the days.

(6) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

a. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 75 days after the date of such liens;

b. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned; or

c. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

PROOFS

(7) Substantial departure from, or disregard, of, plans or specifications without consent the owner or his duly authorized representative;

(8) Knowingly or deliberately disregarding or violating any applicable building codes or laws of the state, county or the city;

(9) Willfully and deliberately engaging in a type or class of contracting for which the contractor is not licensed or registered;

(10) Being disciplined by any other municipality or county;

(11) Failing to actively supervise construction projects for which the contractor has applied for and obtained a building permit; or for projects for which the contractor is, by contract, responsible;

(12) Contracting with persons or business organizations not having a certificate of competency issued by the city for work or services to be performed within the city when said persons or business organizations are required by this chapter to possess such a certificate of competency in order to perform the contracted work or services;

(13) Proceeding on any job without obtaining the applicable building department permits and inspections;

(14) Being convicted or found guilty, by judge or jury in court of competent jurisdiction, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting;

(15) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his certificate or registration to be used by the uncertified or unregistered person with intent to evade the provisions of this Code. When a certificate holder or registrant allows his certificate or registration to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this Code.

(Code 1983, § 5-52; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 12, 1-17-2017)

**Sec. 103-143. Prohibitions; penalties and enforcement.**

(a) It shall be unlawful for any person to:

(1) Falsely hold himself or a business organization out as a ~~licensee,~~ certificate holder, registrant or holder of a certificate of competency issued by the board;

(2) Falsely impersonate a certificate holder or registrant or the holder of a certificate of competency issued by the board;

(3) Present as his own the certificate, registration, or certificate of competency of another;

(4) Knowingly give false or forged evidence to the board or member thereof for the purpose of obtaining a certificate of competency;

(5) Use or attempt to use a certificate, registration or certificate of competency which has been suspended or revoked;

(6) Engage in the business or act in the capacity of a contractor or advertise himself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered, certified or the holder of a certificate of competency;

(7) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another primary qualifying agent;

(8) Commence or perform work for which a building permit is required pursuant to this chapter without such building permits being in effect;

(9) Willfully or deliberately disregard or violate any city or county ordinance relating to uncertified or unregistered contractor;

(10) Act in the capacity of a contractor different from the scope of work for which the contractor is certified

PROOFS

to perform;

(11) Fail to secure required inspections;

(12) Willfully and deliberately obtain or attempt to obtain a permit for an entity unregistered or unlicensed.

(b) The ~~director of building and community response,~~ the building official, the deputy building official, building inspectors, and licensing investigators of the city are hereby designated, authorized and charged with enforcement responsibilities to enforce the provisions of F.S. §§ 489.127(1), ~~and~~ 489.132(1), and 489.531(1) and this article, against persons who engage in activities for which a city certificate of competency is required.

(1) The enforcement authorities designated herein may issue a citation, as provided herein, for any violation of F.S. §§ 489.127(1), ~~and~~ 489.132(1), and 489.531(1) and this article whenever, based upon personal investigation, the enforcement officer has reasonable and probable grounds to believe that such a violation has occurred.

(2) The citation issued by an enforcement officer pursuant to this section shall be in the form prescribed by the city commission, which form shall state:

a. The time and date of issuance.

b. The name and address of the person to whom the citation is issued.

c. The time and date of the violation.

d. A brief description of the violation and the facts constituting reasonable cause.

e. The name of the enforcement officer.

f. The procedure for the person to follow in order to pay a civil penalty or to contest the citation.

g. The applicable civil penalty if the person elects not to contest the citation.

(c) The maximum civil penalty which may be levied pursuant to any citation shall not exceed $2,500.00. The monies collected pursuant to this section shall be retained by the city and shall be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

(d) (1) The act for which a citation is issued shall be ceased upon the receipt of the citation.

(2) The person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within ten days of receipt of the citation, exclusive of weekends and legal holidays, request in writing an administrative hearing before the special magistrate to appeal the issuance of the citation by the enforcement officer and specify in such written request the grounds for such appeal.

(3) Failure of the violator to appeal the decision of the enforcement officer within the time period set forth herein shall constitute a waiver of the violator's right of an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

(4) If the person issued the citation or his designated representative shows that the citation is invalid or that the violation has been corrected prior to appearing before the special magistrate, the special magistrate may dismiss the citation unless the violation is irreparable or irreversible.

(5) Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this section.

(6) If the special magistrate finds that a violation exists the special magistrate may order the violator to pay a civil penalty of not less than the amount set forth on the citation, but not more than $2,500.00 per day for each violation. In determining the amount of the penalty the special magistrate shall consider the following factors:

a. The gravity of the violation.

b. Any action taken by the violator to correct the violation.

PROOFS

c. Any previous violations created by the violator.

(7) Upon written notification by the enforcement officer that a violator has not contested the citation or paid the civil penalty within the time frame allowed on the citation the special magistrate shall enter an order ordering the violator to pay the civil penalty set forth on the citation and a hearing shall not be necessary for the issuance of such order.

(8) A certified copy of an order imposing a civil penalty against an unlicensed contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the filing of any such lien which remains unpaid, the special magistrate may authorize the foreclosure on the lien. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4, article X of the state constitution.

(9) An aggrieved party, including the city, may appeal a final administrative order of the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the execution of the order appealed.

(10) All notices required by this section shall be provided to the alleged violator by certified mail, return receipt requested; by hand-delivery by the sheriff or other law enforcement officer or enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation. Notice of the special magistrate hearing shall be provided by U.S. and certified mail.

(11) Any person who willfully refuses to sign and accept a citation issued by an enforcement officer commits a misdemeanor of the second degree punishable as provided by F.S. § 775.082 or 775.083.

(e) Nothing contained herein shall prohibit the city from enforcing its codes or ordinances by any other means.

(f) The schedule of penalties to be assessed by the enforcement officer when issuing a citation shall be as follows:

| *Penalties for Contractor Violations* | | |
|---|---|---|
| Number of Violations | Licensed Contractor Penalty | Unlicensed Contractor Penalty |
| First offense | $500.00 | $500.00 |
| Second offense | $1,000.00 | $1,250.00 |
| Third and subsequent offenses | $1,500.00 | $2,500.00 |

(Code 1983, § 5-53; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 17-001 , § 13, 1-17-2017; Ord. No. 18-035, § 10, 10-15-2018)

**Sec. 103-144. Emergency licensing procedures**

(a) The purpose of this section is to define procedures for the licensing of contractors entering the city to perform construction as defined in F.S. ch. 489, during and immediately following a declared state of emergency as a result of severe damage to the structures in the community resulting from a hurricane or catastrophic storm.

(b) Upon the declaration of a state of emergency by the governor of the state or the mayor, the ~~director of building and community response~~ building official shall conduct a damage assessment to determine the need for the initiation for emergency licensing procedures which would allow contractors to temporarily work within the city to rebuild, repair or assist in the rebuilding and repairing of the damage caused by the event.

(c) If deemed necessary due to the extent of damage caused by the event, the ~~director of building and~~

PROOFS

~~community response~~ building official may temporarily suspend existing requirements for obtaining a local contractor's license and institute the following procedures:

(1) The ~~director of building and community response~~ building official shall honor, upon display, all current state certified contractor competency cards.

(2) The ~~director of building and community response~~ building official shall be authorized to cause to be issued emergency city competency cards to all existing county- and city-licensed contractors.

(3) The ~~director of building and community response~~ building official, or his designee, shall be authorized to issue emergency city competency cards to contractors or subcontractors from other jurisdictions, inside the state, whose licensing requirements are substantially comparable to the licensing requirements of the city. The burden of proving the similarity of the licensing requirements shall be on the contractor applying for a temporary competency card.

(4) Emergency competency cards issued by the d~~irector of building and community response~~ building official pursuant to this procedure shall be valid for a period of 120 days unless earlier revoked by the building official.

(5) During the period of 120 days during which an emergency competency card is valid, the contractor or subcontractor shall provide the ~~director of building and community response~~ building official with the necessary background checks and licensing information for presentation to the contractor's licensing board.

(6) The issuance of any emergency competency card and any subsequent regular competency card shall be contingent upon the payment of the appropriate application fees in effect at the date of application.

(7) The~~ director of building and community response~~ building official is authorized, at his discretion, to extend an emergency competency card for one additional 120-day period.

(d) The ~~director of building and community response~~ building official may refuse to issue an emergency competency card or may revoke an emergency competency card for any of the following actions on the part of a contractor:

(1) Working without benefit of a competency card.

(2) Contracting without building permits.

(3) Failing to call for proper inspections in a timely manner.

(4) Violation of any city codes.

(Code 1983, § 5-55; Ord. No. K-101, § 1, 9-17-2001; Ord. No. 18-035, § 11, 10-15-2018)

**Secs. 103-145--103-171. Reserved.**

## ARTICLE IV. BUILDING NUMBERING

### Sec. 103-172. Penalty.

This article shall be enforceable in the same manner as any other ordinances or laws of the city as provided elsewhere in this Code, or as otherwise provided by law.

(Code 1960, § 24-32; Code 1983, § 5-66; Ord. No. 16-025 , § 1, 1-3-2017)

### Sec. 103-173. Uniform system established.

There is hereby established a uniform system for numbering buildings fronting on all streets in the city, and all houses and other buildings shall be numbered in accordance with the provisions of this article.

(Code 1960, § 24-31; Code 1983, § 5-67)

### Sec. 103-174. Base lines designated.

Orange Avenue shall constitute the base line for numbering buildings along all streets running northerly and southerly, and the westerly shore of the Indian River shall constitute the base line for numbering buildings along all

PROOFS

streets running westerly, except Seaway Drive, which commences at Fourth Street, and runs easterly therefrom. The numbering, as herein provided, along said Seaway Drive shall commence at Fourth Street and run easterly therefrom. In respect to Fort Pierce Beach, lying easterly of the eastern shoreline of the Indian River, Seaway Drive shall be the base line, and all streets or public ways running south or southerly thereof shall be numbered consecutively therefrom, as herein provided for.

(Code 1960, § 24-33; Code 1983, § 5-68)

**Sec. 103-175. Method of numbering.**

(a) The numbering of buildings on each street shall begin at the base line. All numbers shall be assigned on the basis of 100 numbers to each block or the streets located thereon. Each building on north-south streets shall carry a number and address indicating its location as either north or south of its applicable base line, as the case may be, except Fort Pierce Beach, which shall be numbered as hereinabove provided for.

(b) All buildings on the south side of east-west streets shall bear odd numbers, and the buildings on the north side thereof shall bear even numbers. All buildings on the west side of north-south streets shall bear odd numbers, and the buildings on the east side thereof shall bear even numbers.

(c) Where any building has more than one entrance serving separate occupants, a separate number shall be assigned to each of said units providing the unit has a minimum frontage of ten feet for each such entrance. If the building is not located on a lot, parcel or tract which would permit the assignment of one number to each such entrance, numerals and letters shall be used as set forth in section 103-177.

(Code 1960, § 24-34; Code 1983, § 5-69)

**Sec. 103-176. Parallel or facing streets not extending to base line.**

All buildings on parallel streets or facing streets not extending through to the base line shall be assigned numbers relative to the base line.

(Code 1960, § 24-35; Code 1983, § 5-70)

**Sec. 103-177. Distinctive numbers for portions of a building.**

Where only one number can be assigned to any house or building, the owner, occupant or agent of such house or building who shall desire distinctive numbers for the upper and lower portion of any house or building or for any part of any such house or building fronting on any street shall use the suffix (A), (B), (C), etc., as may be required.

(Code 1960, § 24-36; Code 1983, § 5-71)

**Sec. 103-178. Subnumbers for mobile home parks, office buildings, etc.**

Each multifamily development, mobile home park, office building and the like shall be assigned one master number. The owners thereof may at their option designate the subnumbers to each unit in the development, park or building, which subnumbering remains at the option of the owner.

(Code 1960, § 24-37; Code 1983, § 5-72)

**Sec. 103-179. Survey; procurement of numbers by owner; installation.**

(a) There shall be assigned by the planning director or his designee to each house and other residential or commercial building located on any street in the city its respective number under the uniform system provided for in this article, whereupon the owner, occupant or agent thereof shall place or cause to be placed upon each house or building controlled by him the number assigned.

(b) Such number shall be installed within ten days after the assignment and/or notice thereof. Assignment and/or notice shall be sent via regular U.S. mail and/or certified mail with a return receipt sent to the owner of record in the current county tax rolls. An authorized employee shall execute an affidavit of mailing which shall constitute evidence of mailing via regular U.S. mail for purposes of providing proof of notice for purposes of this section.

(c) The number shall be procured and paid for by the property owner. The number used shall meet the requirements set forth in chapter 3 of the International Property Maintenance Code as adopted by the city and

PROOFS

incorporated by reference herein. If the proper number is not placed on the building as required within the ten days specified herein, from the date of assignment or notice, the code enforcement department shall enforce compliance through the applicable code enforcement provisions for the violation as provided in section 103-172.

(d) The number shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that the number can be seen plainly from the street line. Whenever any building is situated more than 50 feet from the street line, then the numbers shall be placed near the walk, driveway or common entrance to such building and upon a post, mailbox or other appropriate place so as to be easily discernible from the sidewalk.

(Code 1960, § 24-38; Code 1983, § 5-73; Ord. No. 16-025 , § 2, 1-3-2017)

**Sec. 103-180. Assignment of numbers.**

The director of planning and development shall inform any person applying therefor of the number of numbers belonging to or embraced within the limits of any lot or property as provided in this article. In case of conflict as to the proper number to be assigned to any building, the director of planning and development shall determine the number of such building.

(Code 1960, § 24-39; Code 1983, § 5-74)

**Sec. 103-181. Building permit; final approval; use of other number.**

No building permit shall be issued for any house, building or structure until the owner has procured from the director of planning and development the official number of the premises. Final approval of any structure erected, repaired, altered or modified shall be withheld by the director of planning and development until permanent and proper numbers have been affixed to said structure. It shall be unlawful for any such owner or occupant to retain or use or to permit to be retained or used upon any such building any number other than the number designated under this article.

(Code 1960, § 24-40)

**Sec. 103-182. Mistakes or conflicts in numbers; adjustments; unused numbers.**

Numbers heretofore assigned to buildings, except as herein after provided, shall remain the numbers of such buildings respectively until otherwise changed. In cases of mistake or conflict in building numbers, or where some special arrangement is necessary in consequence of irregularities in the streets or avenues or lack of uniformity in the sizes of blocks, the director of planning and development shall direct and make the proper adjustments in accordance with the spirit and intention of this article. Unused numbers in a unit shall be dropped at the end of each block.

(Code 1960, § 24-41; Code 1983, § 5-75)

**Secs. 103-183--103-202. Reserved.**

PROOFS

## ARTICLE V. BUILDING DRAINAGE

**Sec. 103-203. Regulation of stormwater run-off; required slope.**

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

~~The following definitions shall be applicable to this section and sub-parts hereof:~~

*Construction* means any new residential construction, being the first construction of an improvement upon the lot or tract of property, and any modification, addition, renovation, or rebuilding of any existing residential structure that alters the size or relationship of the exterior walls.

*Existing subdivision* means any platted subdivision, resubdivision or replatting of an area and which plat has been approved by any governmental body and is on file in the records of the county clerk of the circuit court and any other tract or parcel of land which is presently developed or improved in any fashion.

*Slope* means the change in finished grade elevation from the foundation of the structure to outer property line and shall be expressed either by a numeric degree or a ratio which shall be stated as the vertical change in elevation

before the horizontal distance over which such change occurs; i.e. 1:4, read "one to four," signifying a one-foot rise in elevation over a four-foot horizontal distance.

*Stormwater runoff* means the stormwater displaced by impervious surfaces.

(b) All construction shall be so designed and constructed so that the diversion of post development stormwater runoff and other surface waters shall not result in flooding or damage to adjacent properties.

(c) The maximum allowable slope on any parcel shall be 1:4 or a 15-degree slope from the lowest horizontal elevation to the highest.

(d) In the event that slab on grade construction would be elevated such that the slope would be greater than the maximum allowable slope, construction shall incorporate other methods, such as stem wall construction or the provision of adequate swales, so as to eliminate the flooding of surrounding properties. Such alternative methods must be approved by the department of development and the city engineer.

(e) There is hereby prohibited any alteration or change in existing drainage patterns in any existing subdivision without the submission of a topographical survey of the parcel and all adjacent parcels which shall be approved by the department of development and the city engineer or his designee.

(Code 1983, § 5-93.1; Ord. No. J-30, § 1, 12-7-1992)

**Sec. 103-204. Grade, minimum floor.**

Minimum floor grade for residential buildings shall be 16 inches for slab construction and 24 inches for wood floor construction above the crown of the road grade. Commercial or industrial buildings shall be five inches above the sidewalk or crown of the road grade, unless satisfactory drainage, natural or mechanical, is provided.

(Code 1983, § 5-93.2; Ord. No. K-125, § 2, 12-17-2001)

**Sec. 103-205. Flood hazard areas.**

All plans and building permits, and other permits, must be in compliance with flood hazard provisions contained in chapter 109 of this Code.

(Code 1983, § 5-94; Ord. No. I-252, § 3, 2-16-1988; Ord. No. 19-004 , § 1, 3-18-2019)

**Secs. 103-206--103-233. Reserved.**

## ARTICLE VI. WORKFORCE HOUSING PROGRAM

**Sec. 103-234. Short title.**

This article shall be known as and referred to as the City of Fort Pierce Workforce Housing Program and may also be known as the residential infill program.

(Code 1983, § 5-111; Ord. No. 19-006 , § 2, 3-18-2019)

**Sec. 103-235. Purpose and intent.**

The purpose and intent of the workforce housing program is to:

(1) Ensure an adequate inventory of owner occupied or rental housing throughout the city is available to low, moderate-low, moderate-high and middle income households.

(2) Provide for the creation of a variety of housing options throughout the city for the existing and anticipated workforce in necessary occupational fields, such as, but not limited to, education, government, health care, transportation, tourism and retail services.

(3) Create an assistance program which provides access to funds from a workforce housing trust fund, so that lower income residents, those residents who are no longer in the workforce, or living on fixed incomes, can remain in the city.

(Code 1983, § 5-112; Ord. No. 19-006 , § 3, 3-18-2019)

PROOFS

**Sec. 103-236. Applicability.**

(a) *City of Fort Pierce Community Land Trust.* The city commission may authorize the city manager to enter into an agreement with a community land trust organization registered in the city to administer the city's workforce housing program.

(b) This article shall apply to development of workforce housing units constructed in conjunction with the City of Fort Pierce Community Land Trust and/or with the intent of obtaining funding from the City of Fort Pierce Workforce Housing Trust Fund. Redevelopment that removes and replaces existing residential dwelling units shall meet the workforce housing requirements the same as is applicable for new development.

(Code 1983, § 5-113; Ord. No. 19-006 , § 4, 3-18-2019)

**Sec. 103-237. Definitions.**

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

*Affordable housing unit* means a dwelling unit for which the mortgage payment (including principal, interest, taxes and insurance) does not exceed 30 percent of the gross income of the very low income household buying the affordable housing dwelling unit.

*Area median income* means a division of income distribution into two equal parts: one-half above the median and one-half below, as utilized by the United States Census Bureau. The United States Department of Housing and Urban Development (HUD) uses the median incomes for families in metropolitan and non-metropolitan areas to calculate income limits for eligibility in a variety of housing programs. HUD estimates the median family income for an area in the current year and adjusts that amount for different family sizes so that family incomes may be expressed as a percentage of the area median income. For example, a family's income may equal 80 percent of the area median income; a common maximum income level for participation in HUD programs.

*Assets* means all real estate property, stocks, bonds, and cash, or other liquid assets that are not part of a retirement investment plan or pension plan.

*City of Fort Pierce Community Land Trust* means a nonprofit 501(c)(3) organization with a mission that includes developing, preserving, and managing a permanent supply of affordable housing in Fort Pierce that has entered into an agreement with the city and has within its mission a geography that includes the city to provide administrative and regulatory services in accordance with the workforce housing program.

*Dwelling unit, appreciation of,* means the difference between the original purchase price for a dwelling unit and the subsequent price for the sale of the dwelling unit by the owner of the workforce housing dwelling unit minus real estate closing costs.

*Dwelling unit, market rate,* means a unit in a residential development other than those designated a workforce housing dwelling unit.

*Dwelling unit, resale gap of,* means the difference between the required resale price of a workforce housing dwelling unit and the original purchase price plus closing costs.

*Dwelling unit, sales price of,* means the contracted price as designated at closing as the sale price of a workforce housing dwelling unit.

*Dwelling unit, workforce housing owner-occupied,* means an owner-occupied dwelling unit for which the mortgage payment (including principal, interest, taxes and insurance) does not exceed 30 percent of the gross income of the middle income, moderate-high income, moderate-low income, and low income household buying the workforce housing dwelling unit, offered to eligible households and restricted by deed restriction for resale.

*Dwelling unit, workforce housing renter-occupied,* means a dwelling unit for which the rental payment and utility costs do not exceed 30 percent of the gross income of the moderate-high, moderate-low income and low income households renting the workforce housing dwelling unit, offered to eligible households and restricted by deed restriction for rental.

*Equity recapture provision* means the division of any funds realized by the owner of a property as a result of the sale of the property in which the sales price exceeds the original purchase price as stated in the original contract

PROOFS

for sale.

*First time home buyer* means a household that meets the criteria of a first time home buyer, as defined by the United States Department of Housing and Urban Development, as amended.

*Floor, rental,* means the lower limit beyond which the maximum rent amount for a workforce housing dwelling unit will not be required to fall below.

*Floor, sales price,* means the lower limit beyond which the maximum sales price for a for-sale workforce housing dwelling unit will not be required to fall below.

*Household* means one person living alone or two or more persons sharing residency whose income is considered for the workforce housing program.

*Household, eligible,* means a household that qualifies for participation in the workforce housing program described in section 103-240. Priority will be given to persons who work in the city limits prior to the date of application for a workforce housing dwelling unit.

*Workforce Housing Trust Fund* means the trust fund established by the city for the purpose of collecting and disbursing funds for workforce housing dwelling units in accordance with the workforce housing program as established in section 103-242.

*Income, low,* means household income 61 percent up to 80 percent of the median household income of the Saint Lucie Metropolitan Statistical Area (MSA) adjusted for household size.

*Income, middle,* means household income 121 percent to 140 percent of the median income of the Saint Lucie Metropolitan Statistical Area (MSA) adjusted for household size.

*Income, moderate-high,* means household income 101 percent to 120 percent of the median income of the Saint Lucie Metropolitan Statistical Area (MSA) adjusted for household size.

*Income, moderate-low,* means household income 81 percent to 100 percent of the median income of the Saint Lucie Metropolitan Statistical Area (MSA) adjusted for household size.

*Income, very low,* means household income 30 percent up to 60 percent of the median income of the Saint Lucie Metropolitan Statistical Area (MSA) adjusted for household size.

*Primary residence* means the legal residence of the household and qualifies for homestead exemption, if an owner-occupied unit.

*Shared appreciation* means the percentage of the amount of the appreciation in the value of the workforce housing dwelling unit to be shared by the city and owner at the time of resale of the workforce housing dwelling unit.

*Workforce housing programs, policies and procedures* means the administrative policies and procedures approved by the city commission for the implementation of the workforce housing program.

(Code 1983, § 5-114; Ord. No. 19-006 , § 5, 3-18-2019)

**Sec. 103-238. Construction standards for workforce housing.**

Workforce housing dwelling units which are constructed pursuant to this article shall meet these standards:

(1) Construction quality. The workforce housing dwelling units which are to be constructed shall be of substantially the same construction quality and exterior design to average market rate dwelling units. Provided, however, that workforce housing dwelling units may have different interior finishes and features than average market rate dwelling units, so long as the interior features are of good quality and meet the requirements of the state building code.

(2) Size of units. The ratio of the number of bedrooms contained in workforce housing dwelling units shall be proportional to the number of bedrooms in average market rate dwelling units.

(3) Workforce housing dwelling units shall be no less than 80 percent of the average size of market rate dwelling units up to 2,000 square feet.

(Code 1983, § 5-117; Ord. No. 19-006 , § 8, 3-18-2019)

PROOFS

**Sec. 103-239. Sales and rental prices for workforce housing dwelling units.**

(a) *Initial sales price.* The initial sales price of a workforce housing dwelling unit shall meet the standards established herein, which include the expected monthly mortgage payment and insurance. The maximum workforce housing unit prices established at the time of approval for each for-sale unit within each of the four income ranges shall be the sales price floor. This sales price floor shall serve as the minimum sales price point required in perpetuity.

(b) *Annual review*. The maximum workforce housing dwelling unit purchase prices for each of the four income ranges and household sizes shall be subject to an annual review by the Fort Pierce Community Land Trust.

(c) *Resale restriction.* The maximum sales price for the resale of a workforce housing dwelling unit shall be in accordance with either the city's workforce housing policies and procedures to be adopted by reference, or the resale formula of a designated community land trust.

(d) *Rental prices.*

(1) Rental prices shall be established for the various household income levels for one-, two- and three-bedroom size units and shall be in accordance with the state median rent published by the United States Department of Housing and Urban Development (HUD) and used by the Florida Housing Finance Corporation (FHFC) to establish maximum rents. The rental units shall only be leased to income-eligible households. The established maximum rents shall comply with the city's workforce housing policies and procedures. Three tiers of income-eligible households shall be served by the workforce housing program's rental developments: low income (61 percent to 80 percent of area median income), moderate-low income (81 percent to 100 percent of area median income), and moderate-high income (101 percent to 120 percent of area median income). Rents shall be as defined for those income levels utilized by the FHFC.

(2) Utilities allowances to be deducted from applicable state median rents shall be the one-, two- and three-bedroom allowances utilized by the city housing authority, as updated annually. The utilities allowances may be modified based on the application of the following:

a. HUD discounts for the utilization of energy efficiency heating, cooling and hot water tank systems and the use of Energy Star appliances;

b. One year of actual project averages of water usage costs for one-, two- and three-bedroom size units;

c. Actual sewer usage costs, as updated by the city utilities authority.

(3) The minimum workforce housing rents initially established at the time of approval for each rental unit within each of the four income ranges shall be the rental floor. These workforce housing rental floors shall serve as the minimum rental price point required throughout a minimum 30-year term of the rental development covenant, as required in subsection 103-241(b).

(4) After the first lease with an eligible household, any renewal leases may be granted in the following circumstances per household income level:

a. Low income level household's annual anticipated gross income may increase to an amount not to exceed 140 percent of the maximum allowable median income adjusted for family size;

b. Moderate-low income level household's annual anticipated gross income may increase to an amount not to exceed 140 percent of the maximum allowable median income adjusted for family size;

c. Moderate-high income level household's annual anticipated gross income may increase to an amount not to exceed 140 percent of the maximum allowable median income adjusted for family size;

d. Upon the request of the community land trust, an eligible household shall submit documentation as outlined in the city's workforce housing policies and procedures that the household is eligible to continue occupying a workforce housing dwelling unit.

(Code 1983, § 5-118; Ord. No. 19-006 , § 9, 3-18-2019)

PROOFS

**Sec. 103-240. Qualifications for eligible households and criteria under the workforce homebuyer program.**

(a) The household income of an eligible household shall meet the income criteria for low income, moderate-low income, moderate-high income, or middle income as defined in section 103-237.

(b) In order to qualify for the homeowner and homebuyer assistance program, an eligible household must qualify for a fixed-rate first mortgage through an institutional lender and meet the requirements of the homeowner and homebuyer assistance program.

(c) Priority for available workforce housing dwelling units shall be given to eligible households meeting one of the following criteria:

(1) Qualify as first time homebuyers;

(2) In order to be given priority for a rental unit, at least one adult member of the household shall be employed by a business located within the city. In order to be given priority for the purchase of a workforce housing dwelling unit, at least one adult member of the household shall be employed by a business in the city for at least 12 months prior to submission of an application.

(Code 1983, § 5-119; Ord. No. 19-006 , § 10, 3-18-2019)

**Sec. 103-241. Affordability time period durations for rental and for-sale workforce housing dwelling units.**

(a) A covenant shall be recorded in the public records of the county for any real property which has been developed as for-sale workforce housing to ensure it remains a workforce housing dwelling unit to be owned by the applicable low, moderate-low, moderate-high or middle income eligible households in perpetuity (99 years) from the date of first occupancy as a workforce housing dwelling unit. In the event the unit is sold before the minimum 99-year period concludes, the new owner shall assume the requirement for the number of years remaining.

(b) A covenant shall be recorded in the public records of the county for any real property which has been developed as rental workforce housing to ensure it remains rented to low, moderate-low and moderate-high income eligible households in perpetuity (99 years) from the date of occupancy of the first workforce housing dwelling unit. In the event a rental development is sold before the minimum 99-year period concludes, the new owner shall assume the requirement for the number of years remaining.

(Code 1983, § 5-120; Ord. No. 19-006 , § 11, 3-18-2019)

**Sec. 103-242. Workforce Housing Trust Fund.**

(a) *Created.* There is hereby created a City of Fort Pierce Workforce Housing Trust Fund consisting of all funds appropriated and deposited to the trust fund in connection with the workforce housing program pursuant to this article. The trust fund is also authorized to accept gifts, grants and donations made to the city for workforce housing. All appropriations, gifts, grants and awards of monies hereunder shall be deposited in an interest-bearing account entitled the City of Fort Pierce Workforce Housing Trust Fund Account, which shall be a separate account established and maintained apart from the general revenue funds and accounts of the city. All interest in said account shall accrue to the use and benefit of the trust fund account.

(b) *Term of existence.* The City of Fort Pierce Workforce Housing Trust Fund Account shall be self-perpetuating from year to year unless specifically terminated by the city commission.

(c) *Trust assets.* All appropriations, gifts, grants and awards of money or property received hereunder from either public or private donors shall be placed in trust for and inure to the use and benefit of the city for workforce housing; and said property and funds shall be expended, utilized and disbursed pursuant to the provisions of this section. The fees in the workforce housing trust fund may be used for:

(1) Second mortgage assistance;

(2) Down payment assistance;

(3) Acquisition and construction of workforce housing dwelling units;

(4) Resale gap;

(5) Enhancement of county, state and federal affordable housing programs;

PROOFS

(6) Rehabilitation of existing workforce housing dwelling units; and

(7) Administrative functions necessary for this program.

(d) Appropriations and donations.

(1) Eligible monies appropriated pursuant to this article shall be transferred to the trust fund. This transfer shall take place within 30 days of the original project appropriation by the city commission.

(2) Funds deposited or credited to the City of Fort Pierce Workforce Housing Trust Fund Account, not expended or obligated by the close of any fiscal year shall be carried over automatically for a period of three years. Any funds carried over for three years, or upon request five years, and still unexpended at the expiration of such period, shall be transferred to the general fund for general affordable housing purposes, as appropriate, only; provided that funds derived from other restricted sources shall revert to the funds from which originally appropriated at the expiration of said three or five year period, or if project is ~~cancelled,~~ as applicable.

(3) Any gifts, grants and awards received, subject to a condition shall be expended strictly in accordance with such condition.

(e) *Unpermitted appropriations.* Nothing in this article shall be deemed or construed to require the city to appropriate or expend funds if:

(1) The appropriation, or expenditure of such funds for the purposes herein described would not be permitted under any state or federal law, rule or regulation;

(2) The compliance with this article would in any way affect the treatment of interest on any bonds or other indebtedness or the city for federal income tax purposes; or

(3) The compliance with this article would in any way prevent or inhibit the city's compliance with state or federal laws, rules or regulations relating to debt obligations of the city.

(Code 1983, § 5-121; Ord. No. 19-006 , § 12, 3-18-2019)

**Secs. 103-243--103-262. Reserved.**

## ARTICLE VII. COASTAL CONSTRUCTION CODE*

***State law reference**—Coastal Zone Protection Act of 1985, F.S. § 161.52 et seq.

### Sec. 103-263. Title.

The provisions contained herein shall constitute the coastal construction code for construction within the coastal building zone and coastal barrier islands in the city and shall be referred to as the coastal code.

(Code 1983, § 5-305; Ord. No. I-200, § 2, 12-15-1986)

### Sec. 103-264. Purpose.

The purpose of the coastal code is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other severe storms occurring along the coastal area of the city which fronts on the Atlantic Ocean. These standards are intended to specifically address design features which affect the structural stability of the beach, dunes, and topography of adjacent properties. The coastal code is site specific to the coastal building zone, as defined herein, and is not applicable to other locations. In the event of a conflict between this article and the other chapters of this Code, the requirements resulting in the more restrictive design shall apply. No provisions in this article shall be construed to permit any construction in any area prohibited by city, county, state or federal regulation.

(Code 1983, § 5-306; Ord. No. I-200, § 2, 12-15-1986)

### Sec. 103-265. Scope.

(a) *Applicability.* The requirements of this coastal code shall apply to the following types of construction in the coastal building zone and on coastal barrier islands in the city:

(1) The new construction of, or substantial improvements to major structures, nonhabitable major structures,

PROOFS

and minor structures as defined herein;

(2) Construction which would change or otherwise have the potential for substantial impact on coastal zones (i.e. excavation, grading, paving);

(3) Construction located partially within the coastal building zone;

(4) Reconstruction, redevelopment or repair of a damaged structure from any cause which meets the definition of substantial improvement as defined herein.

(b) *Exceptions.* The requirements of the coastal code shall not apply to the following:

(1) Minor work in the nature of normal beach cleaning and debris removal;

(2) Structures in existence prior to the effective date of the code, except for substantial improvements as defined herein;

(3) Construction for which a valid and unexpired building permit was issued prior to the effective date of this code;

(4) Construction extending seaward of the seasonal high water line which is regulated by the provisions of F.S. § 161.041 (i.e. groins, jetties, moles, breakwaters, seawalls, piers, revetments, beach nourishment, inlet dredging, etc.);

(5) Construction of nonhabitable major structures as defined herein, except for the requirements of section 103-267(d);

(6) Construction of minor structures as defined herein, except for the requirements of section 103-267(e);

(7) Structures listed in the National Register of Historic Places or the state inventory of historic places;

(8) Construction for improvement of a major structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

(c) *Application for permits.* Applications for building permits for construction in the coastal building zone and on coastal barrier islands, if not of normal or usual design, may be required by the building official to be certified by an architect or professional engineer registered in the state. Such certifications shall state that the design plans and specifications for the construction are in compliance with the criteria established by this coastal code.

(Code 1983, § 5-307; Ord. No. I-200, § 2, 12-15-1986)

**Sec. 103-266. Definitions.**

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

~~The following terms are defined for general use in the coastal code:~~

~~*Beach* means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. The term "beach" is alternatively termed "shore."~~

~~*Breakaway wall* or *frangible wall* means a partition independent of supporting structural members that will withstand design wind forces, but which will fail under hydrodynamic, wave, and runup forces associated with the design storm surge. Under such conditions, the wall shall fail in a manner such that it breaks up into components which minimize the potential for damage to life or adjacent property. It shall be a characteristic of a breakaway or frangible wall that it shall have a horizontal design loading resistance of no less than ten nor more than 20 pounds per square foot. that will not act as potentially damaging missiles.~~

~~*Building support structure* means any structure which supports floor, wall or column loads, and transmits them to the foundation. The term "building support structure" shall include beams, grade beams or joists, and includes the lowest horizontal structural member exclusive of piles, columns or footings.~~

~~*Coastal barrier islands* means geological surface features above mean high water which are completely surrounded by marine water, that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay or Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment or other~~

PROOFS

material, including spoil disposal. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

*Coastal building zone* means the land area between the seasonal high water line and a line 5,000 feet landward from the coastal construction control line or the entire island, whichever is less.

*Coastal construction control line* means the landward extent of that portion of the beach-dune system which is subject to severe fluctuations based upon a 100-year storm surge, storm waves or other predictable weather conditions as established by the department of Natural Resources environmental protection in accordance with F.S. § 161.053.

*Construction* means the building of or substantial improvement to any structure or the clearing, filling or excavation of any land. It shall also mean any alterations in the size or use of any existing structure or the appearance of any land. When appropriate to the context, the term "construction" refers to the act of construction or the result of construction.

*Dune* means a mound or ridge of loose sediments, usually sand-sized, deposited by natural or artificial means, which lies landward of the beach.

*Major structure* includes but is not limited to residential buildings including mobile homes, commercial, institutional, industrial and other construction having the potential for substantial impact on coastal zones means houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.

*Mean high water line* means the intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waves over a 19-year period.

*Minor structure* includes, but is not limited to, pile supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile supported, elevated viewing platforms, gazebos and boardwalks; lifeguard support stands, public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas; earth retaining walls; sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave and storm forces.

*Mobile home* means manufactured housing which conforms to the Federal Manufactured Housing Construction and Safety Standards or the Uniform Standards Code ANSI A-119.1 pursuant to F.S. § 320.823.

*Nonhabitable major structure* includes but is not limited to swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures and other water retention structures; water and sewage treatment plants; electrical power plants, transmission and distribution lines, transformer pads, vaults and substations; roads, bridges, streets and highways; and underground storage tanks. means swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets, and highways; and underground storage tanks.

*NGVD* means National Geodetic Vertical Datum, a geodetic datum established by the National Ocean Service and frequently referred to as the 1929 Mean Sea Level Datum.

*One-hundred-year storm* or *100-year storm* means a shore incident hurricane or any other storm with accompanying wind, wave and storm surge intensity having a one-percent chance of being equaled or exceeded in any given year, during any 100-year interval.

*Seasonal high water line* means the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above mean high water.

*State minimum building code* means the building code adopted by a municipality or county pursuant to the requirements of Florida Building Code as identified in F.S. § 553.73.

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds a sixty-month cumulative total of fifty (50) per cent of the market

PROOF

value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local enforcement officer prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred.

The total cost does not include nonstructural interior finishings, including, but not limited to, finish flooring and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAC grills and decorative trim, freestanding metal fireplaces, appliances, water closets, tubs and shower enclosures, lavatories, and water heaters, or roof coverings, except when determining whether the structure has been substantially improved as a result of a single improvement or repair. For the purposes of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or the state inventory of historic places.

(Code 1983, § 5-308; Ord. No. I-200, § 2, 12-15-1986; Ord. No. K-418, § 1, 4-3-2006; Ord. No. L-245, § 1, 2-6-2012)

**Sec. 103-267. Coastal construction requirements.**

(a) *General.* Construction within the coastal building zone and on coastal barrier islands shall meet the requirements of this article. All structures shall be designed so as to minimize damage to life, property and the natural environment. Assistance in determining the design parameters to minimize such damage may be found in the reference documents listed in section 103-268.

(b) *Structural requirements for major structures.*

(1) *Design and construction.* Major structures, except for mobile homes, shall be designed and constructed in accordance with the state building code (FBC). Major structures, except mobile homes, shall also comply with the applicable standards for construction found elsewhere in the state building code.

(2) *Mobile homes.* Mobile homes shall conform to the Federal Mobile Home Construction and Safety Standards or the Uniform Standards Code ANSI A-119.1, pursuant to F.S. § 320.823, as well as the requirements of chapter 125 and article I of chapter 109 of this Code.

(3) *Elevation, floodproofing and siting.* All major structures shall be designed, constructed and located in compliance with the National Flood Insurance Regulations as found in 44 CFR parts 59 and 60 or article I of chapter 109 of this Code, whichever is more restrictive.

(c) *Design conditions.*

(1) *Velocity pressure.* Major structures, except mobile homes, shall be designed in accordance with the requirements of the state building code.

(2) *Foundations.* The elevation of the soil surface to be used in the design of foundations, calculation of pile reactions and bearing capacities shall not be greater than that which would result from the erosion reasonably anticipated as a result of design storm conditions. Foundation design and construction of a major structure shall consider all anticipated loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour

PROOFS

producing forces, including localized scour due to the presence of structural components. Foundation design and construction shall provide for adequate bearing capacity taking into consideration the type of soil present and the anticipated loss of soil above the design grade as a result of localized scour. Erosion computations are not required landward of coastal construction control lines established or updated since June 30, 1980. Upon request, the department of natural resources may provide information as to those areas within coastal building zones where erosion and scour of a 100-year storm event is applicable.

(3) *Wave forces.* Calculations for wave forces resulting from design storm conditions on building foundations and superstructures may be based upon the minimum criteria and methods prescribed in the Naval Facilities Engineering Command Design Manual, NAVFAC DM-26, United States Department of Navy; Shore Protection Manual, United States Department of the Army Corps of Engineers; United States Department of the Army Coastal Engineering Research Center Technical Papers and Reports; the Technical and Design Memoranda of the Division of Beaches and Shores, Florida Department of Natural Resources; or other professionally recognized methodologies which produce equivalent design criteria.

Breaking, broken and nonbreaking waves shall be considered as applicable. Design wave loading analysis shall consider vertical uplift pressures and all lateral pressures to include impact as well as dynamic loading and the harmonic intensification resulting from repetitive waves.

(4) *Hydrostatic loads.* Calculations for hydrostatic loads shall consider the maximum water pressure resulting from a fully peaked, breaking wave superimposed upon the design storm surge with dynamic wave setup. Both free and hydrostatic loads shall be considered. Hydrostatic loads which are confined shall be determined by using the maximum elevation to which the confined water would freely rise if unconfined. Vertical hydrostatic loads shall be considered both upward and downward on horizontal or inclined surfaces of major structures (i.e. floors, slabs, roofs, walls). Lateral hydrostatic loads shall be considered as forces acting horizontally above and below grade on vertical or inclined surfaces. Hydrostatic loads on irregular or curved geometric surfaces shall be determined by considering the separate vertical and horizontal components acting simultaneously under the distribution of the hydrostatic pressures.

(5) *Hydrodynamic loads.* Hydrodynamic loads shall consider the maximum water pressures resulting from the motion of the water mass associated with the design storm. Full intensity loading shall be applied on all structural surfaces above the design grade which would affect the flow velocities.

(d) *Structural requirements for nonhabitable major structures.* Nonhabitable major structures need not meet the specific structural requirements of subsection (b) of this section, except that they shall be designed to produce the minimum adverse impact on the beach and dune system and shall comply with the applicable standards of construction found in the state building code. All sewage treatment and public water supply systems shall be floodproofed to prevent infiltration of surface water anticipated under design storm conditions. Underground utilities, excluding pad transformers and vaults, shall be floodproofed to prevent infiltration of surface water expected under design storm conditions or shall otherwise be designed to function when submerged under such storm conditions.

(e) *Structural requirements for minor structures.* Minor structures need not meet the specific structural requirements of subsection (b) of this section except that they shall be designed to produce the minimum adverse impact on the beach and dune system and shall comply with the applicable standards of construction found in the state building code (FBC).

(f) *Location of construction.* Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability. Construction, including excavation, may occur to the extent that the natural storm buffering and protection capability of the dune is not diminished.

(g) *Public access.* Where the public has established an accessway through private lands to lands seaward of mean high tide or water line by prescription, prescriptive easement or other legal means, development or construction shall not interfere with such right of access unless a comparable alternative accessway is provided. The developer shall have the right to improve, consolidate or relocate such public accessways so long as they are:

PROOFS

(1) Of substantially similar quality and convenience to the public;

(2) Approved by the local government and approved by the department of natural resources whenever improvements are involved seaward of the coastal construction control line; and

(3) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to F.S. § 163.3178.

(Code 1983, § 5-309; Ord. No. I-200, § 2, 12-15-1986; Ord. No. K-125, § 6, 12-17-2001; Ord. No. L-245, §§ 2, 3, 2-6-2012)

**Sec. 103-268. References.**

Assistance in determining the design parameters and methodologies necessary to comply with the requirements of this article may be obtained from:

(1) Shore Protection Manual, United States Army Corps of Engineers, 4th edition, 1984.

(2) United States Department of the Army, Coastal Engineering Research Center's Technical Papers and Reports.

(3) Florida Department of Natural Resources, Division of Beaches and Shores Technical and Design Memoranda.

(4) Naval Facilities Engineering Command Design Manual, NAVFAC DM-26, United States Department of the Navy.

(5) Coastal Construction Manual, Federal Emergency Management Agency, August 2005.

(Code 1983, § 5-310; Ord. No. I-200, § 2, 12-15-1986; Ord. No. K-125, § 6, 12-17-2001; Ord. No. L-245, § 4, 2-6-2012)

**Secs. 103-269--103-299. Reserved.**

## ARTICLE VIII. MOVING OF BUILDINGS

**Sec. 103-300. General.**

In addition to the requirements for moving buildings set forth in section 3313 of the Florida Building Code (FBC), as adopted in article II of this chapter, the following shall apply.

(Code 1983, § 5-330; Ord. No. I-261, § 1, 2-16-1988; Ord. No. K-125, § 7, 12-17-2001)

**Sec. 103-301. Permit required.**

It shall be unlawful for any person to move or cause to be moved any building or structure within, out of, or into the city limits, without first obtaining a permit from the building department.

(Code 1983, § 5-331; Ord. No. I-261, § 2, 2-16-1988; Ord. No. K-125, § 7, 12-17-2001)

**Sec. 103-302. Application for permit; abstract of title; zoning restrictions; safety warnings; surety bonds; time limitation.**

(a) An application for a permit for the moving of such building or structure shall be filed with the building official and shall be signed and sworn to by the owner of the property upon which the same is located, or by the owner of such building or structure, which application shall state clearly where the building or structure is to be moved, the time and place of moving, together with a detailed statement of the streets, alleys or passageways on and over which the building is to be moved. If the building is to be located, after moving, within the city limits, the applicant shall file detailed plans and specifications covering the repairing or reconditioning of the moved building or structure to show the condition such building or structure will be placed in after its removal to the new location. All repairs or reconditioning will be complete within 60 days after its removal to the new location. All structural work, as deemed necessary by the building official, will be complete before moving the structure.

(b) An abstract of title or certificate from an abstract company shall accompany such application, which shall clearly indicate the ownership of the property both from which and to which such building or structure is to be moved, and if the structure or building is owned by a person other than the person owning the property upon which it is located, the written consent of the owner of the property shall be filed with the building official authorizing the moving thereof.

PROOFS

(c) In no case shall any building or buildings be moved within the city limits or from out of the city limits into the limits of the city in any restricted area wherein and whereby such moving would violate any restrictions of the zoning ordinances.

(d) Any house or structure left in the streets of the city after dark shall have displayed thereon a red light at each corner and one in the middle on both ends. At no time will any house or structure be allowed to remain on the streets for more than 48 hours.

(e) If the building or structure is to be located, after moving, within the city, there shall also be filed with the city a cash or surety bond, payable to the city, which bond shall be approved by the building official and the city manager and conditioned that the building or structure to be moved shall be moved to such location and repaired and reconditioned in accordance with the plans and specifications submitted to and approved by the building official and in accordance with the conditions and provisions that may be provided for in the permit and by the city ordinances. If such property from which the building or structure is to be moved lies within the city, then such bond shall be conditioned that the property from which the building or structure is moved shall be placed in a sanitary, clean and sightly condition.

(f) The permit shall definitely state the time in which the building or structure shall be moved, and the time within which it shall be reconditioned and repaired, which time shall not be longer than reasonably necessary to complete such work.

(g) Any person who seeks permission to move a house into or within the city, and whose application has been passed on by the building official, shall post a penal bond in the amount of $25,000.00 for each house to be moved into or within the city, which bond shall be payable to the city and shall be conditioned upon the fact that the party moving the house shall perform all acts and duties necessary to comply with the requirements set forth by the building official in regard to the repair and reconstruction of said house, which work shall be completed within 60 days of the time said house is moved into or within the city. In the event said work is not completed within the time aforesaid, the above provided for bond shall be forfeited, and the city may complete the work or order it completed by a third party, the cost of which shall be payable from the proceeds thereof. In no event shall any portion of the bond be returned to the person posting same, once the bond has been declared forfeited.

(h) The city commission may modify any of the above provisions for good cause shown, with further provision that the bond be not less than the estimated cost of improving.

(Code 1983, § 5-332; Ord. No. I-261, § 3, 2-16-1988)

**Sec. 103-303. Permit refusal.**

A permit may be refused if, in the opinion of the building official:

(1) The building or structure has deteriorated more than 50 percent of its original value by fire or other elements.

(2) The building shows signs of termite infestation.

(3) The structural integrity is questionable relevant to moving the structure.

(4) The house or structure to be moved is not compatible with the immediate neighborhood.

(Code 1983, § 5-333; Ord. No. I-261, § 4, 2-16-1988)

**Sec. 103-304. Payment of special assessments on property from which removed.**

If the property from which the building is to be moved lies within the city, then, before any permit for the moving of any building or structure, as provided for in this article, shall be granted, the applicant shall present to the building official tax receipts or other evidence that all tax and special assessment liens against the property from which it is to be moved are fully paid.

(Code 1983, § 5-334; Ord. No. I-261, § 5, 2-16-1988)

**Sec. 103-305. Damage to locality to which moved prohibited.**

Before any permit shall be granted for the moving of any building or structure onto any property within the city limits, the plans and specifications required under the terms of this article to be filed by the applicant shall

PROOFS

clearly show that such building or structure, with the improvements and repairs to be made, shall be of such character, appearance and value that no injury or damage to the property valuations of that general locality or area shall be sustained.

(Code 1983, § 5-335; Ord. No. I-261, § 6, 2-16-1988)

**Sec. 103-306. Building code to apply.**

The provisions of the building code shall apply to the structure or buildings moving under the provisions of this article in the same manner as new buildings.

(Code 1983, § 5-336; Ord. No. I-261, § 7, 2-16-1988)

**Sec. 103-307. Property owners surrounding proposed locations.**

(a) No permit for the moving of buildings or structures within or into the city shall be valid unless approved by the city commission after a public hearing; and before final action shall be taken by the city commission thereon, the owners of property located within a radius of 500 feet of the lot on which the building is to be moved shall be notified by the building official of the application for the moving permit.

(b) Such notice shall be mailed to the last known address, as nearly as it may be ascertained, of each such owner at least 20 days prior to final hearing by the city commission, in order that such owners may have an opportunity to appear in person or by writing to protest or to object to the granting of such permit; however, the provision of this section shall not apply to buildings to be moved to a location outside of the city.

(c) The applicant shall pay the sum of ~~fifty dollars ($50.00)~~ established by resolution to cover expenses for processing the application, including costs associated with postage, stationery, and clerical help incurred by the city in securing addresses and sending notices to the surrounding property owners, as required in this section, which sum, in addition to the permit fee, shall be non-refundable and paid to the city before a permit is issued.

(Code 1983, § 5-337; Ord. No. I-261, § 8, 2-16-1988)

**Sec. 103-308. Exemptions.**

Modular buildings to be moved into the city for temporary use which are state certified may be ~~exempt~~ by the building official.

(Code 1983, § 5-338; Ord. No. I-261, § 9, 2-16-1988)

**Secs. 103-309--103-334. Reserved.**

## ARTICLE IX. PROPERTY MAINTENANCE ~~ORDINACE~~ AND HOUSING CODE

**Sec. 103-335. Title.**

This article shall be known as the "Fort Pierce Property Maintenance Ordinance" and the "Fort Pierce Housing Code."

(Code 1983, § 5-361; Ord. No. J-130, § 1, 12-19-1994; Ord. No. 16-025 , § 6, 1-3-2017)

**Sec. 103-336. Applicability.**

The provisions of this article shall be applicable as a standard in the city. Every portion of a building or premises, as set forth herein, shall comply with the provisions of this article, irrespective of when such building shall have been constructed, altered or repaired, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises. This article shall establish standards for the continued maintenance of all buildings or premises and does not replace or modify standards otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities. In any event where a provision of this article is found to be in conflict with a provision of any zoning, building, electrical, plumbing, fire, safety or health ordinance, or any regulation adopted pursuant thereto, or any other ordinance, code or regulation of the city, the provisions which established the highest standards shall prevail.

(Code 1983, § 5-362; Ord. No. J-130, § 2, 12-19-1994)

PROOFS

**Sec. 103-337. Nature of article.**

Nothing in this article shall be deemed to abolish or impair existing remedies of the city or its officers or agencies relating to the removal or demolition of any building which are deemed to be dangerous, unsafe or unsanitary, and this article shall be deemed and treated as an addition thereto, and cumulative of the powers therein. This article is further declared to be remedial and essential to the public interest.

(Code 1983, § 5-363; Ord. No. J-130, § 3, 12-19-1994)

**Sec. 103-338. Adoption.**

Provisions of the International Property Maintenance Code (IPMC) as published by the International Code Council, as set forth in section 103-339, are adopted and stand incorporated by reference herein and stand as the property maintenance ordinance and housing code for the city. Amendments to the applicable provisions of the International Property Maintenance Code are hereby adopted for use herein without the need for subsequent ratification.

(Code 1983, § 5-364; Ord. No. 16-025 , § 7, 1-3-2017)

**Sec. 103-339. Definitions, scope and application.**

(a) Terms within these code provisions shall be defined in accordance with chapter 2 of the International Property Maintenance Code, except as provided otherwise within this Code or by state or federal law.

(b) Chapter 1, part 1 of the IPMC entitled "Scope and Application" is hereby adopted and specifically incorporated herein by reference.

(c) Chapter 1, part 2, of the IPMC entitled "Administration and Enforcement" is hereby adopted and specifically incorporated herein by reference. The provisions of the IPMC shall be administered and enforced in accordance with applicable provisions established in ~~chapter 2~~ of this Code and this chapter.

(1) Chapter 1, part 2, section 111 "Means of Appeal," is specifically excluded. Any person directly affected by the enforcement of the provisions of the city property maintenance ordinance and housing code has the right to request a hearing pursuant to ~~chapter 2, article I of the Code of Ordinances~~.

~~(d) The provisions of chapter 3, section 301 is hereby adopted and specifically incorporated herein by reference.~~

(e) The provisions of chapter 3, section 302 are adopted with the following exceptions:

(1) Section 302.4 "Weeds," is specifically excluded. All landscape overgrowth shall be abated in accordance with the provisions of chapter 30 of this Code.

(2) Section 302.8 "Motor Vehicles," is specifically excluded. Non-operative vehicle nuisances shall be abated in accordance with the provisions for the same within chapter 30 of this Code.

~~(f) Chapter 4, section 404.7 "Food Preparation," is hereby adopted and specifically incorporated herein by reference. All other provisions of chapter 4 are specifically excluded. Regulations regarding light, ventilation, and occupancy limitations shall be governed by Chapter 8.5 of the Code of Ordinances of the City of Fort Pierce, Florida.~~

(g) All sections of the IPMC which are not specifically excluded are incorporated herein by reference and shall be subject to enforcement year-round.

(Code 1983, § 5-365; Ord. No. 16-025 , § 8, 1-3-2017; Ord. No. 19-010, § 6, 3-18-2019)

**Sec. 103-340. Inspections.**

Any duly authorized employee from the building or code enforcement agency shall be authorized to make inspections to determine the condition of dwellings, dwelling units, roominghouses, hotels, commercial buildings, and all other buildings and premises within the city in order to safeguard the health, safety, and welfare of the public. Duly authorized employees shall be authorized to enter any building or premises, as provided by law, at any reasonable time, or at such other times as may be necessary in an emergency, for the purpose of performing the duties of such office under this article, in accordance with the procedures herein prescribed. Except in emergencies endangering the public health, safety and welfare, the inspector shall enter a building or premises only upon the

PROOFS

prior consent of the person lawfully in occupancy thereof or the person having legal right or possession thereof, or in accordance with the provisions of this section or as otherwise authorized by law. Employees shall further be authorized to obtain a search or inspection warrant to the fullest extent allowed by F.S. § 933.20 et seq.

(Code 1983, § 5-366; Ord. No. J-130, § 6, 12-19-1994; Ord. No. 16-025 , § 9, 1-3-2017)

**Sec. 103-341. Vacant buildings.**

The owner of a vacated building, whether a dwelling unit, business premises, or accessory structure, shall take such steps and perform such acts as may be required from time to time to ensure that the building and its adjoining yards remain safe, secure, clean and sanitary, and do not present a hazard to adjoining properties or to the public. All openings, including doors and windows, shall be covered or closed for access and shall be provided with painted exterior-grade plywood closures, matched in color to the building, or covered utilizing a clear polycarbonate material unless the same are provided with awnings, storm panels, or other similar commercially available products designed for this intended use and installed in a workmanlike manner.

(Code 1983, § 5-367; Ord. No. 16-025 , § 10, 1-3-2017; Ord. No. 17-028 , § 1, 9-18-2017)

**Sec. 103-342. Occupancy of units.**

No person shall occupy as owner-occupant or permit to be occupied by another any dwelling or dwelling unit unless the unit is in good repair, clean, sanitary, in habitable condition as these terms are ordinarily defined, and in full compliance with all provisions of this article.

(Code 1983, § 5-368; Ord. No. 16-025 , § 11, 1-3-2017)

**Sec. 103-343. Clean and safe community initiative.**

(a) In an effort to curb the onslaught of blighted conditions throughout the community, the city has created a clean and safe community initiative. The clean and safe community initiative is intended to provide direct remediation of structures and systems that create a hazard to the life, health and safety of the community, contribute to an increase in criminal activity and overall reduce property values and community pride. Such structures or systems shall be declared unsafe and be condemned in compliance with the International Property Maintenance Code as adopted and referenced in section 103-338. Remediation of any structure or system declared unsafe and condemned shall include, but is not limited to, the removal and demolition of the structure or other abatement measures in accordance with sections 24-22—24-24.

(b) To provide funding for the clean and safe community initiative there shall be created a clean and safe community fee. The fee shall be set by resolution as approved by the city commission.

(c) The clean and safe community initiative shall expire on September 30, 2020, unless prior to that date the city commission, after conducting public hearings, finds that the purpose of this program has not yet been achieved, in which case it may extend the effective period of this program for an additional three years.

(Code 1983, § 5-369; Ord. No. 17-028 , § 2, 9-18-2017)

~~**Sec. 103-344. Exterior property and landscaping.**~~

~~All landscaping shall be well-maintained so that lawns, hedges, bushes and trees shall be kept trimmed and free from becoming overgrown and unsightly where exposed to public view and where the same may constitute a blighting factor thereby depreciating adjoining property. Such maintenance shall include, but not be limited to, the replacement of trees and shrubs which have died or otherwise been destroyed.~~

~~(Code 1983, § 5-370; Ord. No J-130, § 10, 12-19-1994)~~

**Sec. 103-345. Enforcement.**

This article shall be enforceable in the same manner as any other ordinances or laws of the city, as provided elsewhere in this Code, or as otherwise provided by law.

(Code 1983, § 5-371; Ord. No. 16-025 , § 13, 1-3-2017)

**Sec. 103-346. Violations related to act or omission of tenant.**

If a notice of violation arises due to acts or omissions of a tenant, and the tenant fails to make the necessary

PROOFS

correction, the property owner or agent shall remedy the condition by whatever means necessary. No adverse action shall be taken against a property owner for failure to remedy a condition related to a tenant during the pendency of a bona fide eviction proceeding against the tenant which is diligently pursued by the property owner.

(Code 1983, § 5-372; Ord. No. 16-025 , § 11, 1-3-2017)

**Secs. 103-347--103-365. Reserved.**

## ARTICLE X. LOCAL HOUSING ASSISTANCE PROGRAM*

***State law reference**—State Housing Initiatives Partnership Act, F.S. § 420.907 et seq.

**Sec. 103-366. Definitions.**

~~As used in the article, the terms:~~ The definitions in F.S. § 420.9071 apply to this article.

~~*Adjusted for family size* means adjusted in a manner which results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in this section, based upon a formula established by the United States Department of Housing and Urban Development. Students as defined herein are to be included in the calculation of family size.~~

~~*Adjusted gross income* means wages, income from assets, regular cash or noncash contributions, and any other sources and benefits determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, minus the deductions allowable under section 61 of the Internal Revenue Code of 1986, as amended.~~

~~*Administrative expenses* means those expenses directly related to implementation of the local housing assistance plan and local housing assistance program and shall not include the reimbursement of costs which were previously borne by another funding source which could continue to be available at the time the local housing assistance plan is submitted.~~

~~*Affordable* means that contract rent and/or mortgage payments, insurance and property taxes do not exceed 30 per cent of that amount which represents the percentage of the median adjusted gross income for households qualifying under this section.~~

~~*Award* means a loan, grant or subsidy funded wholly or partially by the local housing distribution.~~

~~*Community-based organization* means a nonprofit organization that has among its purposes the provision of affordable housing to persons who have special housing needs or have very low income, low income or moderate income within a designated area, which may include a municipality, a county or more than one municipality or county and maintains, through at least one-third representation on the organization's governing board, accountability to housing program beneficiaries and residents of the designated area.~~

~~*Eligible housing* means any real and personal property located within the eligible municipality which is designated and intended for the primary purpose of providing decent, safe and sanitary residential units that are designed to meet the standards of Chapter 553, Florida Statutes, for homeownership or rental for eligible persons as designated by each eligible municipality participating in the local housing assistance program.~~

~~*Eligible person* means one or more natural persons or a family determined by the eligible municipality to have special housing needs or to have very low income, low income or moderate income according to the adjusted gross income of the resident with adjustment made for family size.~~

~~*Eligible sponsor* means a community-based organization, a person or a private or public for-profit or nonprofit entity that applies for assistance under the local housing assistance program for the purpose of providing eligible housing for eligible persons.~~

~~*Grant* means a distribution of a portion of a local housing distribution to an eligible sponsor or eligible person to provide assistance under the local housing assistance program.~~

~~*Homeownership* means the use of the local housing distribution monies for the purpose of providing owner-occupied housing. Such uses may include but are not limited to, construction, rehabilitation, purchase and lease-purchase financing where the primary purpose is eventual purchase of the housing by the occupant.~~

PROOFS

*Loan* means a pledge of the local housing distribution monies to an eligible sponsor or eligible person to finance the acquisition, construction or rehabilitation of eligible housing.

*Local housing assistance plan* means a concise description of the local housing assistance program adopted by this article with an explanation of the way in which the local housing assistance program meets the requirements of this article and the State Housing Initiatives Partnership Act (F.S. § 420.907 et seq.) and F.A.C. ch. 91-37.

*Local housing distribution* means the proceeds of the taxes collected under F.S. ch. 201 deposited into the local government housing trust and distributed to eligible municipalities participating in the state housing initiatives partnership program pursuant to F.S. § 420.9073.

*Local housing partnership* means the implementation of the local housing assistance program in a manner that involves, but is not limited to, the county/city, community-based organizations, for-profit housing developers, lending institutions, providers of professional services relating to affordable housing and service organizations working on behalf of persons with special housing needs. The term includes initiatives to provide support services for housing program beneficiaries such as training to prepare persons for the responsibility of homeownership, counseling of tenants and the establishment of support services such as day care, health care and transportation.

*Low-income person* means one or more natural persons or a family, not including students, that has a total annual adjusted gross income for the household that does not exceed eighty (80) per cent of the median annual adjusted gross income for households within the county. With respect to rental units, the low-income household's annual adjusted gross income at the time of initial occupancy may not exceed eighty (80) per cent of area median income adjusted for family size. While occupying the rental unit, a low-income household's annual adjusted gross income may increase to an amount not to exceed one hundred forty (140) per cent of eighty (80) per cent of area median income adjusted for family size.

*Moderate-income person* means one or more natural persons or a family, not including students, that has a total annual adjusted gross income for the household that does not exceed 120 per cent of the median annual adjusted gross income for households within the county. With respect to rental units, the moderate-income household's annual adjusted gross income at the time of initial occupancy may not exceed 120 per cent of area median income adjusted for family size. While occupying the rental unit, a moderate-income household's annual adjusted gross income may increase to an amount not to exceed one hundred forty (140) per cent of 120 per cent of area median income adjusted for family size.

*Personal property* means major appliances, including a freestanding refrigerator or stove, to be identified on the encumbering documents.

*Persons who have special housing needs* means persons who have income not exceeding moderate income and who, because of particular social, economic or health related circumstances, have greater difficulty acquiring or maintaining affordable housing. Such persons may, for example, encounter resistance to their residing in particular communities, increased housing cost resulting from unique needs and high risk of institutionalization. As set out in the State of Florida Comprehensive Housing Affordability Strategy (1991), these individuals include persons with developmental disabilities; persons with mental illness/chemical dependency; persons with AIDS and HIV disease, runaway and abandoned youths, single-parent families; public assistance recipients; homeless; migrant and seasonal farmworkers; refugees and entrants; and the elderly and disabled adults.

*Student* means a person not living with his or her parent or guardian who is eligible to be claimed by the person's parents or guardian under the Federal Income Tax Code and who is enrolled at least half time in a secondary school, vocational-technical school, community college or university. The term does not include a person participating in a job training program approved by the county or eligible municipality.

*Very low-income person* means one or more natural persons or a family, not including students, that has a total annual adjusted gross income for the household that does not exceed fifty (50) per cent of the median annual adjusted gross income for households within the county. With respect to rental units, the very low-income household's annual adjusted gross income at the time of initial occupancy may not exceed fifty (50) per cent of area median income adjusted for family size. While occupying the rental unit, a very low-income household's annual adjusted gross income may increase to an amount not to exceed one hundred forty (140) per cent of fifty (50) per cent of area median income adjusted for family size.

PROOFS

(Code 1983, § 8.5-21; Ord. No. J-48, § 1, 8-16-1993)

**Sec. 103-367. Creation of the local housing assistance trust fund.**

(a) The local housing assistance trust fund is hereby created and established. This trust fund shall establish with a qualified depository as defined in F.S. ch. 280 a local housing assistance trust fund.

(b) All monies received from the state pursuant to the State Housing Initiative Partnership Act and any other funds received or budgeted to provide funding for the local housing assistance program shall be deposited into the local housing assistance trust fund. Administration of the local housing assistance trust fund shall comply with F.A.C. 91-37.007. Any funds deposited into the local housing assistance trust fund will be subject to the requirements of the SHIP program, F.S. § 420.9075(4).

(c) Expenditures other than for the administration and implementation of the local housing assistance program shall not be made from the local housing assistance trust fund.

(d) Amounts on deposit in the local housing assistance trust fund shall be invested in the state board of administrator's local government surplus fund established pursuant to F.S. ch. 218, pt. IV (F.S. § 218.40 et seq.). All investment earnings shall be retained in the local housing assistance trust fund and used for purposes thereof.

(e) Until utilized for the purposes thereof, monies in the local housing assistance trust fund shall be held in trust by the city solely for use pursuant to the local housing assistance program. All local housing assistance program income, including investment earnings, shall be retained in the local housing assistance trust fund and used for the purposes thereof.

(f) The city agrees that the local housing assistance trust fund shall be separately stated as a special revenue fund in the city's audited financial statements. Copies of such audited financial statements shall be forwarded to the Florida Housing Finance Agency as soon as such statements are available.

(Code 1983, § 8.5-22; Ord. No. J-48, § 2, 8-16-1993)

**Sec. 103-368. Creation of the local housing partnership.**

(a) The local housing partnership is hereby created and established.

(b) The local housing partnership shall include, but is not limited to, city representatives, community-based organizations, for-profit housing developers, lending institutions, providers of professional services relating to affordable housing and service organizations working on behalf of persons with special housing needs and homebuilders.

(c) The local housing partnership shall assist in the implementation of the local housing assistance program. Such implementation shall be consistent with this article, the State Housing Initiatives Partnership Act (F.S. § 420.907 et seq.), and F.A.C. ch. 91-37.

(Code 1983, § 8.5-23; Ord. No. J-48, § 3, 8-16-1993)

**Sec. 103-369. Intent and purposes of the local housing assistance program.**

The intent and purpose of the local housing assistance program is:

(1) To increase the availability of affordable housing units by combining local resources and cost-saving measures into a local housing partnership and using private and public funds to reduce the cost of housing.

(2) To preserve existing housing by providing assistance to homeowners for repairs to single-family residential structures.

(Code 1983, § 8.5-24; Ord. No. J-48, § 4, 8-16-1993)

**Sec. 103-370. Establishment of the local housing assistance program.**

(a) The local housing assistance program is hereby created and established.

(b) The local housing partnership shall use the funds received from the state pursuant to the state housing initiative partnership act to implement the local housing assistance program. The funds shall be distributed in the following manner:

PROOFS

(1) Distribution of monies.

a. Ten percent of all monies: administrative costs.

b. Ninety percent of all monies for homeownership activities including acquisition, acquisition/rehabilitation or new construction for eligible home buyers; rehabilitation or reconstruction for eligible owner occupants of that amount which represents the percentage of median adjusted gross annual income for the households as indicated in section 103-366.

(2) Distribution of all units constructed, rehabilitated or otherwise assisted.

a. Very low-income occupants: at least 30 percent of units.

b. Low-income occupants: at least 30 percent of units.

c. Moderate-income occupants: not more than 40 percent of units.

(3) Loan terms.

a. Loans shall be provided for periods not exceeding 30 years except for deferred payment loans or loans that extend beyond 30 years in order to provide affordable housing which continues to serve eligible persons.

b. Eligible owner-occupied housing constructed, rehabilitated or otherwise assisted from proceeds provided from the housing assistance program shall be subject to the recapture provision of the mortgage revenue bond program contained in section 143(m) of the Internal Revenue Code of 1986 or whatever recapture required by the state statutes.

c. The total amount of monthly mortgage payments shall be made affordable. Affordable shall mean that monthly mortgage payments including taxes and insurance do not exceed 30 percent.

(4) Cost per unit.

a. The cost per unit and the maximum cost per unit for eligible housing benefiting from awards made pursuant to this program will be established by resolution.

b. A qualification system for applications for awards will be established through the local housing assistance plan.

c. The staff or entity that has administrative authority for this local housing assistance program shall annually monitor and determine tenant eligibility and the amount of subsidy pursuant to the provisions of this article and state and federal law. The city, the local partnership, and all eligible sponsors shall not discriminate on the provision of affordable housing to very low-income, low-income or moderate-income individuals on the basis of race, creed, religion, color, age, sex, marital status, familial status, national origin or handicap in the loan application process for eligible housing.

(5) Compliance.

a. The city shall comply with all rules and regulations of the state housing finance agency in connection with required reporting by the city of compliance with its local housing assistance program.

b. Prior to receiving an award, all eligible sponsors or eligible persons shall enter into an agreement with the city, agreeing to comply with the affordable housing criteria provided under the State Housing Initiatives Partnership Act (F.S. § 420.907 et seq.) and this article. All eligible sponsors or eligible persons shall either include in any deed transferring ownership of property pursuant to the local housing assistance program to such eligible person or sponsor a covenant agreeing to comply with the terms of the above-described laws which covenant will run with the land or in the alternative, such agreement shall be made a part of any mortgage agreement with respect to such property. Failure to comply with the covenant in the mortgage shall result in a default of the mortgage with all remedies and rights for enforcement of the agreement inuring to the benefit of the city.

PROOFS

(Code 1983, § 8.5-25; Ord. No. J-48, § 5, 8-16-1993)

**Sec. 103-371. Designation of responsibility for administration and implementation of the local housing assistance program.**

(a) The CDBG program shall be the agency responsible for implementation of the local housing assistance program.

(b) The total amount paid for any administrative expenses in connection with the local housing assistance program will not exceed ten percent of the proceeds of the local housing distribution as approved by resolution.

(c) In implementing the local housing assistance program, the city shall:

(1) Advertise the availability of a housing assistance program in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods at least 30 days before the beginning of any application period.

(2) Adopt a maximum award schedule or system of awards to comply with the following criteria:

a. Sixty-five percent of the funds shall be reserved for homeownership for eligible persons.

b. Seventy-five percent of the funds shall be reserved for construction, rehabilitation or emergency repair of eligible housing.

c. The sales price of new or existing eligible housing shall not exceed 90 percent of the median area purchase price in the area where the eligible housing is located as established by the United States Department of Treasury in accordance with section 3(b)2 of the United States Housing Act of 1937.

d. All units constructed, rehabilitated or otherwise assisted with program funds shall be occupied by very low-income, low-income or moderate-income persons and persons who have special housing needs. At least 30 percent of the units must be occupied by very-low income persons and at least another 30 percent by low-income persons. The remaining 40 percent shall be occupied by persons who have special housing needs, very low-income, low-income or moderate-income persons.

e. The amount of monthly mortgage payments or the amount of monthly rents charged by the eligible sponsor or its designee must be affordable to eligible persons.

f. Loans shall be provided for periods not exceeding 30 years except for deferred payment loans or loans that extend beyond 30 years which continue to provide eligible housing for eligible persons.

g. Eligible owner-occupied housing constructed, rehabilitated or otherwise assisted from proceeds provided from the local housing assistance program shall be subject to subsidy recapture provisions which are identical to those specified in section 143(m) of the Internal Revenue Code of 1986 or whatever recapture provision is required by the state statutes.

h. The cost per unit and the maximum cost per unit for eligible housing benefiting from awards made pursuant to the local housing assistance program shall be established by resolution.

i. A qualification system for applicants for awards consistent with the intent of the local housing assistance program and the State Housing Initiatives Partnership Act (F.S. § 420.907 et seq.) shall be established by the city.

(3) The city, the local housing partnership and all eligible sponsors shall not discriminate in the loan application process of eligible persons for eligible housing on the basis of race, creed, religion, color, age, sex, sexual preference, marital status, familial status, national origin or handicap.

(4) The city shall comply with all rules and regulations of the state housing finance agency in connection with required reporting by the city of compliance with its local housing assistance program.

(5) Prior to receiving an award, all eligible persons or eligible sponsors shall enter into an agreement to comply with the affordable housing criteria provided under the State Housing Initiatives Partnership Act (F.S. § 420.907 et seq.) and this article. All eligible persons or eligible sponsors shall include in the deed transferring ownership of the property to the eligible person or eligible sponsor a covenant agreeing to comply with the terms of the above-described laws which covenant will run with the land or in the

PROOFS

alterative, the agreement shall be made a part of the mortgage agreement. Failure to comply with the covenant in the mortgage shall result in a default of the mortgage with all remedies and rights for enforcement inuring to the benefit of the city.

(6) Eligible sponsors receiving assistance from both the SHIP program and the LIHTC program shall be required to comply with the income, affordability and other LIHTC requirements. Similarly, any eligible housing receiving assistance from SHIP and other federal programs shall be required to comply with any requirements specified by the federal program in addition to SHIP requirements.

(Code 1983, § 8.5-26; Ord. No. J-48, § 6, 8-16-1993)

**~~Sec. 8.5-27. Creation of the affordable housing advisory committee.~~**

~~The affordable housing advisory committee is hereby created and established. The members of the advisory committee shall be appointed by resolution of the city commission.~~

~~The resolution appointing the affordable housing advisory committee shall define affordable housing as applicable to the city in a way that is consistent with the adopted local comprehensive plan.~~

~~The affordable housing advisory committee shall consist of eleven members. Six members shall constitute a quorum. The committee may not take formal actions unless a quorum is present, but may meet to hear presentations if duly noticed. The affordable housing advisory committee shall include the following, which individuals may overlap with or be part of the local housing partnership:~~

- ~~One citizen who is actively engaged in the residential building industry in connection with affordable housing.~~
- ~~One citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.~~
- ~~One citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.~~
- ~~One citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.~~
- ~~One citizen who is actively engaged as a for-profit provider of affordable housing and one citizen who is actively engaged as a not-for-profit provider of affordable housing.~~
- ~~One citizen who is actively engaged as a real estate professional in connection with affordable housing.~~
- ~~Four citizens as follows: One who actively serves on the local planning agency pursuant to F.S. § 163.3174; one who resides within the jurisdiction of the local governing body making the appointments; one who represents employers within the jurisdiction; and one who represents essential services personnel as defined in the local housing assistance plan.~~

~~Members shall serve for one-year terms and may be reappointed for subsequent terms.~~

~~Meetings shall be held monthly for the first year of committee existence and quarterly, or more frequently, thereafter.~~

~~The affordable housing advisory committee shall comply with the government in the sunshine law, the public records law, and the special provisions regarding notice of affordable housing incentive plan considerations found in section 420.9076, Florida Statutes. Minutes of the meetings shall be kept. Staff, administrative and facility support shall be provided by the city.~~

~~The affordable housing advisory committee shall annually elect a chairperson, vice chairperson and such other officers as it deems necessary. The chairperson is charged with the duty of conducting meetings in a manner consistent with law.~~

~~The affordable housing advisory committee shall review the established policies and procedures, ordinances, land development regulations and adopted local comprehensive plan of the city and shall recommend specific initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.~~

PROOFS

~~__ Recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations or plan provisions. At a minimum, the affordable housing advisory committee shall make recommendations on affordable housing incentives in the following areas:~~

~~__ The affordable housing definition in the appointing resolution.~~

~~__ The expedited processing of permits for affordable housing projects.~~

~~__ The modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment.~~

~~__ The allowance of increased density levels.~~

~~__ The reservation of infrastructure capacity for housing for very low-income and low-income persons.~~

~~__ The transfer of development rights as a financing mechanism for housing for very low-income and low-income persons.~~

~~__ The reduction of parking and setback requirements.~~

~~__ The allowance of zero-lot-line configurations.~~

~~__ The modifications of sidewalk and street requirements.~~

~~__ The establishment of a process by which the city considers, before adoption, procedures and policies that have a significant impact on the cost of housing.~~

~~__ The affordable housing advisory committee recommendations shall also include other affordable housing incentives by the affordable housing advisory committee.~~

~~__ To the maximum extent feasible, the approved affordable housing incentive recommendations submitted to the city commission must quantify the affordable housing cost reduction anticipated from implementing the specific recommendation.~~

~~__ Within nine months from the adoption of this article, the affordable housing advisory committee shall make recommendations approved by a majority of its membership at a public hearing. Notice of the time, date and place of the public hearing of the affordable housing advisory committee to adopt final affordable housing incentive recommendations shall be published in a newspaper of general paid circulation in the city. Such notice shall contain a short and concise summary of the affordable housing incentive recommendations to be considered by the affordable housing advisory committee. The notice shall also state the public place where a copy of the tentative affordable housing advisory committee recommendations can be obtained by interested parties.~~

~~(Code 1983, § 8.5-27; Ord. No. J-48, § 7, 8-16-1993; Ord. No. L-31, § 1, 6-16-2008)~~

**Sec. 103-372. Adoption of the affordable housing incentive plan.**

(a) Within 90 days after the date of the receipt of the affordable housing incentive, recommendations from the affordable housing advisory committee, the city commission shall adopt the affordable housing incentive plan. The affordable housing incentive plan shall consist of the adoption of specific initiatives to encourage or facilitate affordable housing and a schedule for implementation and must include, at a minimum:

(1) A schedule for implementation of expedited permit processing for affordable housing projects; and

(2) An ongoing process for review of local policies, ordinances, regulations and comprehensive plan provisions that significantly impact the cost of housing.

(b) Upon adoption of the affordable housing incentive plan, the city commission shall so notify the state housing finance agency by certified mail. The notice shall include a copy of the approved affordable housing incentive plan.

(Code 1983, § 8.5-28; Ord. No. J-48, § 8, 8-16-1993)

**~~ARTICLE III. MINIMUM OCCUPANCY STANDARDS FOR RESIDENTIAL DWELLING UNITS~~**

**~~Sec. 8.5-41. Definitions.~~**

~~As used in this article, the following terms shall have the following meanings:~~

PROOFS

*Dwelling* means any building or structure or part thereof used and occupied for human habitation or intended to be so used.

*Dwelling unit* shall mean any room or group of rooms located with a dwelling and forming a single habitable unit with the facilities which are used or intended to be used for living, sleeping, cooking or eating.

*Habitable room* means a room in a residential unit used for living, sleeping, eating or cooking, but excluding baths, toilets, storage spaces or corridors.

*Kitchen* means a space forty (40) square feet or more in floor area with a minimum width of five feet, used for cooking or preparation of food.

*Occupant* means any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit.

(Code 1983, § 8.5-41; Ord. No J-131, § 1, 12-19-1994)

**Sec. 8.5-42. Single-family occupancy.**

Where structures designed for one family are used to house additional families, adequate accommodation of their needs becomes difficult or impossible, and the resulting undesirable features cause the neighborhood as a whole to suffer. Therefore, structures which were originally designed for single-family occupancy shall be restricted to single-family occupancy.

(Code 1983, § 8.5-42; Ord. No J-131, § 2, 12-19-1994)

**Sec. 8.5-43. Required space in dwelling units.**

Every dwelling unit shall contain a minimum gross floor area of at least two hundred fifty (250) square feet for the first occupant, at least two hundred (200) square feet for each of the next three occupants, and at least one hundred seventy-five (175) square feet of gross floor area for each occupant thereafter. Every habitable room shall have a minimum ceiling height of seven feet over fifty (50) percent of the floor area. Any portion of a room having a ceiling height of less than five feet shall not be considered in computing the total floor area of such room.

(Code 1983, § 8.5-43; Ord. No J-131, § 3, 12-19-1994)

**Sec. 8.5-44. Sleeping rooms.**

In every dwelling unit of two or more habitable rooms, every room occupied for sleeping purposes by one occupant shall have a minimum gross floor area of at least eighty (80) square feet. Every room occupied for sleeping purposes by more than one occupant shall have a minimum gross floor area of fifty (50) square feet per occupant thereof. In the case of children under six years of age, the requirement shall be thirty-five (35) square feet per child for two or more children. Every room used for sleeping purposes shall have a minimum width of eight (8) feet. Kitchens shall not be used for sleeping purposes and porches shall not be used as regular or permanent sleeping quarters. Every habitable room shall have a minimum ceiling height of seven feet over fifty (50) percent of the floor area. Any portion of a room having a ceiling height of less than five feet shall not be considered in computing the total floor area of such room. Any existing use not conforming with this section shall be made to conform within five years from the effective date hereof.

(Code 1983, § 8.5-44; Ord. No J-131, § 4, 12-19-1994)

**Sec. 8.5-45. Proper use of rooms.**

No room other than a habitable room, as defined in this article, shall be used for living, sleeping or the preparation or eating of meals. This shall not preclude the lawful use of patio areas for household barbecue purposes.

(Code 1983, § 8.5-45; Ord. No J-131, § 5, 12-19-1994)

**Sec. 8.5-46. Subdivision of habitable rooms.**

No habitable room shall be divided in any manner into space intended for living, sleeping, eating or cooking purposes by an installed partition or divider of any type above four feet in height unless each such subdivided part complies with the requirements for a habitable room.

(Code 1983, § 8.5-46)

PROOFS

**Sec. 8.5-47. Defects constituting dwelling unfit.**

Any dwelling which is found to have any of the following defects shall be declared by the city manager or his authorized designee to be unfit for human habitation:

(1) If so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public;

(2) If it lacks illumination, ventilation or sanitary facilities adequate to protect the health or safety of the occupants or of the public;

(3) Because its location, general condition, state of the premises or number of occupants is so unsanitary, unsafe, overcrowded or otherwise detrimental to health and safety that it creates a serious hazard to the occupants or the public; or

(4) Because the owner or occupant fails to comply with the requirements of this article, or any other applicable housing code of the city.

(Code 1983, § 8.5-47; Ord. No J-131, § 7, 12-19-1994)

**Sec. 8.5-48. Penalty and enforcement.**

Any person who violates any provisions of this article shall, upon conviction, be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the county jail not to exceed 60 days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation.This article shall also be subject to enforcement by the Local Government Code Enforcement Board's Act, Chapter 162, Florida Statutes, as amended, through the city special magistrate. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

(Code 1983, § 8.5-48; Ord. No J-131, § 8, 12-19-1994; Ord. No. 17-017 , § 6, 6-5-2017)

PROOFS

Chapter 104

**RESERVED**

PROOFS

Chapter 105

# CONCURRENCY MANAGEMENT*

***State law reference—**Concurrency, F.S. § 163.3180.

## Sec. 105-1. Short title.

This chapter shall be known and may be cited as the Concurrency Management System (the CMS).

(Code 1983, § 22-213; Ord. No. K-465, § 2, 1-2-2007)

## Sec. 105-2. Definitions.

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

*Certificate of concurrency* means a document issued by the city stating that the developer has satisfied concurrency requirements.

*Concurrency* means the implementation of public facilities to serve a new project concurrent with the impacts of development.

*Development agreement* means an agreement entered into between the city and a person associated with the development of land pursuant to F.S. §§ 163.3220 through 163.3243, and 380.06.

*Public facilities* means drainage facilities, park facilities, potable water facilities, transportation facilities, sanitary sewer facilities and solid waste facilities.

(Code 1983, § 22-216; Ord. No. K-465, § 2, 1-2-2007)

## Sec. 105-3. Area of application.

This chapter shall apply to all development within the corporate limits of the city, and to all public facilities owned by the city in the incorporated or unincorporated areas of the county.

(Code 1983, § 22-214; Ord. No. K-465, § 2, 1-2-2007)

## Sec. 105-4. Purpose.

(a) This chapter is intended to implement and be consistent with the city comprehensive plan and F.S. ch. 163 ~~and Rule 9J-5, F.A.C.,~~ by ensuring that all development in the city is served by adequate public facilities.

(b) This objective is accomplished by establishing a capacity management and monitoring system and by establishing a concurrency management system that ensures that public facilities are available to serve development at the time that the impacts of development occur on such public facilities.

(c) The provisions of this chapter are declared to be the minimum requirements necessary to accomplish the stated purpose and objectives of this chapter.

(Code 1983, § 22-215; Ord. No. K-465, § 2, 1-2-2007)

## Sec. 105-5. Management and monitoring program.

(a) *General.* In order to ensure that adequate public facilities are available concurrent with the impacts of development on such public facilities, a management and monitoring program is established. Its purpose is to evaluate and coordinate the timing, provision and funding of public facilities to ensure adequate maintenance of the adopted level of service (LOS) for public facilities and to evaluate the capacity of the public facilities for use in the CMS.

(b) *Capacity and level of service report (CLSR).* By September 1 of each year, the planning department shall submit to the city commission an annual capacity and level of service report (CLSR) on public facilities. The CLSR

PROOFS

shall include a description of the existing condition of all public facilities; summarize the available capacity of these public facilities based on their adopted LOS; and forecast the capacity of existing and planned public facilities identified in the five-year capital improvement schedule for each of the five succeeding years. Forecasts shall be based on the most recently updated schedule of capital improvements for each public facility, updated public facility inventory data and updated unit cost and traffic count data. The CLSR shall also include a description of the ability of existing and projected public facilities to serve existing and future development based upon the public facility level of service standards contained within the city's comprehensive plan.

(c) *Quarterly facility reports.* To assist in the preparation of the CLSR and to maintain updated inventories, the planning department shall review public facility capacity for potable water, sanitary sewer, solid waste, parks and open space, transportation and drainage facilities and provide updates on capacity surpluses and deficiencies to the city commission on at least a quarterly basis.

(d) *Recommended capital improvements element (CIE) and budget amendments.* The findings of the CLSR shall form the basis for the planning department's proposed amendments to the CIE of the comprehensive plan and for proposed amendments to the city's annual budget for public facilities.

(e) *Annual determination of public facility adequacy.* Based on the findings of the CLSR, the planning department by September 1 of each year, will report to the city commission concerning the status of public facilities and proposed remedial actions, including, but not limited to, the following:

(1) Public facility project additions to the CIE; and

(2) Deferral of development order pending:

a. Lowering of the LOS via a comprehensive plan amendment;

b. Inclusion of necessary public facility projects in the adopted annual budget and annual CIE update;

c. Approval of new revenue sources for needed public facilities by the city commission, state legislature or local voters.

(f) *Transportation concurrency management.* The transportation concurrency management system (the TCMS) will consist of two parts; monitoring and traffic impact analysis.

(1) *Monitoring.* The planning department will be responsible for transportation concurrency determinations. The department will maintain a database for the accountability of all trips assigned by links and inventory. The database shall contain all trips to all facilities included in the TCMS and intersections generated by existing projects or proposed projects with a certificate of concurrency compliance.

(2) *Methods for evaluating development impacts.*

a. *Traffic performance standards.* Traffic performance standards (TPS) shall be applied to roadways and intersections subject concurrency management within the city to ensure compliance with the TCMS. TPS are the LOS adopted in the city's comprehensive plan. No project shall add traffic in the radius of development influence (See Table A under subsection (f)(2)b.2 of this section) which would have the effect of exceeding the LOS without first obtaining a certificate of concurrency.

b. *Traffic impact analysis.* All traffic impact studies shall include the following information:

1. An executive summary of no more than one page outlining the land use, trip generation, concurrency results, driveway classification, requested special exceptions, and requested variances (if applicable).

2. Each proposed development shall distribute the trips generated to the main arterials and intersection network that is comprised of their traffic impact area. The radius of impact will be determined according to the size of the development accounted for trips generated. (See Table A).

| *Table A: Radius of Impact for Transportation Concurrency Management System* | | |
|---|---|---|
| Minimal Scale | Trips 9--50 | 1.0 Mile Radius |

PROOFS

| | | |
|---|---|---|
| Small Scale | Trips 51--100 | 1.5 Mile Radius |
| Intermediate Scale | Trips 101--500 | 2.0 Mile Radius |
| Medium Scale | Trips 501--1000 | 3.0 Mile Radius |
| Large Scale | Trips 1000--Up | 5.0 Mile Radius |

3. The minimum horizon for forecasting traffic shall be five years from the project's opening date. However, if the project is built in phases, the horizon will project traffic to build out of the last phase or five years from the time of opening, whichever is more restrictive. Additionally, traffic growth rates shall be approved by the city's director of planning and will be consistent for all traffic studies.
4. Analysis of the new site traffic to the satisfaction of the director of planning which shall contain as a minimum: tables summarizing existing traffic volumes, committed traffic from proposed developments, growth rates, trip generation rates (including used formulas), levels of services for studied intersections, and any other documentation required to justify numbers used in the analysis. New site traffic analysis shall be prepared for the a.m. and p.m. peak period unless otherwise indicated by the director of planning.
5. The applicant may provide traffic counts in accordance with accepted traffic engineering principles. Counts shall be made during any continuous two-hour period on a weekday between 6:00 a.m. and 9:00 a.m. for any a.m. counts and 4:00 p.m. and 7:00 p.m. for p.m. counts. All count data collected by the applicant must be collected between September 1 and May 31 (no summer out of school weeks) and seasonally adjusted to reflect average peak season conditions (100th highest hour) in accordance with most current FDOT planning factors and procedures. There shall be no counts on Fridays and legal holidays, unless otherwise authorized or required by the city's director of planning, in accordance with accepted traffic engineering principles. All data are subject to review and acceptance by the director of planning based upon accepted traffic engineering principles.
6. Analysis of the total site traffic as it relates to the specific requirements of city code concerning driveways and access and acceptable engineering access management standards.
7. Trip generation comparison between existing and proposed conditions.
8. Trip generation calculations and driveway assignments (inbound and outbound traffic) for each phase of development. Trip distribution and assignment of traffic along the traffic impact area.
9. Justification of the number and location of site driveways. Location and type of driveways and median openings need to adhere to FDOT access management standards or any other standard accepted by the director of planning. The planning department will comment and make recommendations on the number of driveways based on the plan review. Excessive driveways may not be supported by staff. All driveways should be located on a site plan with distancing from upstream and downstream driveways and/or intersections.
10. A capacity analysis of each driveway may be required as determined by the director of planning. All evaluations shall include existing and proposed conditions during the a.m. and p.m. peak periods. The capacity analysis should be performed using the methodology set forth in the highway capacity manual, latest edition at the time the study is prepared and reviewed by planning department for public hearing.
11. In cases where the proposed development requires a signalized intersection, a signal warrant study will be required. Additionally, a capacity analysis of the site intersection and upstream and downstream location may be required by director of planning. In cases where traffic re-routing occurs as a result of the proposed development, additional traffic studies may be required.

PROOFS

12. Provide an analysis of U-turn movements at the median openings to the north, south, east and west (as appropriate according to project location) of project driveways, including daily, a.m. peak hour and p.m. peak hour. Assess the impact of proposed and existing volumes on available storage.
13. Show the total driveway assignment as the driveway provides joint access with the adjacent property. Joint access among similar or compatible land uses may be required by the director of planning.
14. After initial review, the director of planning may require additional information if it is deemed necessary to properly evaluate the traffic study.
15. For entryway features the applicant must make sure that traffic turnarounds are, at a minimum, 15 feet in width, have a 25-foot turnaround radius, and have mountable curves. The applicant must make sure that there is enough stacking for visitors and residents.
16. In cases where driveways abut a county or state road, or a city road classified as an arterial or main collector, the director of planning may require deceleration and storage lanes for vehicles turning to and from the proposed development served by the access driveway.
17. Pass-by trips shall not be higher than 25 percent and internal trip rates shall be approved by the director of planning and shall be consistent with the ITE manual.

c. *Policy on capacity for intersections.* As part of the traffic impact analysis, major intersections should be analyzed. The level of service for roadway segments may be analyzed using a variety of types of arterial analyses based on the principals, guidelines and criteria outlined in the most current version of the highway capacity manual. In determining whether a corridor can be maintained at the level of service determined in the comprehensive plan for the purpose of monitoring concurrency, it is recognized that some individual links, intersections, or turning movements may be able to operate below the level of service while still maintaining an overall level of service established for the corridor based on overall average running speed. However, since some of the available software models can report an overall LOS "D" for a corridor while still allowing some components of the corridor to operate at a LOS "E" condition, it is appropriate to define maximum tolerances for individual instances of LOS "E" conditions embedded within the total corridor analysis. The following maximum allowable tolerances are established so that the level of service determination is not unduly biased toward the mainline at the expense of any particular intersection, approach or movement. These tolerances apply to all computerized applications of the highway capacity manual, including the highway capacity software (HCS) and SYCHRO:

1. For any individual turning movement or through movement within any signalized intersection included in the analysis: no individual movement or lane group can be reported to have a volume-to-capacity (v/c) ratio greater than 1.20 or a total delay estimate greater than 1.20 times signal cycle length.
2. For any individual signalized intersection approach for any intersection included in the analysis, no approach can be reported to have a volume-to-capacity (v/c) ratio greater than 1.0 or a total delay estimate greater than the signal cycle length.
3. For any individual signalized intersection included in the analysis, the overall signalized intersection v/c cannot exceed 1.20, NOR can the total intersection delay estimate be greater than the signal cycle length. Also, only one of the mainline approaches can operate below LOS "D" (regardless of delay).

d. *De minimis tracking.* De minimis impacts will be tracked on an areawide basis. The city will be segmented into traffic analysis zones, and all de minimis impacts will be added and distributed within the links and intersections within the traffic analysis zones. De minimis impacts are planned to be tracked by the city's planning department in a spreadsheet to be added to the transportation concurrency management system database on a monthly basis.

(Code 1983, § 22-217; Ord. No. K-465, § 2, 1-2-2007)

PROOFS

**Sec. 105-6. Concurrency assessment.**

(a) *General.* The following development review procedures and standards are established to ensure that no development orders are issued unless adequate public facilities are available to serve proposed developments, or to ensure that development orders are conditioned upon the availability of public facilities to serve the development concurrent with the impacts of development on such public facilities.

(b) *Exemptions.* The following shall be exempt from the requirements of this chapter:

(1) *Alterations, expansions or repairs creating no impact.* Development alterations, expansions or repair that does not create additional impacts on public facilities, including, but not limited to, the following shall be exempt:

a. Construction of room additions to dwelling units;

b. Construction of accessory structures to dwelling units, including swimming pools, garages and fences;

c. Additions to nonresidential uses that do not create additional impact on public facilities; and

d. Replacement of an existing dwelling unit when no additional units are created.

(2) *De minimis impacts.* A development which meets the following de minimis impact thresholds is also exempt from the requirements of this article, but only to the extent stated in an applicable certification of exemption:

a. An impact that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the director of planning.

b. An impact for which the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility does not exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility.

c. An impact that would not exceed the adopted level of service standard of any affected designated hurricane evaluation routes.

(3) Upon application for exemption for a project pursuant to the terms of this section, the director of planning shall issue a certification of exemption.

(c) *Certificate of concurrency.* A valid, unexpired certificate of concurrency shall be obtained prior to site plan or temporary plat approval.

(1) *Review prior to application for development approval.* At the applicant's request, the city shall review and approve, approve with conditions or disapprove an application for a certificate of concurrency prior to consideration of a development approval application.

a. *Application.* An application for a certificate of concurrency determination shall be submitted to the planning director at the time of filing an application for site plan or temporary plat approval. An application processing fee established by the city commission shall be part of the application. Applications for projects containing over ten dwelling units or 500 gross square feet of nonresidential floor area shall also be required to bear the cost of preparing any necessary supplemental demand analyses at the time of application.

b. *Determination of completeness.* After receipt of an application for a certificate of concurrency, the planning director shall determine whether it is complete within ten business days. If it is determined to be incomplete, written notice shall be served on the applicant specifying the deficiencies. No further action on the application shall be taken by the city unless the deficiencies are remedied. Within 20 business days after the application is determined complete, the planning director shall review and grant, grant with conditions, or disapprove each public facility component in the application pursuant to the standards in section (e) of this section.

c. *Appeals.* Within 30 business days after issuance of the determination of the planning director on the application for a certificate of concurrency, an applicant may appeal to the board of adjustment.

PROOFS

The city shall hold a hearing on the appeal to consider the determination of the planning director and public testimony. The board shall adopt, reject or modify the planning director's determination on the application for a certificate of concurrency determination. Neither the board of adjustment nor the city commission shall modify or reject the planning director's determination unless it finds that such determination is not supported by substantial competent evidence and is contrary to the criteria established in this chapter and the intent of the comprehensive plan. Decisions shall include findings of fact for each criteria.

(2) *Payment of impact fees or proportionate fair share mitigation.* All applicable fees shall be paid to the city in the amount due prior to issuance of the final local development order or certificate of concurrency compliance, whichever occurs earlier.

(3) *Assignability.* A certificate of concurrency shall run with the land and be assignable to another project within the same development, but not to a project within another development provided such project creates impacts identical to the project for which the certificate was originally issued.

(4) *Expiration.* A certificate of concurrency shall expire when the development order for which it was obtained expires, provided that when no expiration for a development order is applicable, the certificate shall expire one year after the date of approval except to the extent that building permits have been issued for the development for which the certificate is approved and the development is then completed pursuant to the terms of city's land development regulations.

(d) *Development agreements.* Upon approval by the city commission, an applicant may enter into a development agreement with the city pursuant to the provisions of F.S. § 163.3220-3242, in conjunction with the approval of a development order or a certificate of concurrency. The effect of the development agreement shall be to bind the parties pursuant to the terms and conditions of the development agreement and the certificate of concurrency in order to ensure that adequate public facilities are available to serve the proposed development concurrent with the impact of the development on the public facilities. Development agreements may address conditional development order approvals and conditions for renewal of the certificate of concurrency beyond three years; provided that the duration of any certificate of concurrency shall not exceed five years. Development agreements may also provide for private provision of public facilities or for a joint endeavor with the city to provide public facilities. Any public facility in the five-year schedule of improvements in the CIE on which such a certificate of concurrency is made in conjunction with the approval of a development order and a development agreement shall not be delayed, deferred or removed from the five-year schedule of improvements in the CIE. Prior to submitting an application for a development agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues.

(e) *Level of service standards and review criteria.* The following level of service standards shall be used in the determination of whether to grant, grant with conditions or deny a certificate of concurrency.

(1) The following level of service standards shall be maintained and monitored by the city:

*Table B: Level of Service Standards*

| Public Facility | Fiscal Year | Level of service | |
|---|---|---|---|
| Transportation | | Road type state, county and city roads | |
| | | Local road | D |
| | | Collector roadway | D |
| | | Minor arterial | D |
| | | Major arterial | D |
| Sanitary Sewer | | 240 gallons per day per equivalent residential connection | |
| Potable Water | | 300 gallons per day per equivalent residential unit | |
| Solid Waste | | 330 tons per day of Class I trash | |

PROOFS

| | | |
|---|---|---|
| | | 300 tons per day of construction and debris |
| Stormwater | | 25-year three-day storm pre vs. post runoff |
| | | Storm sewers to convey five-year, one-day storm event |
| | | Canals to convey three-year, one-day storm event |
| Recreation and Open Space | | |
| Neighborhood Park: | 2005 | 1.36 acre/1,000 population |
| | 2010 | 1.36 acre/1,000 population |
| | 2015 | 1.5 acre/1,000 population |
| | 2020 | 1.75 acre/1,000 population |
| | 2025 | 2.0 acres/1,000 population |
| | 2030 | 2.0 acres/1,000 population |
| Community Park: | 2005 | 2.50 acre/1,000 population |
| | 2010 | 2.50 acre/1,000 population |
| | 2015 | 2.75 acre/1,000 population |
| | 2020 | 2.75 acre/1,000 population |
| | 2025 | 3.0 acres/1,000 population |
| | 2030 | 3.0 acres/1,000 population |
| Baseball/Softball | Ongoing | 1 field/2,500 population |
| Basketball | Ongoing | 1 court/5,000 population |
| Boat ramp | Ongoing | 1 ramp/4,500 population |
| Fishing Pier | Ongoing | 1,600 linear feet/25,000 population |
| Multi-Purpose/Soccer | Ongoing | 1 field/3,000 population |
| Picnic Area | Ongoing | 1 acre/2,500 population |
| Recreation Trail | Ongoing | 1.22 mile/10,000 population |
| Swimming pool | Ongoing | 1 pool/50,000 population |
| Tennis | Ongoing | 1 court/2,000 population |

PROOFS

(2) The city shall follow the following review criteria for certificates of concurrency:

a. *Transportation facilities review criteria*. Transportation concurrency is applied for the enhancements of the overall network for the city within the traffic impact area covered by the development. A project is considered concurrent when all its p.m. peak trips or highest peak hour meet and do not reduce the level of service below the adopted LOS standards in the city's comprehensive plan and the provisions in this chapter. The transportation component of the certificate of concurrency shall be granted if any of the following conditions are met:

1. Required transportation facilities are available and issuance of a building permit for any portion of the development is conditioned on a commitment of capacity from the appropriate service provider;

2. Required transportation facilities are under construction, a commitment of capacity to serve the development has been received from the service provider, and commencement of development is conditioned on completion of such facilities;

3. Required transportation facilities are the subject of a binding construction contract executed at the time a building permit is issued;
4. Required transportation facilities are included in applicable capital improvement programs of the city, the county's transportation improvement program or state (FDOT) work program and will commence in or before the third year of the capital improvements program;
5. Required transportation facilities are included in the city's adopted annual budget at the time a building permit is issued even though such facilities are not the subject of a binding construction contract; or
6. Required transportation facilities are committed to be provided by the applicant through a development agreement or proportionate fair-share mitigation agreement that has been approved by the city and issuance of a building permit for any portion of the development is conditioned upon completion of such facilities.

b. *Sanitary sewer review criteria*.

1. The design capacity of the wastewater treatment facilities of the city utility authority.
2. The existing level of service standards measured by the average number of gallons per day per unit based on the average flows that are experienced at the city utility authority wastewater treatment facilities and the total number of equivalent residential units within the service area.
3. The adopted level of service standards for the average daily flows per equivalent residential unit.
4. The existing deficiencies of the system.
5. The capacities that are reserved for approved but unbuilt development.
6. The projected capacities or deficiencies due to approved but unbuilt development.
7. The improvements to be made to the facilities in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.

c. *Potable water review criteria*.

1. The design capacities of the potable water treatment facilities of the city utility authority.
2. The existing level of service measured by the average number of gallons per day per unit based on the average flows experienced and the total number of residential units within the service area of the city utility authority.
3. The existing potable water storage capabilities of the city utility authority.
4. The existing minimum water pressure in the city utility authority water distribution system.
5. The adopted level of service standards for the potable water facility components.
6. The existing capacities or deficiencies of the system.
7. The capacities reserved for approved but unbuilt developments.
8. The improvements to be made to the facility in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.
9. The improvements to be made to the facility in the current fiscal year by the city utility authority and the impact of such improvements on the existing capacities or deficiencies.

d. *Solid waste review criteria*.

1. The design capacity of solid waste disposal facilities.
2. The existing level of service measured by the number of units approved per route.

PROOFS

3. The adopted level of service standard for solid waste.
4. The capacities reserved for approved but unbuilt development.
5. The projected capacities or deficiencies due to approved but unbuilt development.
6. The improvements to be made to the system in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.
7. The improvements to be made to the system in the current fiscal year by the city or the contracted agency and the impact of such improvements on the existing capacities or deficiencies.

e. *Stormwater review criteria*.

1. The existing level of service measured by storm event as determined by the city engineer.
2. The adopted level of service standard for storm drainage.

f. *Recreation and open space review criteria*.

1. The existing acreage of parkland and the existing number of recreation facilities.
2. The existing level of service measured by the number of acres of parkland available per 1,000 residents of the city based on an inventory of park lands in the city and the population of the city.
3. The existing level of service for recreation facilities measured by the adopted standard based on an inventory of the facilities in the city and the population of the city.
4. The adopted level of service standards for parkland acreage and individual recreation facilities.
5. The existing capacities or deficiencies of the recreation facility system.
6. The capacities reserved for approved but unbuilt development.
7. The projected capacities or deficiencies due to approved but unbuilt development.
8. The improvements to be made to the recreation facilities in the current fiscal year by any approved developments pursuant to previous development orders and the impact of such improvements on the existing capacities or deficiencies.
9. The improvements to be made to the recreation facilities in the current fiscal year by the city and the impact of such improvements on the existing capacities or deficiencies.

(Code 1983, § 22-218; Ord. No. K-465, § 2, 1-2-2007; Ord. No. 19-043, § 8, 11-4-2019; Ord. No. 19-044, § 16, 11-4-2019)

**~~Sec. 22-219. Transportation proportionate fair-share mitigation.~~**

~~In order to establish a method whereby the impacts of developmsent on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, there shall be a program known as the Proportionate Fair-Share Mitigation Program (the "Proportionate Fair-share Mitigation Program"), as required by and in a manner consistent with F.S. § 163.3180(16). The Fair-Share Mitigation Program shall apply to all developments in the city that have been notified of a lack of capacity to satisfy transportation concurrency, including transportation facilities maintained by the Florida Department of Transportation (the "FDOT") or another jurisdiction that are relied upon for concurrency determinations. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate fair-share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in section 1.5-6(b) above.~~

~~(a) General requirements.~~

~~(1) An applicant may propose to satisfy the transportation concurrency requirements of the city by making a proportionate fair-share contribution only if the following requirements are met:~~

~~a. The proposed development is consistent with the comprehensive plan and applicable land~~

PROOFS

development regulations; and

__ The five-year schedule of capital improvements in the city's CIE includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the city's transportation concurrency management system (the "CMS"). The provisions of subsection (2) below may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIE.

__ The city, in its sole discretion, may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Mitigation Program by contributing to an improvement that, upon completion, will satisfy the requirements of the city's transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIE, where the following conditions are met:

__ The city adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the city commission, and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the comprehensive plan, and in compliance with the provisions of this ordinance. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed five years to fully mitigate impacts on the transportation facilities.

__ If the funds allocated for the five-year schedule of capital improvements in the city's CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the city may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the comprehensive at the next annual capital improvements element update.

__ Any improvement project proposed to meet the developer's fair-share obligation must meet applicable design standards of the jurisdiction which controls.

__ It shall be in the city's sole discretion whether the requested addition to the CIE shall be added.

__ *Intergovernmental coordination*. Pursuant to policies in the Intergovernmental Coordination Element of the city's comprehensive plan and applicable policies in the strategic regional policy plan for the treasure coast, the city shall coordinate with affected jurisdictions, including St. Lucie County and FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

__ Determining proportionate fair-share obligation.

__ Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.

__ A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.

__ The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(12), as follows:

"The cumulative number of trips from the proposed development expected to reach roadways

PROOFS

~~during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."~~

~~OR~~

~~Proportionate Fair-Share = $\sigma[[(\text{Development Trips}_i)/(\text{SV Increase}_i)] \times \text{Cost}_i]$~~

| | |
|---|---|
| ~~*Where:*~~ | |
| ~~*Development Trips$_i$ =*~~ | ~~*Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;*~~ |
| ~~*SV Increase$_i$ =*~~ | ~~*Service volume increase provided by the eligible improvement to roadway segment "i" per section E;*~~ |
| ~~*Cost$_i$ =*~~ | ~~*Adjusted cost of the improvement to segment "i", Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.*~~ |

~~— For the purposes of determining proportionate fair-share obligations, the director of planning shall determine improvement costs based upon the actual and/or anticipated cost of the improvement as obtained from the capital improvements element, the MPO transportation improvement program or the FDOT work program. Where such information is not available, improvement cost shall be determined using one of the following methods:~~

~~— If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the director of planning.~~

~~— If the city has accepted 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 120 per cent of the most recent assessed value by the county property appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the city and at no expense to the city. The applicant shall supply a drawing and legal description of the land and 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 applicant is less than the city estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations.~~

~~— Impact fee credit for proportionate fair-share mitigation.~~

~~— Where mitigation is occurring on county roads, proportionate fair-share contributions shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the St. Lucie County impact fee ordinance.~~

~~— Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due per the county's impact fee ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the county pursuant to the requirements of the St. Lucie County impact fee ordinance.~~

PROOFS

- Major projects not included within the St. Lucie County's impact fee ordinance or created under subsection (2)(a) and (b) which can demonstrate a significant benefit to the impacted transportation system may be eligible at the county's discretion for impact fee credits.
- The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location unless provided for within the county's impact fee ordinance.

Proportionate fair-share agreements.

- No proportionate fair share agreement will be effective until approved by the city commission. The city commission shall approve proportionate fair share agreements if in the best interest of the public safety, health and welfare of the City of Fort Pierce.
- Upon the applicant's execution of a proportionate fair-share agreement, project approval and issuance of a development order, the applicant shall receive a certificate of concurrency. Should the applicant fail to apply for a building permit within 24 months of the execution of the agreement or other time frame provided in the concurrency management system ordinance, then the fair-share agreement shall be considered null and void, and the applicant shall be required to reapply.
- 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 unless a development order is abandoned following approval of an applicant's formal request to rescind approval of the applicant's preliminary or final development order, or the application expires, and the funds paid for the proportionate fair share contribution, including any impact fee credits, have not been used for their intended purpose, and no development has occurred on the applicant's proposed development site. When a development is abandoned, as noted in the previous sentence, impact fees may be refunded in accordance with the provisions of the county impact fee code regarding refunds of impact fees, and additional impact mitigation may be refunded following approval by the county of the requested abandonment, or expiration of a development order under the conditions listed in the previous sentence. If the payment is submitted more than 12 months 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 section (d) above and adjusted accordingly.
- All developer improvements authorized under this ordinance must be completed prior to issuance of a development permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. Any required improvements shall be completed before issuance of building permits or certificates of occupancy.
- Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.
- Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- Applicants may submit a letter to the director of planning to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the city will be nonrefundable.
- The city may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.
- Proportionate fair-share agreements shall contain a provision setting forth the amount of impact fee credit if applicable.

PROOFS

- No proportionate fair-share agreement or development agreement shall be amended by the applicant, or by any agency, except by application by the applicant, or by a government agency desiring an amendment, to the director of planning to amend the agreement, which application shall be reviewed by the city's development review committee and which application shall be properly noticed and heard by the planning board and city commission through the same process established for amendment of the application with which the development agreement is associated.
- Independent negotiations of changes in proportionate fair-share agreements or development agreements outside of the process established in this subsection is hereby prohibited. Such agreements shall not be amended by other agreements required, authorized, or otherwise permitted by state law and this code. Reviewing agencies are required to address their concerns to the development review committee, and shall not postpone their participation to a time after the development proposal is approved.
- The director of planning shall determine whether an amendment to a proportionate fair-share agreement or a development agreement is a minor amendment or a major amendment according to section 22-58.
- The city attorney shall review all proposed amended proportionate fair-share agreements and all proposed amended development agreements for legal sufficiency, and ensure that they are legally enforceable before they are presented to the city commission for approval. Separate agreements that are not titled proportionate fair-share agreements or development agreements shall not be inconsistent with the approved proportionate fair-share agreement and development agreement, and shall not be used to amend an approved proportionate fair-share agreement or development agreement outside of the process herein established.

- Appropriation of fair-share revenues.
  - Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the city's CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the city, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the fifty (50) per cent local match for funding under the FDOT TRIP.
  - In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of subsection (a)(2)b.

(Code 1983, § 22-219; Ord. No. K-465, § 2, 1-2-2007)

PROOFS

Chapter 106

**RESERVED**

PROOFS

Chapter 107

# EROSION AND SEDIMENT CONTROL*

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

## Sec. 107-1. Definitions.

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

*Certified contractor* means a person who has received training and is licensed by the state to inspect and maintain erosion and sediment control practices.

*Clearing* means any activity that removes the vegetative surface cover.

*Drainageway* means any channel that conveys surface runoff throughout the site.

*Erosion control* means a measure that prevents erosion.

*Erosion control plan* means a set of plans prepared by or under the direction of a licensed professional engineer for commercial construction on sites greater than one acre indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

*Grading* means excavation or fill of material, including the resulting conditions thereof.

*Perimeter control* means barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*Phasing* means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

*Sediment control* means measures that prevent eroded sediment from leaving the site.

*Site* means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

*Site development permit* means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

*Stabilization* means the use of practices that prevent exposed soil from eroding.

*Start of construction* means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*Watercourse* means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water

*Waterway* means a channel that directs surface runoff to a watercourse or to the public storm drain.

(Code 1983, § 17-71; Ord. No. K-421, § 1, 6-5-2006)

## Sec. 107-2. Purpose.

(a) Soil is highly vulnerable to erosion by wind and water during the construction process, and eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also increases frequency of repair and maintenance of storm sewers, swales, ditches, canals, and the dredging of lakes and ponds. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

(b) As a result, the purpose of this article is to safeguard persons, protect property, and prevent damage to

PROOFS

the environment in the city. This article will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land within the city.

(Code 1983, § 17-70; Ord. No. K-421, § 1, 6-5-2006)

**Sec. 107-3. Permits.**

(a) All building permits for land-disturbing activity that would require the uncovering of 5,000 or more square feet shall require the approval of an erosion and sediment control plan by the city engineer.

(b) Each application for building permit shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan and that the contractor on record shall be on site on all days when construction or grading activity takes place.

(Code 1983, § 17-72; Ord. No. K-421, § 1, 6-5-2006)

**Sec. 107-4. Review and approval.**

The city engineer will review each application for building permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, the engineering department shall, in writing:

(1) Recommend approval of the permit application;

(2) Recommend approval of the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

(3) Recommend disapproval of the permit application, indicating the reason and procedure for submitting a revised application and/or submission to the ~~department of building and code enforcement~~ ~~code~~ ~~compliance division.~~

(Code 1983, § 17-73; Ord. No. K-421, § 1, 6-5-2006)

**Sec. 107-5. Erosion and sediment control plan.**

(a) The erosion and sediment control plan shall include the following:

(1) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this Code.

(2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

(3) All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required.

(4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, watering source and type, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

(5) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

(b) Modifications to the plan shall be reviewed and approved or disapproved in the same manner as section 107-4.

(Code 1983, § 17-74; Ord. No. K-421, § 1, 6-5-2006)

PROOFS

**Sec. 107-6. Design requirements.**

(a) Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site to the satisfaction of city engineer. Cut and fill slopes shall be no greater than 4:1 to meet city environmental objectives.

(b) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code and other agency permits. Clearing techniques that retain natural vegetation and drainage patterns shall be implemented to the satisfaction of the city engineer.

(c) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(d) Erosion control requirements shall include the following:

(1) Soil stabilization shall be completed within ten calendar days of clearing or inactivity in construction.

(2) If seeding or another vegetative erosion control method is used, it shall be in accordance with section 570 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction.

(3) Methods approved by the city engineer to stabilize soil on steep slopes or in drainageways shall be used to ensure stabilization.

(4) Soil stockpiles must be stabilized or covered at the end of each workday.

(5) Techniques shall be employed to prevent the blowing of dust or sediment from the site.

(6) Techniques that divert upland runoff past disturbed slopes shall be employed.

(e) Sediment controls requirements shall include:

(1) Settling basins, sediment traps, or tanks and perimeter controls;

(2) Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required the city engineer;

(3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

(f) Waterway and watercourse protection requirements shall include:

(1) A temporary stream crossing installed and approved by the city engineer may be required if a wet watercourse will be crossed regularly during construction;

(2) Stabilization of the watercourse channel before, during, and after any in-channel work including, all on-site stormwater conveyance channels;

(3) Stabilization adequate to prevent erosion located at the outlets of all pipes and all paved channels.

(g) Construction site access requirements shall include:

(1) A temporary access road provided at all sites;

(2) Other measures required by the city engineer to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

(Code 1983, § 17-75; Ord. No. K-421, § 1, 6-5-2006)

**Sec. 107-7. Inspection.**

(a) The city engineering department shall make inspections as hereinafter required and notify the ~~director of building and code enforcement~~ upon inspection approval or if the work fails to comply with the erosion and sediment control plan as approved to request a stop-work order. Plans for grading, stripping, excavating, and filing work bearing the stamp of approval of the city engineer shall be maintained at the site during the duration of the work. To obtain inspections, the permittee shall notify. The city engineering department at least two working days before the following:

PROOFS

(1) Start of construction;

(2) Installation of sediment and erosion measures;

(3) Completion of site clearing;

(4) Completion of rough grading;

(5) Completion of final grading;

(6) Close of the construction season;

(7) Completion of final landscaping.

(b) The permittee shall be responsible for the functionality of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the possible need for additional control measures.

(c) The city engineer of his designee shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the effectiveness of the control plan and the possible need for additional control measures.

(Code 1983, § 17-76; Ord. No. K-421, § 1, 6-5-2006)

**Sec. 107-8. Enforcement.**

(a) In the event that any person holding a site development permit pursuant to this article violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. The city may suspend or revoke the site development permit.

(b) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this article. Any person violating any of the provisions of this article shall be deemed guilty of ~~a misdemeanor~~ an offense and each day during which any violation of any of the provisions of this article is committed, continued, or permitted, shall constitute a separate offense. ~~Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than one thousand dollars ($1,000.00) for each offense.~~ In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this article shall be required to bear the expense of such restoration.

(Code 1983, § 17-77; Ord. No. K-421, § 1, 6-5-2006)

~~**Sec. 17-78. Separability.**~~

~~The provisions and sections of this article shall be deemed to be separable, and the invalidity of any portion of this article shall not affect the validity of the remainder.~~

~~(Code 1983, § 17-78; Ord. No. K-421, § 1, 6-5-2006)~~

PROOFS

Chapter 108

**RESERVED**

PROOFS

Chapter 109

# FLOODPLAIN MANAGEMENT*

***State law reference**—Floodplain management provisions required, F.S. § 163.3202(2)(d).

## ARTICLE I. IN GENERAL

### Sec. 109-1. Title.

These regulations shall be known as the Floodplain Management Ordinance of the City of Fort Pierce, hereinafter referred to as "this chapter."

(Code 1983, § 5-315.101.1; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

### Sec. 109-2. Definitions.

(a) ~~section 5-316.101~~*General.*

(1) ~~*Sec. 5-316.101.1 Scope.*~~ Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this section.

(2) ~~Sec. 5-316.101.2 *Terms defined in the state building code.*~~ Where terms are not defined in this chapter and are defined in the state building code, such terms shall have the meanings ascribed to them in that code.

(3) ~~Sec. 5-316.101.3 *Terms not defined.*~~ Where terms are not defined in this chapter or the state building code, such terms shall have ordinarily accepted meanings such as the context implies.

(b) ~~section 5-316.102 *Definitions.*~~ The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Alteration of a watercourse* means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

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

*ASCE 24* means a standard titled "Flood Resistant Design and Construction" that is referenced by the state building code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Base flood* means a flood having a one-percent chance of being equaled or exceeded in any given year. (Also defined in FBC, B, section 202.) The base flood is commonly referred to as the 100-year flood or the one-percent-annual chance flood.

*Base flood elevation* means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). (Also defined in FBC, B, section 202.)

*Basement* means the portion of a building having its floor subgrade (below ground level) on all sides. (Also defined in FBC, B, section 202; see Basement (for flood loads).

*Coastal construction control line* means the line established by the state pursuant to F.S. § 161.053 and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

*Coastal high hazard area* means a special flood hazard area extending from offshore to the inland limit of a

PROOFS

primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as high hazard areas subject to high velocity wave action" or "V Zones and are designated on flood insurance rate maps (FIRM) as Zone V1-V30, VE, or V.

*Declaration of land restriction (non-conversion agreement)* means a form provided by the floodplain administrator to be signed by the owner and recorded on the property deed in official records of the clerk of courts, for the owner to agree not to covert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, enclosures below elevated buildings.

*Design flood* means the flood associated with the greater of the following two areas: (Also defined in FBC, B, section 202.)

(1) Area with a floodplain subject to a one-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Design flood elevation* means the elevation of the design flood, including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet. (Also defined in FBC, B, section 202.)

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

*Encroachment* means the placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

*Existing building and existing structure* means any buildings and structures for which the start of construction commenced before December 1, 1977 (Also defined in Florida Building Code3--Buildings section 202).

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before December 1, 1977.

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

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

*Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land from: (Also defined in FBC, B, section 202.)

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood damage-resistant materials* means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. (Also defined in FBC, B, section 202.)

*Flood hazard area* means the greater of the following two areas: (Also defined in FBC, B, section 202.)

(1) The area within a floodplain subject to a one-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*flood insurance rate map (FIRM)* means the official map of the community on which the Federal Emergency

PROOFS

Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. (Also defined in FBC, B, section 202.)

*Flood insurance study (FIS)* means the official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. (Also defined in FBC, B, section 202.)

*Floodplain administrator* means the office or position designated and charged with the administration and enforcement of this chapter (may be referred to as the floodplain manager).

*Floodplain development permit or approval* means an official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this chapter.

*Floodway* means the channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Also defined in FBC, B, section 202.)

*Floodway encroachment analysis* means an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified state-licensed engineer using standard engineering methods and models.

*Florida Building Code* means the family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term "functionally dependent use" does not include long-term storage or related manufacturing facilities.

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

*Historic structure* means any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, chapter 12 Historic Buildings.

*Letter of map change (LOMC)* means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

*Letter of map amendment (LOMA)* means an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

*Letter of map revision (LOMR)* means a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

*Letter of map revision based on fill (LOMR-F)* means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

*Conditional letter of map revision (CLOMR)* means a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

*Light-duty truck,* as defined in 40 CFR 86.082-2, means any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic

PROOFS

vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

*Lowest floor* means the lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the state building code or ASCE 24. (Also defined in FBC, B, section 202.)

*Manufactured home* means a structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle or park trailer. (Also defined in 15C-1.0101, F.A.C.)

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

*Market value* means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this chapter, the term "market value" refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser (specifying it is based on pre-damage condition and all valuation data and/or appraisals shall be dated within six months of the permit application date), actual cash value estimate (replacement cost depreciated for age and quality of construction) prepared by a qualified independent appraiser, or current tax assessment building valuation data (as maintained in the records of the office of the county property appraiser) plus 20 percent. When a state of emergency has been declared, the building official may allow the valuation data and/or appraisal to be dated up to a maximum of one year prior of the date the emergency is declared.

*New construction* means for the purposes of administration of this chapter and the flood-resistant construction requirements of the state building code, structures for which the "start of construction: commenced on or after December 1, 1977 and includes any subsequent improvements to such structures."

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 1, 1977.

*Park trailer* means a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. (Defined in F.S. § 320.01.)

*Permanent construction* does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Also defined in FBC, B section 202.)

*Qualified independent appraiser* means an appraiser performing an appraisal assignment as defined in Florida State Statute 475, Part II entitled "Appraisers."

*Recreational vehicle* means a vehicle, including a park trailer, which is: (See F.S. § 320.01.)

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

PROOFS

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Sand dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*Special flood hazard area* means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. (Also defined in FBC, B section 202.)

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

*Substantial damage* means damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. (Also defined in FBC, B section 202.)

*Substantial improvement* means any repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either: (Also defined in FBC, B, section 202.)

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to ensure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

*Variance* means a grant of relief from the requirements of this chapter, or the flood-resistant construction requirements of the state building code, which permits construction in a manner that would not otherwise be permitted by this chapter or the state building code.

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

(Code 1983, § 5-316; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 2, 7-15-2019)

**Sec. 109-3. Scope; applicability.**

(a) *Scope.* The provisions of this chapter shall apply to all development that is wholly within or partially within any flood hazard area, including, but not limited to, the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the state building code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

(1) ~~Sec. 5-315.101.3~~ *Intent.* The purposes of this chapter and the flood load and flood-resistant construction requirements of the state building code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

a. Minimize unnecessary disruption of commerce, access and public service during times of flooding;

b. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

c. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion

PROOFS

potential;

d. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

e. Minimize damage to public and private facilities and utilities;

f. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

g. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

h. Meet the requirements of the National Flood Insurance Program for community participation as set forth in title 44 CFR 59.22.

(2) ~~Sec. 5-315.101.4~~ *Coordination with the state building code.* This chapter is intended to be administered and enforced in conjunction with the state building code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the state building code.

(3) ~~Sec. 5-315.101.5~~ *Warning.* The degree of flood protection required by this chapter and the state building code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the flood insurance study and shown on flood insurance rate maps and the requirements of title 44 CFR 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.

(4) *Disclaimer of liability.* This chapter shall not create liability on the part of the city commission or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(b) ~~section 5-315.102~~ *Applicability.*

(1) ~~Sec. 5-315.102.1~~ *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(2) ~~Sec. 5-315.102.2~~ *Areas to which this chapter applies.* This chapter shall apply to all flood hazard areas within the City of Fort Pierce, as established in subsection (b)(3) of this section.

(3) ~~Sec. 5-315.102.3~~ *Basis for establishing flood hazard areas.* The flood insurance study for St. Lucie County, Florida and Incorporated Areas dated February 16, 2012, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the city clerk's office, 100 North U. S. Hwy 1. Fort Pierce FL 34950.

(4) ~~Sec. 5-315.102.4~~ *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to section 109-27 the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a state-licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

a. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this chapter and, as applicable, the requirements of the state building code.

b. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

PROOFS

(5) ~~Sec. 5-315.102.5~~ *Other laws.* The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

(6) ~~Sec. 5-315.102.6~~ *Abrogation and greater restrictions.* This chapter supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances, including, but not limited to, land development regulations, zoning ordinances, stormwater management regulations, or the state building code. In the event of a conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this chapter.

(7) ~~Sec. 5-315.102.7~~ *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1983, §§ 5-315.101.2—5-315.102; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

**Secs. 109-4--109-24. Reserved.**

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

**Sec. 109-25. Duties and powers of the floodplain administrator.**

(a) ~~*Sec. 5-315.103.1*~~ *Designation.* The building official is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(b) ~~Sec. 5-315.103.2~~ *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this chapter. The floodplain administrator shall have the authority to render interpretations of this chapter consistent with the intent and purpose of this chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this chapter without the granting of a variance pursuant to section 109-29.

(c) ~~Sec. 5-315.103.3~~ *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, shall:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this chapter;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the state building code, including buildings, structures and facilities exempt from the state building code, when compliance with this chapter is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the building official to ensure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions

PROOFS

of this chapter.

(d) ~~Sec. 5-315.103.4~~ *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

(1) Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the state building code and this chapter is required.

(e) ~~*Sec. 5-315.103.5*~~ *Modifications of the strict application of the requirements of the state building code.* The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood-resistant construction requirements of the state building code to determine whether such requests require the granting of a variance pursuant to section 109-29.

(f) ~~Sec. 5-315.103.6~~ *Notices and orders.* The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this chapter.

(g) ~~Sec. 5-315.103.7~~ *Inspections.* The floodplain administrator shall make the required inspections as specified in section 109-28 for development that is not subject to the state building code, including buildings, structures and facilities exempt from the state building code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(h) ~~Sec. 5-315.103.8~~ *Other duties of the floodplain administrator*. The floodplain administrator shall have other duties, including, but not limited to:

(1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to subsection (d) of this section;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this chapter and the state building code to determine that such certifications and documentations are complete;

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the city are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the coastal barrier resources system established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood

PROOFS

insurance is not available on such construction; areas subject to this limitation are identified on flood insurance rate maps as coastal barrier resource system areas and otherwise protected areas.

(i) ~~*Sec. 5-315.103.9*~~ *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this chapter and the flood-resistant construction requirements of the state building code, including flood insurance rate maps; letters of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the state building code and this chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this chapter and the flood-resistant construction requirements of the state building code. These records shall be available for public inspection at the city building department located at 100 North U. S. Hwy 1. Fort Pierce, FL 34950.

(Code 1983, § 5-315.103; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

**Sec. 109-26. Permits.**

(a) ~~*Sec. 5-315.104.1*~~ *Permits required.* Any owner or owner's authorized agent (hereinafter, applicant) who intends to undertake any development activity within the scope of this chapter, including buildings, structures and facilities exempt from the state building code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit and approval. No such permit or approval shall be issued until compliance with the requirements of this chapter and all other applicable codes and regulations has been satisfied.

(b) ~~Sec. 5-315.104.2~~ *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this chapter for any development activities not subject to the requirements of the state building code, including buildings, structures and facilities exempt from the state building code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(c) ~~Sec. 5-315.104.3~~ *Buildings, structures and facilities exempt from the state building code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 CFR 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the state building code and any further exemptions provided by law, which are subject to the requirements of this chapter:

(1) Railroads and ancillary facilities associated with the railroad.

(2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

(3) Temporary buildings or sheds used exclusively for construction purposes.

(4) Mobile or modular structures used as temporary offices.

(5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this subsection, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8) Temporary housing provided by the department of corrections to any prisoner in the state correctional system.

PROOFS

(9) Structures identified in F.S. § 553.73(10)(k) are not exempt from the state building code if such structures are located in flood hazard areas established on flood insurance rate maps.

(d) ~~*Sec. 5-315.104.4 -*~~*Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

(1) Identify and describe the development to be covered by the permit or approval.

(2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) Indicate the use and occupancy for which the proposed development is intended.

(4) Be accompanied by a site plan or construction documents as specified in section 109-27.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant or the applicant's authorized agent.

(7) Give such other data and information as required by the floodplain administrator.

(8) For projects proposing to enclose areas under elevated buildings, include signed declaration of land restriction (non-conversion agreement); the agreement shall be recorded on the property deed prior to issuance of the certificate of occupancy.

(e) ~~Sec. 5-315.104.5 -~~*Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this chapter shall not be construed to be a permit for, or approval of, any violation of this chapter, the state building codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(f) ~~Sec. 5-315.104.6 -~~*Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(g) ~~Sec. 5-315.104.7 -~~*Suspension or revocation.* The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this chapter or any other ordinance, regulation or requirement of this community.

(h) ~~Sec. 5-315.104.8 -~~*Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including, but not limited to, the following:

(1) The South Florida Water Management District and North St. Lucie River Water Control District; F.S. § 373.036, F.S.

(2) Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065, F.S. and F.A.C. ch.64E-6.

(3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.

(4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055.

(5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; section 404 of the Clean Water Act.

(6) Federal permits and approvals.

(Code 1983, § 5-315.104; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

PROOFS

**Sec. 109-27. Site plans and construction documents.**

(a) ~~*Sec. 5-315.105.1*~~ *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this chapter shall be drawn to scale and shall include, as applicable to the proposed development:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones, base flood elevations, and ground elevations if necessary for review of the proposed development.

(2) Where base flood elevations or floodway data are not included on the FIRM or in the flood insurance study, they shall be established in accordance with subsection (b)(2) or (3) of this section.

(3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with subsection (b)(1) of this section.

(4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.

(5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

(6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(7) Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.

(8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the state department of environmental protection.

(9) Existing and proposed alignment of any proposed alteration of a watercourse.

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

(b) ~~*Sec. 5-315.105.2*~~ *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

b. Specify that the base flood elevation is two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet.

(4) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a state-licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and

PROOFS

pay the processing fees.

(c) ~~Sec. 5-315.105.3~~ *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a state-licensed engineer for submission with the site plan and construction documents:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in subsection (d) of this section shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.

(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in subsection (d) of this section.

(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

(d) ~~Sec. 5-315.105.4~~ *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a state-licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Code 1983, § 5-315.105; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

**Sec. 109-28. Inspections.**

(a) ~~*Sec. 5-315.106.1*~~ *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.

(b) ~~Sec. 5-315.106.2~~ *Development other than buildings and structures.* The floodplain administrator shall inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(c) ~~Sec. 5-315.106.3~~ *Buildings, structures and facilities exempt from the state building code.* The floodplain administrator shall inspect buildings, structures and facilities exempt from the state building code to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(d) ~~Sec. 5-315.106.4~~ *Buildings, structures and facilities exempt from the state building code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the state building code, or the owner's authorized agent, shall submit to the floodplain administrator:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the

PROOFS

certification of elevation of the lowest floor prepared and sealed by a state-licensed professional surveyor; or

(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with subsection 109-27(b)(3)b, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(e) ~~Sec. 5-315.106.5~~ *Buildings, structures and facilities exempt from the state building code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in subsection (d) of this section.

(f) ~~Sec. 5-315.106.6~~ *Manufactured homes.* The floodplain administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the floodplain administrator.

(Code 1983, § 5-315.106; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

**Sec. 109-29. Variances and appeals.**

(a) ~~Sec. 5-315.107.1~~ *General.* The special magistrate shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to F.S. § 553.73(5), the special magistrate shall hear and decide on requests for appeals and requests for variances from the strict application of the flood-resistant construction requirements of the state building code. This section does not apply to section 3109 of the Florida Building Code, Building.

(b) ~~Sec. 5-315.107.2~~ *Appeals.* The special magistrate shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this chapter. Any person aggrieved by the decision may appeal such decision to the circuit court, as provided by state statutes.

(c) ~~Sec. 5-315.107.3~~ *Limitations on authority to grant variances.* The special magistrate shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection (g) of this section, the conditions of issuance set forth in subsection (h) of this section, and the comments and recommendations of the floodplain administrator and the building official. The special magistrate has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(d) ~~Sec. 5-315.107.4~~ *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 109-27(c).

(e) ~~Sec. 5-315.107.5~~ *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood-resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the state building code.

(f) ~~Sec. 5-315.107.6~~ *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this chapter, provided the variance meets the requirements of subsection (d) of this section, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

(g) ~~Sec. 5-315.107.7~~ *Considerations for issuance of variances.* In reviewing request for variances, the special magistrate shall consider all technical evaluations, all relevant factors, all other applicable provisions of the

PROOFS

state building code, this chapter, and the following:

(1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(4) The importance of the services provided by the proposed development to the community;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(h) ~~Sec. 5-315.107.8~~ *Conditions for issuance of variances.* Variances shall be issued only upon:

(1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards;

(2) Determination by the special magistrate that:

a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

c. The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25.00 for $100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Code 1983, § 5-315.107; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

**Sec. 109-30. Violations.**

(a) ~~*Sec. 5-315.108.1 Violations*~~ *General.* Any development that is not within the scope of the state building code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other

PROOFS

evidence of compliance required by this chapter or the state building code is presumed to be a violation until such time as that documentation is provided.

(b) ~~Sec. 5-315.108.2~~ *Authority.* For development that is not within the scope of the state building code but that is regulated by this chapter and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop-work orders to owners of the property involved, to the owner's agent, or to the person performing the work.

(c) ~~Sec. 5-315.108.3~~ *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop-work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

(Code 1983, § 5-315.108; Ord. No. 19-005 , § 2, 3-18-2019; Ord. No. 19-028 , § 1, 7-15-2019)

**Secs. 109-31--109-48. Reserved.**

## ARTICLE III. FLOOD-RESISTANT DEVELOPMENT

**Sec. 109-49. Buildings and structures.**

(a) ~~Sec. 5-317.101.1~~ *Design and construction of buildings, structures and facilities exempt from the state building code.* Pursuant to section 109-26(c), buildings, structures, and facilities that are exempt from the state building code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the state building code that are not walled and roofed buildings shall comply with the requirements of section 109-29.

(b) ~~Sec. 5-317.101.2~~ *Buildings and structures seaward of the coastal construction control line.* If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

(1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building, section 3109 and section 1612 or Florida Building Code, Residential, section R322.

(2) Minor structures and non-habitable major structures, as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this chapter and ASCE 24.

(Code 1983, § 5-317.101; Ord. No. 19-005 , § 2, 3-18-2019)

**Sec. 109-50. Subdivisions.**

(a) ~~Sec. 5-317.102.1~~ *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) ~~Sec. 5-317.102.2~~ *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

(2) Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section 109-27(b)(1); and

(3) Compliance with the site improvement and utilities requirements of section 109-51.

PROOFS

(Code 1983, § 5-317.102; Ord. No. 19-005 , § 2, 3-18-2019)

**Sec. 109-51. Site improvements, utilities and limitations.**

(a) ~~*Sec. 5-317.103.1 -*~~*Minimum requirements.* All proposed new development shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) ~~Sec. 5-317.103.2 -~~*Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in F.A.C. ch. 64E-6 and ASCE 24 chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(c) ~~Sec. 5-317.103.3 -~~*Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in F.A.C. 62-532.500 and ASCE 24 chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(d) ~~Sec. 5-317.103.4 -~~*Limitations on sites in regulatory floodways.* No development, including, but not limited to, site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in section 109-27(b)(1) demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(e) ~~Sec. 5-317.103.5 -~~*Limitations on placement of fill.* Subject to the limitations of this chapter, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the state building code.

(f) ~~Sec. 5-317.103.6 -~~*Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the state department of environmental protection and only if the engineering analysis required by section 109-27(b)(4) demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 109-55(h)(3).

(Code 1983, § 5-317.103; Ord. No. 19-005 , § 2, 3-18-2019)

**Sec. 109-52. Manufactured homes.**

(a) ~~*Sec. 5-317.104.1 -*~~*General.* All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249 and shall comply with the requirements of F.A.C. ch. 15C-1 and the requirements of this chapter. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

(b) ~~Sec. 5-317.104.2 -~~*Limitations on installation in floodways and coastal high hazard areas (Zone V).* New installations of manufactured homes shall not be permitted in floodways and coastal high hazard areas (Zone V).

(c) ~~Sec. 5-317.104.3 -~~*Foundations.* All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

(1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential, section R322.2 and this chapter. Foundations for manufactured homes subject to subsection (g) of this section are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

PROOFS

(2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential, section R322.3 and this chapter.

(d) ~~Sec. 5-317.104.4~~ *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(e) ~~Sec. 5-317.104.5~~ *Elevation.* Manufactured homes that are placed, replaced, or substantially improved shall comply with subsection (f) or (g) of this section, as applicable.

(f) ~~Sec. 5-317.104.6~~ *General elevation requirement.* Unless subject to the requirements of subsection (g) of this section, all manufactured homes that are placed, replaced, or substantially improved on sites located outside of a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision upon which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential, section R322.2 (Zone A) or section R322.3 (Zone V).

(g) ~~Sec. 5-317.104.7~~ *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to subsection (f) of this section, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

(1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential, section R322.2 (Zone A) or section R322.3 (Zone V); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(h) ~~Sec. 5-317.104.8~~ *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential, section R322.2 or R322.3 for such enclosed areas, as applicable to the flood hazard area.

(i) ~~Sec. 5-317.104.9~~ *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential, section R322, as applicable to the flood hazard area.

(Code 1983, § 5-317.104; Ord. No. 19-005 , § 2, 3-18-2019)

**Sec. 109-53. Recreational vehicles and park trailers.**

(a) ~~Sec. 5-317.105.1~~ *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches. Access to the right-of-way shall not be blocked by fences or other obstructions that must be altered or demolished.

(b) ~~Sec. 5-317.105.2~~ *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in subsection (a) of this section for temporary placement shall meet the requirements of section 109-52 for manufactured homes.

(Code 1983, § 5-317.105; Ord. No. 19-005 , § 2, 3-18-2019)

PROOFS

**Sec. 109-54. Tanks.**

(a) ~~*Sec. 5-317.106.1 -*~~ *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(b) ~~*Sec. 5-317.106.2 -*~~ *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of subsection (c) of this section shall:

(1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(2) Not be permitted in coastal high hazard areas (Zone V).

(c) ~~*Sec. 5-317.106.3 -*~~ *Aboveground tanks, elevated.* Aboveground tanks in flood hazard areas shall be elevated to or above the design flood elevation and attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(d) ~~*Sec. 5-317.106.4 -*~~ *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Code 1983, § 5-317.106; Ord. No. 19-005 , § 2, 3-18-2019)

**Sec. 109-55. Other development.**

(a) ~~*Sec. 5-317.107.1 -*~~ *General requirements for other development.* All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the state building code, shall:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of section 109-52(d) if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials; and

(5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(b) ~~*Sec. 5-317.107.2 -*~~ *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 109-52(d).

(c) ~~*Sec. 5-317.107.3 -*~~ *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 109-52(d).

(d) ~~*Sec. 5-317.107.4 -*~~ *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 109-52(d). Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 109-52(c)(3).

PROOFS

(e) ~~Sec. 5-317.107.5~~ *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four inches.

(f) ~~Sec. 5-317.107.6~~ *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the state building code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

(4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(g) ~~Sec. 5-317.107.7~~ *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include, but are not limited to:

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3) On-site sewage treatment and disposal systems defined in F.A.C. 64E-6.002 as filled systems or mound systems.

(h) ~~Sec. 5-317.107.8~~ *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:

(1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no

PROOFS

harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3) Where authorized by the state department of environmental protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

(Code 1983, § 5-317.107; Ord. No. 19-005 , § 2, 3-18-2019)

## ~~ARTICLE IX. FALLOUT SHELTERS*~~

### ~~Sec. 5-301. Building permit; fee waived.~~

~~No building permit fee shall be required, but building permits must be obtained prior to the construction of any fallout shelter.~~

~~(Code 1960, § 6-42; Code 1983, § 5-301)~~

### ~~Sec. 5-302. Minimum requirements.~~

~~Fallout shelters to be constructed within the city shall meet the minimum requirements set up by the state civil defense agency and any amendments thereto.~~

~~(Code 1960, § 6-41; Code 1983, § 5-302)~~

### ~~Sec. 5-303. Setback variances.~~

~~In the event a variance in the existing setback regulations is necessary for the construction of a fallout shelter, the planning director may grant such variance and make a special exception without the necessity of advertising and holding a public hearing before the board of adjustments, provided however, that no fallout shelter shall be constructed unless there is a minimum distance of three feet between the shelter and the property line.~~

~~(Code 1960, § 6-44; Code 1983, § 5-303; Ord, No. 19-043, § 1, 11-4-2019; Ord. No. 19-044, § 1, 11-4-2019)~~

### ~~Sec. 5-304. Exempt from assessment and tax rolls.~~

~~The city clerk and the director of finance are hereby instructed not to add to or place upon the assessment roll fallout shelter improvements and not to enter the same at any valuation upon the tax rolls of the city.~~

~~(Code 1960, § 6-43; Code 1983, § 5-304)~~

PROOFS

Chapter 110

**RESERVED**

PROOFS

Chapter 111

# HISTORIC PRESERVATION*

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

## ARTICLE I. IN GENERAL

**Secs. 111-1--111-18. Reserved.**

## ARTICLE II. HISTORIC PRESERVATION ORDINANCE

### DIVISION 1. GENERALLY

**Sec. 111-19. Definitions.**

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

*Addition* means a construction project physically connected to the exterior of an historic building.

*Alteration* means any change effecting the exterior appearance of an existing improvement by additions, reconstruction, remodeling or maintenance involving change in color, form, texture or materials, or any such changes in appearance of specially designated interiors.

*Applicant* means any individual or group who provides sufficient written information to the department to ascertain that the property meets the minimum eligibility requirements for local historic designation.

*Archaeological site* means a single specific location which has yielded or is likely to yield information on local history or prehistory. Archaeological sites may be found within historic sites or historic districts.

*Archaeological zone* means a geographically defined area, designated pursuant to this chapter, which may reasonably be expected to yield information on local history or prehistory based upon broad prehistoric or historic settlement patterns and, including, but not limited to, items such as clothing, buckles, pottery and housewares.

*Board* means the historic preservation board as created in this chapter.

*Building* means a structure designed to stand permanently and intended for use, occupancy or ornamentation.

*Certificate of appropriateness* means a written document, issued pursuant to this chapter, permitting specified alterations, demolition, new construction, or other work to a designated historic site or for a building within a designated historic district.

*Certificate of recognition* means a certificate issued by the board recognizing properties designated pursuant to this article.

*Certificate to dig* means a type of certificate of appropriateness that gives the board's permission for certain excavation projects that may involve the discovery of as yet unknown or known archaeological sites in an archaeological zone.

*Certified local government* means a government satisfying the requirements of the United States National Historic Preservation Act Amendments of 1980 (P.L. 96-515) and the implementing of regulations of the United States Department of the Interior and the state. A government which is certified will review all nominations to the National Register of Historic Places within its jurisdiction prior to reviews at the state and federal levels.

*Contributing building, site,* or *structure* means one that adds to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because it was present during the period of significance, and possesses historic integrity reflecting its character at that time or is capable of yielding important information about the period, or it independently meets the National Register criteria.

PROOFS

*Demolition* means the act or process of wrecking, destroying or removing any building or structure.

*Department* means the ~~Planning and Development Department of the City of Fort Pierce~~ planning department.

*Designated exterior* means all outside surfaces of any improvement listed in the designation report as having significant value to the historic character of the building or district.

*Designation report* means a document prepared by the department for all properties or districts which are proposed for local historic designation. The designation report includes the boundaries of the proposed historic property or district, a summary of its historic significance, and contains location maps and describes the physical characteristics of the property or district.

*District A* means a collection of archaeological sites, buildings, structures, landscape features or other improvements that are concentrated in the same area and have been designated as a district pursuant to this chapter.

*Excavation* means the removal of earth from its original position.

*Exterior* means all outside surfaces of any building or structure.

*Fort Pierce Register of Historic Places* means a listing of the properties within the city that have been designated as historic sites or districts by action of the city commission.

*Historic district* means a geographically defined area possessing a significant concentration, linkage or continuity of structures, improvements or landscape features united by historic events or aesthetically by plan or physical development, and which area has been designated as an historic district pursuant to procedures described in this article. Such district may have within its boundaries noncontributing buildings or other structures that, while not of such historic and/or architectural significance to be individually designated, nevertheless contribute to the overall visual character of the district.

*Historic site* means any culturally, historically, or architecturally significant property, building, structure, landscape feature, improvement, or archeological site that has been designated as an historic site pursuant to procedures described in this chapter.

*Historic survey* means the results of a systematic process of identifying significant buildings, sites and structures through visual inspection and research in the Florida Master Site File maintained by the Florida Department of State, Division of Historical Resources, Tallahassee, Florida.

*Improvement* means any building, structure, fence, gate, wall, walkway, driveway, park, light fixture, bench, fountain, sign, work of art, earth works, or other manmade objects constituting a physical improvement of real property, or any part of such improvement.

*Landscape feature* means any improvement or vegetation, including, but not limited to, outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture and exterior lighting.

*Multiple property nomination* means a group of related significant properties which share common themes, and are organized by historic context and property types.

*National Register of Historic Places* means a federal listing maintained by the United States Department of the Interior of buildings, sites, structures, objects and districts which have obtained a quality of significance as determined by the Historic Preservation Act of 1966, as amended.

*Noncontributing building, site* or *structure* means one that does not add to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because it was not present during the period of significance; due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period; or it does not independently meet the National Register criteria.

*Ordinary maintenance* or *repair* means any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any physical deterioration or damage of an improvement or any part thereof by restoring it as nearly as practical, to its appearance prior to the occurrence of such deterioration or damage.

*Preservation* the act or process of applying measures necessary to sustain the existing form, integrity, and

PROOFS

materials of an historic property.

*Reconstruction* means the act or process of depicting, by means of new construction the form, features, and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

*Rehabilitation* means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

*Relocation* means the act of preserving an historic structure which cannot remain on its existing site by physically moving it to a new location.

*Restoration* means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time, by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

*Secretary of the Interior's Standards for the Treatment of Historic Buildings* refers to the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Properties, as revised, which provides professional standards for preserving and protecting all cultural resources eligible for listing in the National Register of Historic Places.

*Structure* means a combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

*Undue economic hardship* means a financial burden that would amount to the taking of property without just compensation, or failure to achieve a reasonable economic return in the case of income producing properties.

(Code 1983, § 23-4; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-20. Short title.**

This chapter shall be known and may be cited as the "Historic Preservation Chapter."

(Code 1983, § 23-1; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-21. Scope of regulations.**

This chapter is intended to and shall govern and be applicable to all property located in the incorporated city limits of Fort Pierce, Florida.

~~The historic preservation chapter shall be filed, and it shall address the following sections: The establishment of an historic preservation board with powers and duties; the creation of a process to designate individual sites, districts, and archaeological zones; a process of review for issuing certificates of appropriateness and an appeal process. The city shall also submit the proposed ordinance to the National Register of Historic Places for certification by the National Register to be eligible for the 1981 Economic Recovery Tax Act as amended.~~

(Code 1983, § 23-2; Ord. No. K-72, § 2, 4-16-01)

**Sec. 111-22. Purpose.**

(a) The purpose of this chapter is to promote the health, safety, education, cultural and economic welfare of the public by preserving and protecting properties of historical, cultural, archaeological, aesthetic and architectural merit which serve as visual reminders of the city's cultural, social, economic, political, scientific, religious, and architectural history. Furthermore, it is the purpose of this chapter to strengthen the economy of the city by stabilizing and improving property values in historic areas, combat urban decay through rehabilitation and revitalization, and to encourage quality new construction and developments that are harmonious with neighboring historic structures.

(b) In addition, the provisions of this chapter will assist the city and property owners to be eligible for federal tax incentives, federal and state grant funds and other potential property tax abatement programs for the purpose of furthering historic preservation activities, including, but not limited to, F.S. § 193.503 and the National Register Program.

PROOFS

(c) It is also the purpose of this chapter to foster civic pride in the accomplishments of the past, to protect and enhance the city's attraction to visitors, and to promote the use of individual sites and districts for the education, pleasure and welfare of the people of the city.

(Code 1983, § 23-3; Ord. No. K-72, § 2, 4-16-2001)

**Secs. 111-23--111-47. Reserved.**

## DIVISION 2. ADMINISTRATION AND ENFORCEMENT

### *Subdivision I. In General*

**Sec. 111-48. Appointment, duties of officer.**

The city manager shall appoint a person to serve as historic preservation officer to assist the historic preservation board. The appointee shall be experienced with, and knowledgeable in, architectural history, urban design, local history, landscape materials, site planning and land use regulations. The historic preservation officer shall:

(1) Schedule meetings of the historic preservation board, prepare agendas for the board meetings, and ensure that proper notice is given to the public for all regular and special historic preservation board meetings and hearings.

(2) Prepare designation reports which establish and define the historic significance and character of the proposed designated historic sites and historic districts and all other items as described in section 111-123 et seq., for designation reports under this chapter, and make recommendations to the board regarding designation status of those properties.

(3) Prepare National Register of Historic Places Nominations.

(4) Provide advice, standards, guidelines and procedures for the designation of historic sites and historic districts, and to applicants for certificates of appropriateness.

(5) Upon receipt of a complete application for a certificate of appropriateness for a designated historic site and for properties within an historic district, review such application, which may include a field check of the site and referral to other departments or agencies as necessary to determine any adverse effect upon the public welfare, and make approval/denial recommendations to the board.

(6) Maintain and update an official inventory and map delineating historic sites and photographs to document all officially designated historic sites and historic districts.

(7) Prepare summary reports of all decisions on applications for certificates of appropriateness for designated historic sites and historic districts including criteria and conditions for approval or denial.

(8) Review all final development plans for designated historic sites and historic districts, for compliance with terms and conditions of applicable certificates of appropriateness, prior to issuance of any building permit.

(9) Issue all certificates of recognition for newly designated historic sites, and issue all approved certificates of appropriateness for designated historic sites and for properties within historic districts.

(10) Work with other city departments, public agencies and private groups as required to provide a continuing effort to protect and preserve significant elements of the manmade and the natural environment through public education and encouragement of preservation policies.

(11) Serve as the certified local government coordinator between the historic preservation board and the Florida Division of Historical Resources, Bureau of Historic Preservation.

(12) Promote the awareness of historic preservation and its community benefits to the general public and to school children through promotional materials, guidebooks, tours, informational brochures, educational tools, workshops, lectures, and presentations.

(13) Apply for preservation awards, grants, and actively participate in other preservation programs such as the Floridan historic Marker Program, administered by the Florida Division of Historical Resources,

PROOFS

Bureau of Historic Preservation.

(Code 1983, § 23-15; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-49. Variances.**

The historic preservation board shall have the power to waive, with or without conditions, the setback, off-street parking, height, signage, density and floor-area-ratio requirements of the underlying zoning district of those properties designated by the city commission as historic sites, either individual sites or buildings within districts, where it is deemed appropriate for the continued preservation of the historic site or historic district. The board shall only grant such variances when an application for a certificate of appropriateness has been issued to promote preservation, rehabilitation or restoration. In carrying out this responsibility, the historic preservation board must follow the same procedures specified for the board of adjustment in division 3 of article II of chapter 125 of this Code.

(Code 1983, § 23-61; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-50. Ordinary maintenance and repair.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any improvement which does not involve a change of design, material, appearance, any change in color, or to prevent ordinary maintenance of landscape features.

(Code 1983, § 23-62; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-51. Enforcement of maintenance and repair provisions.**

Where the historic preservation board or board's staff determines that any improvement within a designated historic site or historic district is endangered by lack of maintenance and repair, or that other improvements in visual proximity to an historic site or historic district lack maintenance and repair to such an extent as to detract from the desirable character of the historic site or historic district, such determination shall be reported to the ~~department of building and code enforcement~~ code compliance division.

Code 1983, § 23-63; No. K-72, § 2, 4-16-2001)

**Sec. 111-52. Unsafe structures.**

In the event the building official determines that any structure within a designated historic site or historic district is unsafe pursuant to the ~~Southern~~ standard building code, as adopted by the city, such official shall immediately notify the historic preservation board with a copy of any findings. Where reasonably feasible within applicable laws and regulations, the department of code enforcement shall endeavor to encourage repair of the structure rather than its demolition and shall take into consideration any comments and recommendations by the board. The board may take appropriate action to encourage preservation of any such structure.

(Code 1983, § 23-64; Ord. No. K-72, § 2, 4-16-2001)

~~**Sec. 111-53. Undue economic hardship.**~~

~~Undue economic hardship may only be considered after a property has been designated or after an application for approval to alter or demolish a structure has been denied by the historic preservation board. In any instance where there is a claim of undue economic hardship, the owner may submit, by affidavit, to the board within ten days after the public hearing where an application was denied, the following information:~~

~~(1) For all property.~~

~~a. The amount paid for the property, the date of purchase and the party from whom purchased;~~

~~b. The assessed value of the land and improvements thereon, according to the two most recent assessments;~~

~~c. Real estate taxes for the previous two years;~~

~~d. Annual debt service, if any, for the previous two years;~~

~~e. All appraisals obtained within the previous two years by the owner or applicant in connection with his purchase, financing or ownership of the property;~~

PROOFS

f. Any listing of the property for sale or rent, priced asked and offers received, if any;

g. Any consideration by the owner as to profitable adaptive uses for the property;

(2) For income-producing property.

a. Annual gross income from the property for the previous two years;

b. The assessed value of the land and improvements thereon, according to the two most recent assessments;

c. Annual cash flow, if any, for the previous two years; and

d. Itemized operating and maintenance expenses for the previous two years.

(3) The board may require that an applicant furnish such additional information that they believe to be relevant in the determination of undue economic hardship and may provide, in appropriate instances, that such additional information be furnished under seal.

(Code 1983, § 23-65; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-54. Appeals.**

(a) Within 20 days of the written decision of the board, an aggrieved party may appeal the decision by filing a written notice of appeal and an appeal fee ~~of twenty-five dollars ($25.00)~~ in the amount established by resolution with the city clerk of the city. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within 60 days of the filing of the appeal or the first regular city commission meeting which is scheduled, whichever is later in time, the city commission shall conduct a public hearing at which time they may affirm, modify, or reverse the board's decision. The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration shall be considered by the city. Nothing contained herein shall preclude the city commission from seeking additional information prior to rendering a final decision. The decision of the city commission shall be in writing and a copy of the decision shall be forwarded to the board and the appealing party.

(b) Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the city commission may appeal an adverse decision to the circuit court in and for the county, Florida. The party taking the appeal shall be required to pay to the city clerk the sum ~~of two hundred dollars ($200.00)~~ established by resolution to defray the cost of preparing the record on appeal.

(Code 1983, § 23-66; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-55. Violations.**

Failure by an owner of record or any individual or private or public entity to comply with any provisions of this chapter shall constitute a violation hereof and shall be punishable by civil or criminal penalties including a fine of not more than $100.00 per day for each day the violation continues. Any person who carries out or causes to be carried out any work in violation of this chapter shall also be required to restore the subject improvement, landscape feature or site, either to its appearance prior to the violation or in accordance with a certificate of appropriateness approved by the historic preservation board.

(Code 1983, § 23-67; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-56. Incentives.**

All properties designated as individual sites or as designated properties within a district shall be eligible, upon application by the owner, for any available financial assistance set aside for historic preservation by the city contingent on the availability of funds and the scope of the project as described in the application.

(Code 1983, § 23-68; Ord. No. K-72, § 2, 4-16-2001)

~~**Sec. 23-69. Notification to division of pending amendments.**~~

~~The Florida Department of State, Division of Historical Resources shall be provided with any proposed amendment of this chapter for review and comment at least 30 days prior to final adoption.~~

~~(Code 1983, § 23-69; Ord. No. K-72, § 2, 4-16-2001)~~

PROOFS

**Secs. 111-57--111-87. Reserved.**

*Subdivision II. Historic Preservation Board*

**Sec. 111-88. Established.**

An historic preservation board is hereby created and established in and for the city. The board is hereby vested with the power, authority and jurisdiction to recommend designations, regulate and administer historical, cultural, archaeological and architectural resources in the city, as prescribed by this chapter under the direct jurisdiction and legislative control of the city commission.

(Code 1983, § 23-21; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-89. Composition, qualification of members.**

(a) *Membership.* The historic preservation board shall consist of no fewer than seven members appointed by the city commission. To the extent available within the city, the commission shall appoint professional members from the disciplines of architecture, history, architectural history, planning, archaeology, real estate, law, engineering, construction, or any other historic preservation related disciplines such as urban planning, American studies, American civilization, cultural geography and cultural anthropology. Alternatively, to the extent that professional individuals in such disciplines are not available, there may instead be appointed lay individuals that have substantial experience, interest, or knowledge in the fields mentioned above.

(b) *Intent.* It is the intent of this section that members of the board shall be appointed on the basis of civic pride, integrity, and interest in the field of historic preservation. Board members shall be persons of mature and ethical judgment and background, having the ability and desire to act in the public interest and having the ability to make and form an equitable decision concerning the preservation and protection of the cultural environment.

(c) *Residency requirements; terms of office.* Each member of the board shall be a resident of the city or operate a business in the city during the term of appointment and shall be appointed to a term of three years. Members shall hold office until their successors have been duly appointed and qualified.

(d) *Special advisers.* Special advisers may be appointed by the city commission upon recommendation by the historic preservation board. The board may also seek expertise on proposals or matters requiring evaluation by a profession not represented on the board.

(e) *Alternate.* The city commission shall also appoint two alternate members meeting the same qualifications as a member. The terms of office of alternate members shall be three years~~, except that the first two shall serve respectively for terms of: One for two years and one for three years. Thereafter, as any term expires, the appointment shall be for three years~~. An alternate member shall sit on the board when a regular member is not in attendance, whether such an absence is excused or not. Alternate members shall attend scheduled board meetings to be able to serve if necessary. If a board meeting commences with an alternate being seated for an absent board member, the alternate shall remain seated in the regular member's stead for the entire meeting. An alternate that is not formally seated in the stead of an absent member shall not participate in any discussions or deliberations of matters before the board. If an alternate shall on two successive occasions be unable to sit for a meeting as a member of the board when asked to do so, he shall be deemed to have resigned his position as an alternate member of the board.

~~Reserved.~~

(Code 1983, § 23-22; Ord. No. K-72, § 2, 4-16-2001; Ord. No. L-95, § 1, 11-16-2009; Ord. No. L-126, § 3, 7-6-2010)

**Sec. 111-90. Appointment procedure.**

Prior to the appointment of any board member, the city shall publish a notice concerning the opening in a newspaper of general circulation in the city so as to solicit qualified and interested individuals. Vacancies shall be filled within 60 days except that an extension of 60 additional days may be requested of the state historic preservation office. Appointments will be made by the city commission after recommendations have been made by the historic preservation officer.

(Code 1983, § 23-23; Ord. No. K-72, § 2, 4-16-2001)

PROOFS

**Sec. 111-91. Terms.**

(a) ~~The initial terms of three of the first seven appointees shall expire two years following appointment. The initial terms of the remaining appointees shall be for a full, three year term.~~ *Members shall be eligible for reappointment*. All appointments after the board is first established shall be for a three-year term.

(b) *Any member may be removed for cause by a majority vote of the city commission*. Appointments for replacement of any member due to death, resignation or removal shall be made by the city commission for the un-expired term. ~~Upon failure of a board member, without excuse, to attend three consecutive meetings, the commission may declare the membership vacant and shall arrange for a new appointment.~~

(Code 1983, § 23-24; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-92. Organization.**

The members of the historic preservation board shall elect members to serve as board chair and vice chair, for a period of one year. The board may also create and fill such other offices as it may deem desirable. Nothing shall prevent the board from naming a chair for successive terms. The historic preservation officer or such officer's representative shall serve as staff liaison to the board with no vote. A secretary may be present to record minutes, take roll, swear in speakers at public hearings, and shall also have no vote.

(Code 1983, § 23-25; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-93. Meetings, records.**

(a) *Meetings.* The historic preservation board shall be required to hold regular meetings but may also hold special meetings as the board may determine, or at the call of the chair or the officer thereof, for consideration of business before the board. The board shall hold a minimum of four regular meeting per year. All meetings of the board shall be publicly announced and shall be open to the public. Meetings will have a previously advertised agenda. The time and place of the meetings, and the order of business and procedure to be followed at meetings, shall be as prescribed by the board, and shall be available for public inspection.

(b) *Voting.* All board decisions will be made in a public forum. A majority of the board shall constitute a quorum and an affirmative vote equal to a majority of the full board shall be necessary for the adoption of any motion thereof. No member of the board shall vote on any matter that may affect the property, income or business interests of that member. Any member who abstains from voting due to a conflict of interest shall not be considered as part of the total membership for that vote.

(c) *Minutes.* The board shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions. Such records shall be filed in the office of the secretary of the board and shall be open for public inspection.

(Code 1983, § 23-26; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-94. Compensation.**

The members of the historic preservation board shall serve without compensation. When necessary, persons serving on the board may attend educational meetings or workshops to develop a special interest, expertise, experience or knowledge in preservation, architecture, or quasi-judicial boards. Board members may be reimbursed for these expenses, and for other expenses necessarily incurred in the performance of their duties, subject to the prior approval of the city manager.

(Code 1983, § 23-27; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-95. Funding.**

The city commission shall appropriate funds in the budget to the historic preservation board for expenses necessary in the conduct of its work. The historic preservation board may, in order to accomplish the purposes and activities required by this chapter, recommend to the city manager to expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants and other sources, provided acceptance of loans or grants shall be approved by the city commission.

(Code 1983, § 23-28; Ord. No. K-72, § 2, 4-16-2001)

PROOFS

**Sec. 111-96. Rules and regulations.**

The historic preservation board shall make and prescribe such rules and regulations as are reasonably necessary and appropriate for the proper conduct of business. No such rules and regulations shall become effective unless or until a public hearing has been held before the board upon the proposed rules and regulations, and any amendments or modifications thereto, and the same has been approved by the city commission and filed with the city clerk. Upon approval by the city commission, such rules and regulations shall have the force and effect of law within the city. The historic preservation officer, with advice and consent of the board, shall devise forms for use by applicants in compliance with the provisions of this chapter.

(Code 1983, § 23-29; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-97. Functions, powers and duties.**

The historic preservation board, in addition to such other powers, duties and authority, as may be set forth elsewhere in this Code or in any other ordinance of the city, shall have the following powers and duties:

(1) Maintain and update files from any previous historic survey within the city for the purpose of identifying those sites, districts and zones of special historic, aesthetic, architectural, archaeological, cultural, or social value or interest. The board shall endeavor to improve and expand the survey with additional sites, documentary information, oral histories, and other such materials as may become available; and to periodically re-evaluate the survey to determine whether changing times and values warrant recognition of new or different areas of significance.

(2) Recommend to the city commission properties for designation as historic sites and historic districts, and monitor the administration and upkeep of the local register of historic sites and historic districts.

(3) As a certified local government, participate in the National Register Program for properties within its jurisdiction as directed by the 36 CFR part 61, and provisions of this chapter.

(4) Serve as a quasi-judicial instrument to approve or deny certificates of appropriateness pursuant to division 4 of this article.

(5) Recommend zoning and building code amendments, pursuant to section 125-313(b).

(6) Recommend as appropriate that certain provisions of the zoning code be varied, waived, or superseded when appropriate as a means of encouraging historic preservation.

(7) Make recommendations to the city commission concerning facade easements and the imposition of other restrictions, and the negotiations of historical property contracts for the purposes of historic preservation.

(8) Maintain a record of historically or archaeologically significant sites, districts or zones within the city. All inventory materials shall be compatible with the Florida Master Site File. Inventory materials shall be available to the public upon request, and copies of inventory materials shall be provided to the state historic preservation office.

(9) Increase public awareness of the value of historic preservation by developing and participating in public information programs.

(10) Make recommendations to the city commission concerning the utilization of grants from federal and state agencies or private groups and individuals, and utilization of city funds to promote the preservation of archaeologically, historically and aesthetically significant sites, districts and zones.

(11) Evaluate and comment upon decisions of other public agencies affecting the physical development and appearance of archeologically, historically and aesthetically significant sites, districts and zones.

(12) Contact public and private organizations and individuals and endeavor to arrange intervening agreements to ensure preservation of archaeologically, historically or aesthetically significant sites, districts and zones for which demolition or destruction is proposed.

(13) In the name of the city, and subject to and with the approval of the city commission, apply for, solicit, receive or expend any federal, state, or private grant, gift or bequest of any funding, property or interest in property, in furtherance of the purposes of historic, archaeological, and cultural preservation.

PROOFS

(14) Approve historic markers and plaques and issue certificates of recognition to designated historic sites and historic districts within the city.

(15) Advise the city commission on all matters related to the use, administration and maintenance of city-owned designated historic sites and historic districts.

(16) Consider the issuance of design guidelines for historic properties and districts to be used in addition to the Secretary of the Interior's Standards of Rehabilitation.

(17) Recommend if and when appropriate to the commission that the commission consider adoption of an ordinance allowing ad valorem tax exemptions to historic properties, subject to requirements of this chapter and F.S. § 196.1997.

(18) Recommend if and when appropriate to the commission that the commission consider adoption of an ordinance providing for the assessment of historic properties that are used for commercial or certain nonprofit purposes, as provided by F.S. § 193.503.

(19) Coordinate with the State of Florida's Division of Historical Resources Certified Local Government program by satisfying the following requirements:

a. The division shall be given 30 days' prior notice of all meetings and within 30 days following such meetings the division shall be provided with the minutes and record of attendance of both the board and the public.

b. The division shall be notified of any change of board members within 30 days of their appointment.

c. Notify the state historic preservation officer immediately of all new historic designations or alterations to existing designations.

d. Any amendments to the ordinance shall be submitted to the state historic preservation officer for review and comment at least 30 days prior to adoption.

e. The division of historical resources shall be provided with an annual report by November 1 covering activities of the previous October 1 through September 30 and shall include the following information:

1. Any changes in the board's rules of procedure;
2. All new National Register listings;
3. All new local historic designations and alterations to existing designations;
4. Any changes to board memberships and a copy of their resumes;
5. Revised resumes of board members as appropriate;
6. Any amendments to this chapter;
7. A review of survey and inventory activity with a description of the system used;
8. A program report on each grant-assisted activity; and
9. Number of projects reviewed.

(Code 1983, § 23-31; Ord. No. K-72, § 2, 4-16-2001)

**Secs. 111-98--111-122. Reserved.**

DIVISION 3. DESIGNATION OF HISTORIC SITES

**Sec. 111-123. Criteria.**

(a) Consistent with the criteria established by the National Register of Historic Places, the board shall recommend for designation places, buildings, structures, landscape features, archaeological sites and other improvements as individual sites, districts or archaeological zones that are significant in the city's history, architecture, archaeology or culture and possess integrity of location, design, setting, materials, workmanship or association; and meets one or more of the following criteria:

PROOFS

(1) Significant event. Are associated with events that have made significant contributions to the pattern of history in the community, the county, the state or the nation;

(2) Significant person. Are associated with the lives of persons significant in our past;

(3) Architectural significance. Embodies the distinctive characteristics of an architectural type, period, style or method of construction; or the work of a prominent designer or builder; or contains elements of design, detail, materials, or craftsmanship of outstanding quality; or that represents a significant innovation or adaptation to the South Florida environment; or represents a distinguishable entity whose components may lack individual distinction;

(4) Archaeological significance. Have yielded, or are likely to yield information in history or prehistory;

(5) Is listed in the National Register of Historic Places;

(6) Aesthetic significance. Is a part of or related to a landscape, park, environmental feature or other distinctive area, and should be developed or preserved according to a plan based upon an historic, cultural, or architectural motif; or because of its prominent or spacial location, contrast of siting, age, or scale is an easily identifiable visual feature of a neighborhood or the city and contributes to the distinctive quality of such neighborhood or the city.

(b) For a multiple property nomination, eligibility will be based on the establishment of historic contexts, or themes which describe the historical relationship of the properties.

(c) Criteria considerations. Ordinarily, cemeteries, birth places, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures which have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved significance within the past 50 years shall not be considered eligible for the city register of historic places. However, such properties will qualify if they are integral parts of districts which do meet the criteria or if they fall within the following categories:

(1) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with an historic person or event;

(2) A birthplace or grave of an historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life;

(3) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

(4) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and no other building or structure with the same association has survived;

(5) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance;

(6) A property achieving significance within the past 50 years if it is of exceptional importance; or

(7) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

(Code 1983, § 23-36; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-124. Procedure for historic designation.**

Properties which meet the criteria for local historic sites and local historic districts set forth in section 111-123 shall be designated according to the following procedures:

(1) *Petition of the owner*. The owner of any property in the city may petition this board for designation of their property as an individual site, district or archaeological zone by submitting a preliminary application for historic designation to the historic preservation officer. Nothing in this subsection shall be deemed to restrict the power of the board to initiate the designation process pursuant to this section. If the board is

PROOFS

initiating designation, the preliminary application may be submitted concurrently with the full application at the public hearing.

(2) *Directive of the board.* The board shall either accept or deny the application. By accepting the application, the board must set a date for a public hearing and shall direct staff to complete the designation report and notify the proper parties of the public hearing.

(3) *Designation reports.* Prior to the designation of an individual site, a district, or an archaeological zone, an investigation and designation report must be prepared by the historic preservation officer and filed with the board. All reports must address the following:

a. Legal description of the property.

b. The historical, cultural, architectural or archaeological significance of the property or how the property fulfills the criteria for designation.

c. Boundaries for individual historic sites and a recommendation of boundaries for districts and archaeological zones. When a district is recommended, the report must identify those properties which are not historically or architecturally contributing to the district. District boundaries should be drawn to include properties which individually do not contribute to the historic character of the district, but which require regulation in order to control potentially adverse influences on the character and integrity of the district. The standards for regulating such noncontributing properties shall provide that a certificate of appropriateness shall be required for alterations and new construction on such properties.

d. Zoning regulations. Every historic site and historic district designation report may include detailed zoning regulations made to be compatible with its designation. Such regulations may be designed to supplant or modify any element of existing zoning regulations, including, but not limited to, use, floor area, ratio, density, height, setbacks, parking, minimum lot size and transfer of development rights, or create any additional regulations provided for in this section. The zoning amendment may identify individual properties, improvements, landscape features, or sites or categories of properties, improvements, landscape features or sites for which different regulations, standards and procedures may be required.

e. All reports shall take into consideration current conditions of the property and how the owners have maintained the property.

f. The report shall also contain a location map and photographs of all exterior surfaces (and interior if applicable).

g. Optional designation of interiors. Normally interior spaces shall not be subject to regulation under this section; however, in cases of existing structures having exceptional architectural, artistic or historical importance, interior spaces which are customarily open to the public may be specifically designated. The designation report shall describe precisely those features subject to review and shall set forth standards and guidelines for such regulations.

h. Designation reports shall also include a copy of any survey materials related to such property, the property appraiser's records of such property, and a copy of the public hearing newspaper advertisement.

i. Moratorium. Upon the filing of a designation report by the staff, the owner of the real property which is the subject matter of the designation report or any individual or private or public entity shall not:

1. Erect any structure on the subject property.

2. Alter, restore, renovate, move or demolish any structure on the subject property until such time as final administrative action, as provided by this chapter is completed.

(4) *Notifications.*

a. Notification of owners. For each proposed designation of an historic site or historic district, the

PROOFS

board is responsible for mailing a copy of the designation report and a notice of public hearing to all property owners of record whose properties are located within the boundaries of the designation. This notice shall serve as notification of the intent of the board to consider designation of the property at least 30 days prior to a public hearing held pursuant to this section. Such notice shall be by certified mail, return receipt requested, 30 days prior to any public hearing, and addressed to the owner of the property or properties in question at the address listed in the tax collector's office for tax notices, and at any other address furnished to the department by such owner, provided that if the notice is returned as unclaimed or refused, notice may then be provided by First Class mail with a properly executed proof of mailing or affidavit confirming the First Class mailing.

b. Notification of public hearing. For each historic site and historic district proposed for designation, a public hearing shall be held within 60 days from the date a designation report has been presented to the board. Such notice shall be given by publishing a copy thereof in a newspaper of general circulation in the city and the county at least ten days prior to the hearing. All interested persons shall be given an opportunity to be heard at the public hearing on the proposed designation.

c. Notification to community redevelopment agency. Upon initial receipt of a proposal for designation, notification of such proposal shall be furnished to the community redevelopment agency in the event the proposal involves properties within the existing community redevelopment area. The community redevelopment agency may submit comments or make recommendations to the historic preservation board concerning the designation of such property prior to the date of the public hearing.

d. Notification shall also be given to the ~~Building and Code Department, City of Fort Pierce.~~ building department and code compliance division.

(5) *Decision of the board.* Within seven days of a public hearing on a proposed individual site or archaeological zone, the board shall make a decision to approve, deny or amend the proposed designation and shall forward their recommendation to the city commission for final approval.

(6) *Recommendations of the board.* For the designation of a district, or for the designation of individual sites that require a modification or variance in the zoning, the board must first send its recommendations to the city planning board for their review. The city planning board shall then send their recommendations along with the preservation board's to the city commission for final approval.

(7) *Decision of the city commission.* The city commission shall either approve, deny or approve with conditions the designation, and shall designate the property by resolution. The following parties shall be notified of its actions with a copy of the resolution:

a. The ~~building and code department~~ building department and code compliance division;

b. The city clerk, so that they may provide the resolution to the circuit clerk of the courts office for the purpose of recording such designation in the public record;

c. Owners of the affected property and other parties having an interest in the property, if known; and

d. Appropriate county and state officials for certified local government requirements.

(8) *Amendment or rescission.* The city commission may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.

(9) *Appeal of designation.* A party aggrieved by a designation decision may appeal such decision to the city commission in the manner provided for in this chapter.

(Code 1983, § 23-37; Ord. No. K-72, § 2, 4-16-2001; Ord. No. K-467, § 1, 5-7-2007)

**Sec. 111-125. Nominations to the National Register of Historic Places.**

As part of the duties under the certified local government program, the historic preservation board shall receive all nominations of local property to the National Register of Historic Places following the regulations of the state historic preservation office.

(1) The board shall give notice to the owner of the property at least 30 days but not more than 75 days prior

PROOFS

to the historic preservation board meeting at which the nomination will be considered. The board shall also obtain a written opinion from the mayor and the chairperson of the city commission as to whether or not each property should be nominated to the National Register, and these recommendations shall be given to the board within 30 days.

(2) The board shall obtain comments from the public that shall be included in the report making a recommendation. Objections to being listed in the National Register by property owners must be notarized and filed with the historic preservation office. Within 30 days after its meeting the board shall forward to the state historic preservation officer its action on the nomination and the recommendations of the local officials. Appropriate local officials, the owner and the applicant shall be notified of the board's action.

(3) The state historic preservation officer will take further steps on the nomination in accordance with federal and state regulations. If either the board or the local officials or both support the nomination, the state historic preservation officer will schedule the nomination for consideration by the state review board for the National Register at its next regular meeting. If both the board and the local officials recommend that a property not be nominated to the National Register, the state historic preservation officer will take no further action on the nomination unless an appeal is filed with the state historic preservation officer.

(Code 1983, § 23-38)

**Secs. 111-126--111-148. Reserved.**

DIVISION 4. CERTIFICATE OF APPROPRIATENESS

**Sec. 111-149. Required.**

No building, structure, improvement, landscape feature, or site within the city, which has been designated an historic site or historic district, shall be erected, altered, restored, rehabilitated, excavated, moved or demolished until an application for a certificate of appropriateness regarding any features, landscape features, or site improvements has been submitted and approved pursuant to the procedures in this chapter. Features shall include, but not be limited to, the architectural style, scale, massing, siting, general design and general arrangement of the exterior of the building or structure, including the type, style and color of roofs, windows, doors and appurtenances. Architectural features shall include when applicable, interior spaces where interior designation has been given pursuant to this chapter. Landscape features and site improvements shall include, but shall not be limited to, site re-grading, subsurface alterations, fill, paving, landscaping, walls, fences, courtyards, signs and exterior lighting. No certificate of appropriateness shall be approved unless architectural plans for such construction, alterations, excavation, restoration, rehabilitation, relocation or demolition are approved by the historic preservation board.

(Code 1983, § 23-41; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-150. Forms and fees.**

Applications for certificates of appropriateness must be made on forms approved and provided by the historic preservation board and must be submitted with a ~~ten dollar ($10.00)~~ processing fee in the amount established by resolution (payable to the city) to the historic preservation officer.

(Code 1983, § 23-42; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-151. Delegation of review authority.**

The historic preservation board may delegate to the historic preservation officer the authority to review and grant certificates of appropriateness without referral to the board and without a public hearing in the case of certain applications, which would normally be subject to board review, which the board shall determine in advance.

(1) Delegation matrix for administrative approval. The board may delegate to the historic preservation officer the authority to administratively review and grant a certificate of appropriateness without formal action by the board. This delegation of review shall be depicted in an historic preservation board certificate of appropriateness approval matrix (the matrix). The matrix will indicate whether such features may be administratively reviewed or if board review is required. The board shall recommend changes to the historic preservation board certificate of appropriateness approval matrix at any time as

PROOFS

needed, and any changes shall be approved by the city commission.

(2) If the historic preservation officer does not grant administrative approval of an application, the application will be referred to the board for review. Any applicant may request referral to the board rather than administrative review. An application referred by the division or an applicant will be considered in accordance with the application review schedule contained in this section.

| *Fort Pierce Certificate Of Appropriateness Approval Matrix* | | | | |
|---|---|---|---|---|
| S = Review by Historic Preservation Officer | | | | |
| | Matrix | | | |
| | Contributing | | Non-contributing | |
| Action | Staff | Board | Staff | Board |
| Additions | | | | |
| 1. Not visible from the street and 20 percent or less of the existing building's square footage | | X | S | |
| 2. All other additions | | X | | X |
| Canvas awnings | | | | |
| 1. On main facade | | X | | X |
| 2. All other facades | | S | | S |
| Carports (addition or enclosure) | S | | S | |
| Decks, patios, pergolas | | | | |
| 1. With a structure | | X | S | |
| 2. Without a structure | S | | S | |
| 3. Not visible from right-of-way | S | | S | |
| Demolitions | | | | |
| 1. Ten percent or less of non-historic addition | S | | S | |
| 2. All other | | X | | X |
| Doors/garage doors | | | | |
| 1. Same materials, style and size | S | | S | |
| 2. Change in materials or style | S | | S | |
| 3. Change in openings on the main facade | | X | | X |
| 4. Change in openings on a secondary facade | | X | S | |
| Driveways and sidewalks | S | | S | |
| Exterior wall finish | | | | |
| 1. Removal of not historic vinyl/aluminum siding | S | | S | |
| 2. All other finishes (including painting of an originally unpainted surface) | | X | S | |
| Landscaping | S | | S | |
| Mechanical systems causing an effect | S | | S | |
| New construction | | X | | X |

PROOFS

| | | | | |
|---|---|---|---|---|
| Painting | S | | S | |
| Parking | S | | S | |
| Pools | | X | S | |
| Porches | | | | |
| 1. Open an enclosed porch | S | | S | |
| 2. Enclose a porch on the main facade | | X | | X |
| 3. Enclose a porch on a secondary facade | | | S | |
| Relocation | | X | S | |
| Roof | | | | |
| 1. Same material and shape | S | | S | |
| 2. Change in material | S | | S | |
| 3. Change in shape | | X | | X |
| Signs | S | | S | |
| Sheds | | | | |
| 1. Custom designed for the site | S | | S | |
| 2. Prefabricated | | X | | X |
| Shutters | | | | |
| 1. Removable Shutters | S | | S | |
| 2. Permanent Shutters (visible) | S | | S | |
| 3. Permanent Shutters (not visible) | S | | S | |
| Site walls and fences | | | | |
| 1. Walls or fences behind or equal to front facade | S | | S | |
| 2. Walls or fences in front of front facade | | X | | X |
| Windows | | | | |
| 1. Same materials, style and size | S | | S | |
| 2. Change in materials or style | S | | S | |
| 3. Change in openings on the main facade | | X | | X |
| 4. Change in openings on a secondary facade | | X | S | |
| Zoning-change in use | | X | | X |

PROOFS

(Code 1983, § 23-43; Ord. No. K-72, § 2, 4-16-2001; Ord. No. L-77, § 1, 4-6-2009)

**Sec. 111-152. Pre-application conference.**

Before submitting an application for a certificate of appropriateness, an applicant may confer, at such applicant's election, with the historic preservation officer to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and historic data. The purpose of such conference is to further discuss and clarify preservation objectives and design guidelines. In no case, however, shall any statement or representation made prior to completion of official application review be binding on the city.

(Code 1983, § 23-44; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-153. Guidelines for review and issuance.**

(a) *Standards adopted.* The U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties are hereby adopted as the standards by which applications for any certificate of appropriateness are to be measured and evaluated. In adopting these guidelines, it is the intent of this chapter to promote the proper maintenance, restoration, preservation, rehabilitation, or reconstruction appropriate to the property, and compatible contemporary designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites and streetscapes. From time to time, the board may adopt additional standards to preserve and protect special features unique to the city. Based on the Secretary of the Interior's Standards for the Treatment of Historic Properties, the designation report, a complete application, any additional plans, drawings, photographs, and samples of materials to fully describe the proposed project, the historic preservation board may approve or deny the application for a certificate of appropriateness.

(b) *Green energy design guidelines for historic structures and districts.* The following process shall be followed to implement proposed energy efficient modifications to historic structures. The regulatory tool to apply this section shall be the Sustainable Preservation: Assessment and Design Tool, which includes a detailed assessment chart and specific design standards as adopted by the city commission, or thereafter amended to integrate new design options necessitated by changing technologies.

(1) *Assess the functionality of historic components of a building and/or district.* Prior to proposing exterior modifications to enhance the efficiency of an historic building, the existing historic components of the structure shall be assessed for functionality and condition. An assessment tool for property owners' use shall be available at the planning department. This assessment shall be presented to the historic preservation officer with an application for a certificate of appropriateness for the proposed modifications.

(2) *Identify the most appropriate new technology for additional energy efficiency.* A three-tier system of green energy design guidelines shall provide thresholds for review and approval of proposed modifications, consisting of the following:

a. *Tier one. Maintenance, repair, and upgrades of historic design components.* Tier one modifications include interior alterations and maintenance and repair of original materials to maximize their inherent energy-efficiency. Tier one alterations do not require a certificate of appropriateness unless designated for interior historic significance, however, owners are encouraged to schedule a voluntary consultation with the historic preservation officer to identify possible issues prior to any work.

b. *Tier two. Historically-appropriate sustainability upgrades.* Tier two modifications impact the exterior of the historic structure but may be appropriate if the proposed work meets the Secretary of the Interior's Standards for Rehabilitation. These standards include review of the design of the structure, historic designation, site, surrounding landscape and design of surrounding structures, as well as the proposed type, material, design, and color of the alteration. Two alterations can be approved with an administrative certificate of appropriateness.

c. *Tier three. Historically-inappropriate sustainability upgrades.* Tier three modifications propose invasive changes to an historic structure or district, are frequently not consistent with the Secretary of the Interior's Standards for Rehabilitation and, as such, are not recommended. Tier three options require approval through a certificate of appropriateness issued by the historic preservation board. Options listed under this tier shall not receive a staff recommendation for approval unless all reasonable efforts have been made to address sustainability with maintenance and upgrades found under tier one and tier two.

(Code 1983, § 23-45; Ord. No. K-72, § 2, 4-16-2001; Ord. No. L-214, § 1, 7-5-2011)

**Sec. 111-154. Time limit and decision of board.**

The historic preservation board shall act upon an application within 60 days of receipt of a completed application, unless it is a certificate which may be issued by the historic preservation officer, in which case the certificate may be issued within ten days. The board shall approve, approve in modified form, or deny an application.

PROOFS

The board may suspend action on the application for a period not to exceed 30 days in order to seek technical advice from outside its members or to meet further with the applicant to revise or modify the application. The findings of the board shall be mailed to the applicant within ten days of the board's decision accompanied by a statement in full regarding the board's decision. In the event the board denies any completed application the applicant may appeal the board's decision to the city commission in the manner provided for in this chapter.

(Code 1983, § 23-46; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-155. Records.**

The decision of the historic preservation board shall be issued in writing. Evidence of approval of the application shall be the issuing of a certificate of appropriateness by the board or the board's designated staff to the applicant. Notice in writing of the board's decision shall be given to the applicant and the director of the department of development. When an application is denied, the board's notice shall provide an adequate written explanation of its decision. The board shall keep a written record showing its action on each question considered.

(Code 1983, § 23-47; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-156. Changes in approved work.**

Any change in work proposed subsequent to the issuance of a certificate of appropriateness shall be reviewed by the board's staff. If the board's staff finds that the proposed change does not materially affect the historic character, or the proposed change is in accord with approved guidelines, standards, and the certificate that was previously approved, staff may approve the change and amend the current certificate of appropriateness. If the proposed change is not in accordance with guidelines, standards, or the certificate of appropriateness previously approved by the board, a new certificate of appropriateness shall be required.

(Code 1983, § 23-48; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-157. Demolition.**

Review of any certificate of appropriateness for demolition shall be in accordance with criteria set forth in this section. Denial of an application for demolition shall be evidenced by written order detailing the public interest which is sought to be preserved.

(1) The board may grant a certificate of appropriateness to demolish with a deferred effective date of up to 18 months from the date of the board's decision at a public hearing. The effective date shall be determined by the board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition deferral period, the board may take such steps as it deems necessary to preserve the structure in accordance with the purposes of this chapter. Such steps may include, but shall not be limited to, consultation with civic groups, public agencies and interested persons, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features. After the specified expiration date of the deferred certificate of appropriateness a demolition permit shall be issued if requested by the applicant.

(2) In connection with any certificate of appropriateness for demolition of buildings or improvements, the board may encourage the salvage and preservation of building materials or architectural details and ornaments, fixtures and the like for re-use in restoration of other historic properties. The board may also require, at the owner's expense and prior to demolition, the recording of the building for archival purposes by photographs.

(3) In addition to all other provisions of this chapter, the board shall consider the following criteria in evaluating applications for a certificate of appropriateness for demolition of designated sites or buildings within a designated historic district:

   a. Is the structure of such interest or quality that it would reasonably meet national, state or local criteria for designation as a significant historic or architectural site or structure?

   b. Is the structure of such design, craftsmanship or material that it could be reproduced only with great difficulty, ~~or~~ expense, or undue economic hardship?

PROOFS

c. Is the structure one of the last remaining examples of its kind in the city, county or region?

d. Does the structure contribute significantly to the historic character of a designated district?

e. Would retention of the structure promote the general welfare of the city by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage?

f. Are there definite plans for re-use of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?

(4) Affirmative maintenance. A property owner shall not permit a structure or a structure within an historic district to fall into a state of disrepair which may result in the deterioration of exterior appurtenance or architectural features so as to produce or tend to produce, in the judgment of the historic preservation board, a detrimental effect upon the character of the district as a whole or the life and character of the structure in question. If the historic preservation board finds a designated historic structure has been deliberately neglected, the board may refer the property to the department of building and code enforcement for immediate attention and may be subject to code violation fines in addition to the penalties in accordance with section 23-67.

(Code 1983, § 23-49; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-158. Moving existing structures.**

A designated structure or one which is located in an historic district, may not be relocated except upon approval of a certificate of appropriateness. In considering such certificate the board shall determine whether any reasonable alternative is available for preserving the improvement or structure on its original site and whether the proposed relocation-site is compatible with the historic and architectural integrity of the improvement or structure.

(Code 1983, § 23-50; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-159. Removal or destruction of existing landscape features.**

(a) No certificate of appropriateness shall be granted for removal, relocation, concealment or effective destruction by damage of any landscape features or sites especially designated as significant within the boundaries of an historic site or historic district unless one or more of the following conditions exist:

(1) The designated landscape feature or site is located in the buildable area or yard area where a structure may be placed and unreasonably restricts the permitted use of the property;

(2) The designated vegetation is inappropriate in an historical context or otherwise detracts from the character of a district;

(3) The designated vegetation is diseased, injured or in danger of falling and reasonably interferes with utility service, creates unsafe vision clearance or conflicts with other applicable laws and regulations.

(b) As a condition for issuance of the certificate of appropriateness, the applicant may be required to relocate or replace designated vegetation.

(Code 1983, § 23-51; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-160. Certificate to dig.**

(a) Within an archaeological zone, new construction, filling, digging, the removal of trees, or any other activity that may alter or reveal an interred archaeological site shall be prohibited without a type of certificate of appropriateness called a certificate to dig. All applications to the city involving new construction, large-scale digging, the removal of trees or any other activity that may reveal or disturb an interred archaeological site, in an archaeological zone shall require a certificate to dig before approval. The certificate to dig may be made subject to specified conditions, including, but not limited to, conditions regarding site excavation. In order to comply with this requirement, the city may require the applicant to conduct an archaeological excavation by an archaeologist approved by the city. The excavation shall take place during the time of the approval of the certificate to dig until the effective date thereof. The review and notification time limits for these certificates shall be the same as for a regular certificate of appropriateness.

PROOFS

(b) Approved certificates to dig shall contain an effective date not to exceed 60 days at which time the proposed activity may begin, unless the board decides to designate the site in question as an individual site or district pursuant to this chapter in which all the rules and regulations pertaining to the designation process shall apply from the date the designation report has been filed.

(Code 1983, § 23-52; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-161. Building permits not to be issued.**

No building permit shall be issued by the building official which affects any designated property in the city without a certificate of appropriateness.

(Code 1983, § 23-53; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-162. Compliance of work with certificate standards.**

All work performed pursuant to the issuance of any certificate of appropriateness shall conform to the requirements of the certificate. The city manager or the ~~director of building and code enforcement~~ code compliance division shall designate an appropriate official to assist the board by making necessary inspections in connection with enforcement of this chapter and the inspector shall be empowered to issue a stop-work order if performance is not in accordance with the issued certificate. No work shall proceed as long as a stop-work order continues in effect. Copies of inspection reports shall be furnished to the board and copies of any stop-work orders shall be furnished to both the board and the applicant. The building official and staff for the board shall be responsible for ensuring that any work not in accordance with an issued certificate of appropriateness shall be corrected to comply with the certificate of appropriateness prior to withdrawing the stop-work order.

(Code 1983, § 23-54; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-163. Emergency, temporary measures.**

For the purpose of remedying emergency conditions determined to be dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction or other repairs to a building or site, pursuant to an order of a government agency or a court of competent jurisdiction. The owner of a building damaged by fire or natural calamity shall be permitted to stabilize the building immediately without board approval, and to rehabilitate it later under the normal review procedures in this chapter.

(Code 1983, § 23-55; Ord. No. K-72, § 2, 4-16-2001)

**Sec. 111-164. Power of review.**

The board shall have the authority to review applications for certificates of appropriateness for all property in the city, however owned, by either private or public parties. The purpose of this chapter shall apply equally to plans, projects or work executed or assisted by any private party, governmental body or agency, department, authority or board of the city, county, or state.

(Code 1983, § 23-56; Ord. No. K-72, § 2, 4-16-2001)

**Secs. 111-165--111-181. Reserved.**

## ARTICLE III. HISTORIC PRESERVATION TAX EXEMPTION

### DIVISION 1. GENERALLY

**Sec. 111-182. Short Title.**

This article shall be known and may be cited as the "Historic Tax Exemption Ordinance."

(Code 1983, § 23-100; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-183. Definitions.**

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

*Assessed value* means the total value of a tax parcel, excluding the value of the land, as determined by the

PROOFS

property appraiser, and shown on the property tax bill sent to the owner of record by the city.

*Contributing property* means a building, site, structure, or object which adds to the historical architectural qualities, historic associations, or archaeological values for which a district is significant because:

(1) It was present during the period of significance of the district, and possessed historic integrity reflecting its character at that time;

(2) Is capable of yielding important information about the period; or

(3) It independently meets the National Register of Historic Places criteria for evaluation set forth in 36 CFR part 60.4, incorporated by reference.

*Eligible property* means a property designated as an historic landmark by the historic preservation board or a contributing property within the boundaries of an historic district designated by the historic preservation board. Before an historic rehabilitation tax exemption is approved by the city commission, a property must already be an eligible property (already designated.)

*Exemption covenant* means the historic preservation property tax exemption covenant, a form which complies with applicable state statutes and accompanying rules, an agreement made between the property owner and the city, indicating that the owner agrees to maintain and repair the property so as to retain the architectural and historical integrity of the property during the exemption period.

*Historic property* means a building, site, structure, or object which is:

(1) Individually listed in the National Register of Historic Places;

(2) A contributing property in a National Register listed historic district;

(3) Designated as an historic property or landmark under the provisions of a local historic preservation ordinance; or

(4) A contributing property in an historic district designated under the provisions of a local historic preservation ordinance.

*Improvement* means any change in the condition of any eligible real property brought about by the expenditure of money or labor or materials for the restoration, renovation, or rehabilitation of such property. Interior or exterior work, including construction of additions or accessory structures, shall be included in the meaning of improvement for this section. Improvements shall include additions and accessory structures (i.e., a garage, cabana, guest cottage, storage/utility structure) so long as the new construction is compatible with the historic character of the building and site in terms of size, scale, massing, design and materials, and preserves the historic relationship between a building or buildings, landscape features and open space.

*National Register of Historic Places* means the list of historic properties significant in American history, architecture, archaeology, engineering and culture, maintained by the secretary of the interior, as established by the National Historic Preservation Act of 1966 (Public Law 89-665; 80 STAT. 915; 16 USC 470), as amended.

*Noncontributing property* means a building, site, structure, or object which does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant because:

(1) It was not present during the period of significance of the district;

(2) Due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period; or

(3) It does not independently meet the National Register of Historic Places criteria for evaluation.

*Officer* means the historic preservation officer.

*Renovation* or *rehabilitation,* for historic properties or portions thereof which are of historical or architectural significance, means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, cultural and archaeological values. For historic properties or portions thereof which are of archaeological significance or are severely deteriorated, the term "renovation" or "rehabilitation" means the act or process of applying measures designed to sustain and protect the existing form and

PROOFS

integrity of a property, or re-establish the stability of an unsafe or deteriorated property while maintaining the essential form of the property as it presently exists.

*Restoration* means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(Code 1983, § 23-103; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-184. Authority.**

F.S. §§ 196.1997 and 196.1998 authorize the governing authority of any municipality to adopt an ordinance allowing certain ad valorem tax exemptions under section 3, art. VII of the state constitution to historic properties which meet certain requirements.

(Code 1983, § 23-101; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-185. Purpose.**

The provisions of this article shall create a method by which the city commission is authorized to allow tax exemptions for the restoration, renovation, or rehabilitation of historic properties.

(Code 1983, § 23-102; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-186. Historic tax exemption.**

This exemption shall apply to 100 percent of the assessed value of all improvements to eligible historic properties which result from restoration, renovation or rehabilitation made on or after the effective date of the ordinance from which this article derives (August 6, 2001). The exemption applies only to taxes levied by the city. The exemption does not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to section 9(b) or section 12, article VII of the state constitution.

(Code 1983, § 23-104; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-187. Maximum allowable exemption.**

This exemption shall not be allowed for that portion of the assessed value of an improvement which exceeds $100,000.00 for single-family residential properties and $1,000,000.00 for other properties unless the city commission, after hearing the evidence and testimony of the applicant and the historic preservation officer, finds that:

(1) The eligible property and improvement is a great contribution to the city based on its historical value and character, and the assessed value of the improvement is equal to or exceeds 25 percent of the total assessed value of the property as improved;

(2) The additional exemption is necessary to save the property from destruction and to ensure the rehabilitation, renovation or restoration of the property; or

(3) The additional exemption is necessary to meet city, state, or federal building code requirements to ensure the proper rehabilitation, renovation or restoration of the property.

(Code 1983, § 23-105; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-188. Completely exempt from property taxes.**

If an eligible property is used for a nonprofit or governmental purpose and is regularly and frequently open for the public's visitation, use and benefit, the city may exempt 100 percent of the assessed value of the property (as improved) from ad valorem taxes levied by the city provided that the assessed value of the improvement is equal to at least 50 percent of the total assessed value of the property as improved. This subsection applies only if the improvements are made by or for the use of the existing property owner. An eligible property is considered used for nonprofit or governmental purposes if the occupant or user of at least 65 percent of the usable space of the building is an agency of the federal, state or local government or a nonprofit corporation whose articles of incorporation have been filed by the department of state in accordance with F.S. § 617.0125. The term "usable space" means that portion of the space within a building which is available for assignment or rental to an occupant.

PROOFS

A property is considered regularly and frequently open to the public if public access to the property is provided not less than 52 days a year on an equitably spaced basis, and other times by appointment. This exemption does not prohibit the owner from charging a reasonable non-discriminatory admission fee. If a property that qualifies for this exemption is no longer used for nonprofit or governmental purposes or is no longer regularly and frequently open to the public or if ownership is transferred then this exemption shall no longer be effective and the property shall, instead, be subject to the exemption provided for by section 111-186.

(Code 1983, § 23-106; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-189. Term of exemption.**

Any exemption granted shall remain in effect for up to ten years with the effective date being October 1 of the year that the applicant and the city have entered into the exemption covenant. The city commission shall have the discretion to set a lesser term. The exemption shall continue in force if the authority of the city to grant exemptions changes or if ownership of the property changes, including any change from a tax-exempt entity to a tax paying entity except as set forth in section 111-188. In order to retain an exemption, however, the historic character of the property, and improvements which qualify the property for an exemption, must be maintained in the historic state over the period for which the exemption was granted.

(Code 1983, § 23-107; Ord. No. K-96, § 1, 8-6-2001)

**Secs. 111-190--111-216. Reserved.**

DIVISION 2. APPLICATION PROCESS FOR EXEMPTION

**Sec. 111-217. Forms.**

All applications for the historic tax exemptions shall be made of the appropriate forms obtained from the historic preservation officer. The forms shall contain all the information required by the Division of Historical Resources, Florida Department of State, and promulgated in accordance with F.A.C. ch. 1A-38 but may also contain additional information as determined necessary by the historic preservation board. Application forms and summaries of deadlines and application procedures shall be maintained by the officer and shall be made available to the general public upon request.

(Code 1983, § 23-108; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-218. Preconstruction application.**

(a) Only expenditures made to an eligible property after the effective date of the ordinance from which this article derives (August 6, 2001), may be reviewed by the historic preservation officer for approval.

(b) A preconstruction application consists of two parts:

(1) *Evaluation of property eligibility.* All property owners submitting an application must complete the general information section of part 1, evaluation of property eligibility.

a. *Individually listed structures and sites.* Owners of buildings or sites individually listed in the National Register or individually designated as an historic property or landmark under a local ordinance need not complete the sections titled description of physical appearance, statement of significance, or photographs and maps. However, a copy of the designation report for the property and official correspondence or other documentation verifying such designation must accompany the application.

b. *Structures within districts.* For buildings or archaeological sites within districts, part 1, evaluation of property eligibility, must be completed in its entirety, including the description of physical appearance, statement of significance, and photographs and maps sections. The documentation must be sufficient to allow the officer to make a judgement about how the building or site relates to the district as a whole, and determine what particular features of the building or site contribute to its historic character or archaeological significance.

(2) *Description of improvements.* The description of improvements will be used to describe existing conditions, proposed or completed improvements, and the impact of these improvements on existing

PROOFS

materials and features and the overall historic character of the property. All improvements will be reviewed and evaluated for conformance with the secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings (standards and guidelines.) The standards and guidelines apply to all aspects of the project, including site work, and improvements made to the exterior and interior of an historic building. They encourage retention of character-defining historic materials and architectural features as the alterations necessary for efficient contemporary use are made. Emphasis is placed on repair rather than replacement of deteriorated original features, and in-kind replacement of irreparable features. For improvements intended to protect or stabilize severely deteriorated historic properties or archaeological sites, the historic preservation officer shall apply the following additional standards:

a. Before applying protective measures which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made;

b. Protective measures shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions;

c. If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or re-use;

d. Stabilization shall re-establish the structural stability of a property through the reinforcement of load-bearing members or by arresting material deterioration leading to structural failure. Stabilization shall also re-establish weather-resistant conditions for a property;

e. Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to re-establish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

Copies of the standards and guidelines may be obtained from the historic preservation officer or from the Division of Historical Resources, Florida Department of State.

(c) A preconstruction application may be submitted before or during construction, or upon completion of the improvements; however, property owners are strongly encouraged to submit these parts of the application to ensure property eligibility and secure preliminary project approval before construction is initiated. If any construction has already been started or completed, a request for review of completed work must accompany the preconstruction application.

(d) Photographs of conditions before improvements, plans, and architectural drawings should be submitted to the historic preservation officer with the preconstruction application.

(Code 1983, § 23-109; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-219. Review and preliminary application by officer.**

(a) Upon receipt of the completed preconstruction application and all required materials, the historic preservation officer shall conduct a review to determine:

(1) Whether the property for which an exemption has been requested is or is not an historic property pursuant to F.S. § 196.1997 and the criteria set forth in F.A.C. ch. 1A-38;

(2) Whether the proposed, in progress, or completed improvements are consistent with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the criteria in F.A.C. ch. 1A-38; and

(3) For applications submitted under the provisions of F.S. § 196.1998, whether the improvements meet the criteria in F.A.C. 1A-38.004 (3) and (4).

(b) Each review conducted by the officer shall be completed within 15 days following receipt of the

PROOFS

completed application and all required supporting materials.

(c) Upon completion of the review of the preconstruction application, the officer shall notify the applicant in writing of the results of the review and shall make recommendations for correction of any planned or completed work deemed to be inconsistent with the standards cited in F.A.C. 1A-38.005. The applicant shall have a reasonable time following receipt of the written summary of recommendations to submit an amended preconstruction application.

(d) The officer shall submit a preliminary application to the historic preservation board which shall contain copies of the preconstruction application, reviews by the officer, and the officer's recommendation for approval, denial, or approval with conditions.

(Code 1983, § 23-110; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-220. Work requiring a certificate of appropriateness.**

(a) If all or a part of the proposed work requires a certificate of appropriateness, that portion of the work shall be reviewed in accordance with division 2 of article II of this chapter.

(b) The preconstruction application process may be conducted simultaneously with the process for issuance of a certificate of appropriateness, but no preconstruction application shall be presented to the historic preservation board until the process for issuance of a certificate of appropriateness has been completed.

(c) No building permit, or other required permit, shall be issued by the city until the required certificate of appropriateness or preconstruction application has been approved and all appeal proceedings have been completed.

(Code 1983, § 23-111; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-221. Project amendments.**

If changes to a project are planned at any time after submission of the application, an amendment sheet must be submitted for review. This amendment sheet will allow applicant to indicate planned changes in project work, giving the originally proposed treatment and the amended work item description.

(Code 1983, § 23-112; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-222. Request for review.**

(a) A request for review of completed work shall be submitted by the applicant upon completion of the improvements. The request for review must provide a comprehensive photographic description of the completed improvements. Photographs of the completed work should show the same views as the before photographs included in the preconstruction application. All photographs should be numbered, dated and labeled with the property name, the view and a brief description of what is shown. The review shall also provide information on project budgets and what portion of the budget went to historical renovations.

(b) Upon receipt of a request for review and all required supporting materials, the historic preservation officer shall conduct a review to determine whether or not the completed improvements are in compliance with the work described in the preconstruction application, subsequent approved amendments, if any, and the secretary of the interior's standards for rehabilitation. The historic preservation officer reserves the right to inspect the completed work to verify such compliance.

(c) Each review of a request for review conducted by the historic preservation officer shall be completed within 15 days following receipt of the completed request and all required supporting materials.

(Code 1983, § 23-113)

**Sec. 111-223. Time of completion.**

An applicant must complete all work within two years following the date of approval of a preconstruction application. A preconstruction application approval shall automatically be void in the event the applicant fails to submit a final application within two years following the date of approval of a preconstruction application, except that the officer may, in his discretion, extend such period of time not to exceed one year.

(Code 1983, § 23-114; Ord. No. K-96, § 1, 8-6-2001)

PROOFS

**Sec. 111-224. Completed work application.**

Once an applicant has filed a request for review of completed work application with the historic preservation officer, the officer will prepare a completed work application to submit to the historic preservation board. The completed work application will include a discussion on the project as completed and a recommendation from the officer to approve or deny the application. The completed work application should also include copies of the preconstruction application, any amendments, the request for review of completed work, and photographs of the project conditions before and after the improvements.

(Code 1983, § 23-115; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-225. Appeals.**

(a) Within 30 days following mailing by the officer of a denial of either the preconstruction application or completed work application, the applicant may file an appeal of the determination to the city commission. The appeal shall be filed on a form prepared by the officer. Included with the form shall be a copy of the officer's recommendations for denial.

(b) The city commission shall review the improvement project in substantially the same manner as in a review of a certificate of appropriateness. A public hearing shall be held and notice provided to the applicant. At least ten days prior to the public hearing, notice of a public hearing shall be published in the newspaper indicating time and place of the hearing.

(Code 1983, § 23-116; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-226. Final review.**

(a) The historic preservation board shall recommend that the city commission grant or deny the exemption. The recommendation, and the reasons therefor, shall be provided in writing to the applicant and to the city commission. The recommendation shall advise the applicant of his right to a fair hearing pursuant to F.S. § 120.57 and procedures set forth by the city commission.

(b) If the final application is granted, the city commission shall adopt a resolution granting the historic tax exemption to the property owner. The resolution shall contain the following:

(1) The name of the owner and the street address and legal description of the historic property for which the exemption is granted;

(2) The period of time for which the exemption shall remain in effect and the expiration date of the exemption; and

(3) A finding that the historic property meets the requirements of this article.

(c) Upon adoption of the resolution, and following the officer's receipt from the applicant a copy of the recorded preservation exemption covenant, the officer shall transmit a copy of the resolution to the property appraiser, with instructions that the property appraiser provide the historic rehabilitation tax exemption to the applicant as provided by the resolution. A copy of the officer's letter of transmittal to the property appraiser shall be furnished to the applicant.

(Code 1983, § 23-117; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-227. Covenant.**

(a) Except as provided in F.A.C. 1A-38.006(2), a property owner qualifying for an exemption pursuant to F.S. §§ 196.1997 and 196.1998 and the local government (City of Fort Pierce) granting the exemption shall execute the historic preservation property tax exemption covenant, DOS Form No. HR3E111292, effective 1-31-1994 and incorporated by reference.

(b) On or before the effective date of the exemption, as established by the city commission, the owner of the property shall have the covenant recorded with the deed for the property in the official records of the county.

(Code 1983, § 23-118; Ord. No. K-96, § 1, 8-6-2001)

PROOFS

**Secs. 111-228--111-247. Reserved.**

DIVISION 3. ADMINISTRATIVE PROVISIONS

**Sec. 111-248. Revocation.**

(a) The following conditions shall provide justification for removal of a property from eligibility for the property tax exemption provided under F.S. § 196.1997:

(1) The owner is in violation of the provisions of the historic preservation tax exemption covenant; or

(2) The property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearance, workmanship and environment, or archaeological integrity which made the property eligible for listing in the National Register or designation under the provisions of the local preservation ordinance have been lost or so damaged that restoration is not feasible.

(b) For the exemption provided under F.S. § 196.1998, the following conditions, as well as those indicated in F.A.C. 1A-38.006(3) shall justify removal of a property from eligibility for the exemption:

(1) The property is sold or otherwise transferred from the owner who made application and was granted the exemption; or

(2) The property no longer meets the requirements set forth in F.A.C. 1A-38.004(4) and 1A-38.005(5).

(c) Proceedings under this section may also be initiated following a finding by the special magistrate that a housing code violation has occurred. The historic preservation board shall provide notice to the current owner of record to the property and hold a hearing in the same manner as in a review of a certificate of appropriateness as specified in division 2 of article II of this chapter.

(d) Upon determination by the board that the historic rehabilitation tax exemption is to be revoked, the officer shall provide written notice of the decision to the applicant and the property owner of record, if different, as well as to the property appraiser. The notice to the applicant, or owner of the property, if different, shall be accompanied by reasons and recommendations for changes to the property that may result in reinstatement of the exemption.

(e) Upon receipt of a notice of revocation, the property owner shall discontinue the historic rehabilitation exemption on the property as of October 1 of the year following receipt of the notice of revocation.

(f) The notice of revocation shall include a statement that a penalty equal to the total amount of taxes that would have been due in March and each of the previous years in which the historic preservation exemption covenant was in effect had the property not received the exemption, less the total amount of taxes actually paid in those years, plus interest calculated as provided in F.S. § 212.12(3) shall be imposed by the tax collector for violation of the terms, conditions, and standards of the historic preservation exemption covenant.

(Code 1983, § 23-119; Ord. No. K-96, § 1, 8-6-2001; Ord. No. 17-017 , § 15, 6-5-2017)

**Sec. 111-249. Reinstatement.**

A property may be reinstated for the historic rehabilitation tax exemption upon satisfactory submission of evidence that the recommendations for changes to the property previously made by the officer or board have been completed. The process for reinstatement shall be the same as the process for revocation proceedings. Upon reinstatement by the board of the exemption, the officer shall notify the property appraiser and the historic rehabilitation tax exemption shall then be reinstated for the remaining unexpired term of the initial exemption.

(Code 1983, § 23-120; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-250. Reapplication.**

An applicant previously granted an historic rehabilitation tax exemption by the city commission may undertake an additional substantial improvement project during the exemption period or following its expiration, and may re-apply for additional historic rehabilitation tax exemption for such subsequent work.

(Code 1983, § 23-121; Ord. No. K-96, § 1, 8-6-2001)

PROOFS

**Sec. 111-251. Annual report.**

The officer shall prepare an annual report to the city commission concerning the historic preservation tax exemption program. The report shall be filed at least 30 days before the commission adopts a budget for the following fiscal year, and shall summarize activities of the officer and the board related to the historic rehabilitation tax exemption program during the previous fiscal year. The information contained in the annual report shall include, but not be limited to, the following:

(1) A list of the properties for which preconstruction applications and completed work applications were made during the preceding years;

(2) An explanation of the disposition of each application;

(3) The total expenditure on each approved project during the preceding year;

(4) The total number of properties currently participating in the historic rehabilitation tax exemption program as of the end of the previous year;

(5) The total expenditure on all improvement projects currently participating in the program; and

(6) Any other information requested by the commission or considered significant by the historic preservation officer.

(Code 1983, § 23-122; Ord. No. K-96, § 1, 8-6-2001)

**Sec. 111-252. Judicial review.**

Judicial review of decisions made by the board or the city commission shall be by certiorari in accordance with Florida Rules of Appellate Procedure.

(Code 1983, § 23-123; Ord. No. K-96, § 1, 8-6-2001)

PROOFS

Chapter 112

**RESERVED**

PROOFS

Chapter 113

# IMPACT FEES*

***State law reference—**Impact fees, F.S. § 163.31801.

## Sec. 113-1. Short title.

This article shall be known as and referred to as the "City of Fort Pierce Impact Fee Ordinance."

(Code 1983, § 22-401; Ord. No. L-61, § 2, 11-17-2008)

## Sec. 113-2. Definitions.

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

*Applicant* means a person, corporation, organization, or other legal entity undertaking development, or the applicant's authorized agent.

*Capital improvements* includes, but is not limited to, costs associated with the planning, design, and construction of new or expanded public facilities on the city's capital improvement program, or which the city commission has by resolution committed to adding to the CIP no later than the next regularly scheduled update, which have a life expectancy of one or more years and a value of at least $1,000.00, and the land acquisition, land improvement, design, and engineering related thereto. Capital improvements do not include site-related improvements; routine and periodic maintenance expenditures; or personnel, training, or other operating costs; but may include the following costs associated with the provision of a capital improvement, except as expressly limited by this article:

(1) The cost of all labor and materials;

(2) The cost of all lands, right-of-way, property, rights, and easements, including costs of acquisition;

(3) The cost of all plans and specifications;

(4) The cost of new equipment;

(5) The cost of all public facility construction associated with new buildings and structures, and public facility site improvements;

(6) The cost of relocating utilities to accommodate new public facilities;

(7) The cost of planning and engineering new public facilities;

(8) The cost of all land surveying and soils and materials testing; and

(9) The cost of mitigating negative impacts of public facility construction, including natural resource impacts, and environmental impacts.

*Capital improvement program* or *CIP* means a five-year schedule of planned public facility improvements adopted by the city commission, which schedule indicates the funding sources and estimated costs for each planned improvement.

~~(d) *City* means the City of Fort Pierce, Florida.~~

~~(e)*City Code* means the Code of Ordinances of the City of Fort Pierce, Florida, as amended.~~

~~(f)*City commission* means the Fort Pierce City Commission.~~

*Development* means any construction or expansion of a building or structure, or any changes in the use of any building or structure or land use that will generate additional impacts on the public facilities.

PROOFS

*Director* means the ~~director of the city department of community development~~ planning director or the director's designee.

*Fair share* means that share or portion of the cost of public facility improvements which is reasonably attributable to or needed to serve new development.

*Fair share capital capacity* means that share or portion of public facility capital improvements that is reasonably attributable to or needed to serve the applicant's development.

*Fee payer* means a person undertaking development who pays an impact fee in accordance with the terms of this article.

*Government building facilities* means buildings and land capital improvements necessary to provide governmental services capacity to new residential and nonresidential development, but does not include site-related improvements.

*Government buildings impact fee* means the impact fee imposed upon new residential and nonresidential development by this article in order to offset a new development's fair share impact on government building facilities.

*Impact fee* means a fee imposed pursuant to this article, in the amounts set forth in sections 113-15 through 113-19, as applicable.

*Impact fee account* means an account established by the city for the purpose of segregating impact fee revenues collected for a particular public facility from other impact fee accounts and all other city funds.

*Methodology report* means the report entitled "City of Fort Pierce Impact Fee Study," prepared by Tindale-Oliver & Associates, and dated June 8, 2007.

*New development* means development for which a building permit is applied for after the effective date of the ordinance from which this article is derived.

*Noncommencement* means the cancellation of a development activity.

*Offset* means a credit, payment, reimbursement, or waiver of impact fees due, given pursuant to the terms of this article, as a result of the dedication, construction, or funding of an offset-eligible improvement.

*Offset agreement* means an executed, binding agreement between an applicant and the city, and other necessary parties, which provides for offsets against impact fees in exchange for offset-eligible improvements provided by the applicant or the applicant's agent.

*Offset-eligible improvement* means a capital improvement, constructed, dedicated, or funded by a party other than the city, which is not a site-related improvement and which is on the city's CIP or which the city commission has by resolution committed to adding to the CIP no later than the next regularly scheduled update.

*Parks and recreation facilities* means capital improvements necessary to provide parks and recreation capacity to residential development, but does not include site-related improvements.

*Parks and recreation impact fee* means the impact fee imposed upon new development by this article in order to offset residential development's fair share impact on parks and recreation facilities.

~~(x) *Person* means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having joint or common interest, or any other legal entity.~~

*Proposed development* means the development subject to the imposition of impact fees as provided by this article.

*Public facilities* means parks and recreation facilities; government building facilities; solid waste facilities; stormwater facilities; and transportation facilities for which impact fees are collected pursuant to this article.

*Public facilities capital costs* means the costs of providing capital improvements for public facilities.

*Site-related improvements* means an improvement, whether on- or off-site, that is necessary to offset impacts attributable solely to a particular development, including, but not limited to, direct access improvements, turn lanes, median openings, frontage roads, and on-site water and wastewater facilities.

PROOFS

*Solid waste facilities* means capital improvements necessary to provide solid waste services capacity to new residential and nonresidential development, but does not include site-related improvements.

*Solid waste impact fee* means the impact fee imposed upon new residential and nonresidential development by this article in order to offset new development's fair share impact on solid waste facilities.

*Stormwater facilities* means capital improvements necessary to provide stormwater capacity to new residential and nonresidential development, but does not include site-related improvements.

*Stormwater impact fee* means the impact fee imposed upon new residential and nonresidential development by this article in order to offset new development's fair share impact on stormwater facilities.

*Temporary uses* means uses that are required in the construction phase of development or are uniquely seasonal in nature, including, but not limited to, contractor's project offices, project sales offices, seasonal sales of trees or farm produce, carnivals, and tent meetings.

*Transportation facilities* means capital improvements necessary to provide roadway capacity to new residential and nonresidential development, but does not include site-related improvements.

*Transportation impact fee* means the impact fee imposed upon new residential and nonresidential development by this article in order to offset new development's fair share impact on transportation facilities.

(Code 1983, § 22-406; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-3. Policy and purpose.**

(a) *Policy.* It is the policy of the city that new development pay its fair share of public facility costs through impact fees, which will be used to finance, defray, or reimburse all or a portion of the costs incurred by the city for public facility improvements necessitated by and provided to serve such development.

(b) *Purpose.* The purpose of this article is to implement the city's comprehensive plan by providing for the assessment and payment of impact fees such that all or a portion of new development's proportionate impacts on public facilities are mitigated and adequate public facilities may be provided in a timely manner to new development.

(Code 1983, § 22-402; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-4. Findings.**

(a) The city commission recognizes that growth and development in the city will require that the capacity of the city's public facilities be expanded in order to maintain adequate levels of service, and that without a funded program for public facility improvements, new growth and development will have to be limited in order to protect the health, safety and welfare of the city's residents.

(b) The city commission has completed a study establishing the type, amount, and cost of projected public facility improvements needed to serve new growth and development.

(c) The regulatory scheme set forth in this article, which requires new development to pay reasonable impact fees, requires new development to pay not more than its pro rata share of the reasonably anticipated expansion costs of new public facilities created by new development, which is the responsibility of the city and is in the best interest of the public health, safety, and welfare.

(d) The technical data, findings, and conclusions herein are based on the city comprehensive plan, as amended, the methodology report, and other referenced studies and reports.

(Code 1983, § 22-403; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-5. Interpretations of article.**

Interpretation of the provisions of this article shall be made by the director.

(Code 1983, § 22-404; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-6. Effect on other regulations and requirements.**

(a) This article may not be construed to alter, amend, or modify any provision of this city Code. Other

PROOFS

provisions of this Code shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this article.

(b) The payment of impact fees shall not entitle the applicant to a building permit unless all other applicable land use, zoning, planning, and other applicable requirements, standards, and conditions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of impact fees required by this article.

(c) This article, including sections 113-15 through 113-19, related to particular public facilities, shall not affect, in any manner, the permissible use of property, density, or intensity of development, design and improvement standards, or other applicable standards or requirements of this Code.

(Code 1983, § 22-405; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-7. Applicability of this article.**

(a) *Affected area.* This article shall apply to all new development within the city.

(b) *Type of development affected.* Except where specifically exempt by the provisions of this article, this article shall apply to all new development, as further provided in sections 113-15 through 113-19 and other applicable provisions of this article.

(c) *Type of development not affected.* The following types of development shall be exempt from the payment of impact fees pursuant to this article:

(1) The replacement of a destroyed or partially destroyed building or structure, with a new building or structure of the same size and use;

(2) Alterations or expansions to existing buildings where no additional dwelling units are created and no additional impacts on any public facility are created;

(3) Accessory buildings and structures, unless such building or structure accounts for more than 25 percent of the gross floor area of the principal structure or use;

(4) No impact fee shall be imposed on developments that are the subject of an executed development agreement, offset agreement, or condition of approval, which contains provisions in conflict with this article, but only to the extent of the conflict., ~~including proportionate fair-share agreements, pursuant to section 22-219 of this Code;~~

(5) Temporary uses;

(6) Any use that does not create an impact on any public facility for which an impact fee is imposed pursuant to sections 113-15 through 113-19, as applicable;

(7) All public educational and ancillary plants constructed by a district school board or a community college district board of trustees, pursuant to F.S. § 1013.371(1)(a);

(8) Charter school facilities, pursuant to F.S. § 1002.33(18)(d);

(9) New development proposed within the city's enterprise zone, the boundaries of which are indicated on a map entitled "City of Ft. Pierce EZ," which is on file at the city's ~~department of community development~~ planning department. The city shall use funding sources other than impact fees to replace fees exempt pursuant to this subsection to ensure that level of service standards in the methodology report are maintained.

(Code 1983, § 22-407; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-8. Collection of impact fees; unlisted uses.**

(a) *Collection.* Impact fees required by this article, as set forth in sections 113-15 through 113-19, as applicable, shall be assessed and collected prior to the issuance of a building permit.

(b) *Unlisted uses.* In the event that a land use is proposed that is not specifically listed in sections 113-15 through 113-19, as applicable, the director shall determine whether a listed use is reasonably similar in impact to the use proposed, based on an assessment of the likely impact of the proposed use. Such determinations shall be

PROOFS

based on documented evidence of impact, including, but not limited to, the latest edition of the Institute of Transportation Engineers' Trip Generation Manual or other generally-accepted measure of development impact. If the director determines that no listed use is reasonably similar in impact to the proposed use, the applicant must prepare an individual assessment as provided in section 113-9.

(Code 1983, § 22-408; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-9. Individual assessment of impact fee.**

(a) The individual assessment may be used to determine whether a fair share of the public facilities costs necessitated by the proposed development should be less than the fees set forth in sections 113-15 through 113-19, as applicable, or, if a particular use or combination of uses is not listed therein and is not reasonably similar to a listed use, what fee should be paid in order to mitigate a proposed development's fair share capital capacity. The individual assessment shall be calculated according to the methodology used for the particular public facility in the methodology report.

(b) Prior to preparing an individual assessment, the applicant must schedule a preapplication meeting with the director in order to establish the appropriate procedures and methodologies to be used pursuant to this article and the city's impact fee administrative manual.

(c) An application for individual assessments shall include the following information:

(1) *For transportation impact fees.*

a. Trip generation rates for the proposed development, consistent with the methodology report, based on local empirical surveys for the same or similar land use types;

b. Average trip length generated from the proposed development onto the city's road system, based upon local empirical surveys of similar land use types; and

c. An assessment of the costs of providing the road improvements needed to serve the proposed development. Such costs shall include all public facilities capital costs and shall be based upon recent empirical information for the cost of a lane mile of new roadway capacity in the city or its vicinity.

(2) *For other impact fees.*

a. The demand for public facilities created by the proposed development, based on local empirical surveys for the same or similar land use types;

b. Estimated population based upon local empirical surveys of similar land use types; and

c. An assessment of the costs of providing the particular public facilities needed to serve the proposed development. The cost figures used shall include all public facilities capital costs and shall be based upon recent empirical information related to the costs in the city for the public facility.

(d) The individual assessment analysis shall be prepared by qualified professionals in the fields of planning and engineering, impact analysis, and economics, as deemed appropriate to the circumstances of the assessment by the director.

(e) Within 15 working days of receipt of an individual assessment analysis, the director shall determine if the individual assessment analysis is complete. If the director determines the application is not complete, the director shall send a written statement specifying the deficiencies to the person submitting the application. Until the deficiencies are corrected, the director shall take no further action on the application.

(f) When the director determines the individual assessment analysis is complete, the director shall review it within 30 working days. The director shall approve the proposed fee if he determines that the data, factors, and methodology used to determine the proposed impact fee are professionally acceptable and fairly assess the costs for capital improvements to the public facilities that are necessitated by the proposed development if the facilities are to be maintained at adopted levels of service. If the director determines that the data, factors, or methodology are unreasonable, the proposed fee shall be denied, and the applicant shall pay the impact fees according to the schedule established in sections 113-15 through 113-19, as applicable, or as set by the director, if the use had not been identified previously in the fee schedule.

PROOFS

(Code 1983, § 22-409; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-10. Offsets against impact fees due.**

(a) *Applicability; eligibility.*

(1) *Applicability.* This section shall apply to any request for an offset against impact fees due and payable after the effective date of the ordinance from which this article is derived.~~, except those made pursuant to a fair-share agreement, under section 22-219 of the City Code.~~

(2) *Eligibility.*

a. Offsets may be provided by the city commission, pursuant to an offset agreement, for offset-eligible improvements.

b. Offsets shall be given only for the same category of public facility as the offset-eligible improvement.

(b) *Requirements and procedures for impact fee offsets.* Applications for offsets must be made on a form provided by the director for such purposes. The application must be accompanied by a proposed offset agreement as provided herein.

(1) *Procedure.*

a. Upon receipt of a complete application, the director and other appropriate staff must review the application, as well as such other information and evidence as may be deemed relevant, and the director must forward to the city commission a report as to whether an offset is proper, based on the provisions of this article.

b. Based on the report of the director, the terms of the proposed offset agreement, the provisions of this article, the CIP, the comprehensive plan, adopted city budget, and the methodology report, the city commission must make a final decision to accept, reject, or accept with conditions the proposed dedication, construction, or funding of an offset-eligible capital improvement in exchange for an offset against impact fees owed.

(2) *Calculation of the value of offset.*

a. The amount of any offset shall be calculated as the lower of the following:

1. The amount of the impact fees due; or

2. The actual verified costs of dedication or construction.

b. Actual verified costs shall be calculated as follows:

1. *Facilities and equipment associated with the offset-eligible improvement.* Actual cost of construction or equipment as evidenced by receipts and other sufficient documentation provided by the applicant of the offset-eligible improvement and verified by the director.

2. *Dedication of land associated with the offset-eligible improvement.* The fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the city rejects the applicant's appraisal, the city may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the city and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques.

(3) *Offset agreement requirements.* ~~Except for offsets made pursuant to a proportionate fair-share agreement under section 22-219 of the City Code,~~ No capital improvement may be accepted in exchange for an offset except pursuant to an executed offset agreement between the city and the provider of the offset-eligible improvement, which agreement shall include the following:

a. A schedule for the initiation and completion of the proposed offset-eligible improvement;

b. The agreed to offset mechanism including, but not limited to, credits, waivers, payments, and

PROOFS

reimbursements;

c. The amount of the impact fees, by type, proposed to be offset by the city;

d. The timing of any offset that will be issued by the city, with any necessary conditions or limitations;

e. The method of accounting for offsets;

f. Terms related to the assignment or transfer of the burdens and benefits conferred under the agreement;

g. A provision that all construction will be in accordance with city specifications and all regulations set forth in this Code; and

h. Such other terms and conditions as deemed necessary by the city to effectuate the provisions of this article.

(4) *Assignability.* The burdens and benefits conferred under the offset agreement shall be assigned or transferred to other parties only as provided in the offset agreement.

(5) *Transferability.* Offsets granted pursuant to this section, including credits against future impact fee payments, may be transferred from the applicant to property owners within the original proposed development without further approval by the city. No other transfer of offsets shall be allowed.

(Code 1983, § 22-410; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-11. Use of funds collected; impact fee accounts.**

(a) Impact fees collected pursuant to this article shall be used solely for the purpose of acquisition, expansion, and development of capital improvements to the public facilities for which they were collected, the need for which results from and the provision of which will benefit new development paying the fees, as required by law. Allowable expenditures include, but are not limited to:

(1) Public facilities and public facilities capital costs;

(2) Repayment of monies transferred or borrowed from any budgetary fund of the city which were used to fund the acquisition, expense, and development of public facilities for new development;

(3) Payment of principal and interest, necessary reserves, and costs of issuance under any bonds or other indebtedness issued by the city to provide funds for acquisition, expansion and development of public facilities;

(4) Administrative costs of collecting impact fees, not to exceed actual costs;

(5) Refunds granted pursuant to section 113-12; and

(6) Reimbursements for offset-eligible improvements, pursuant to section 113-10.

(b) Impact fees collected shall be spent for the construction of public facilities within six years of the date of collection. Impact fees shall be considered spent in the order received by the city on a first-in, first-out basis.

(c) In order to ensure that impact fee revenues are earmarked and spent solely for the expansion of public facilities necessary to offset the impacts of new development, the following provisions apply:

(1) The city shall establish and maintain separate impact fee accounts for each public facility for which an impact fee is collected, in accordance with the provisions of sections 113-15 through 113-19, as applicable.

(2) Any amounts in an impact fee account not immediately necessary for expenditure shall be invested in an interest bearing account and all interest income derived from such investments shall be deposited in the impact fee account.

(3) Impact fee revenues for each public facility shall remain segregated from impact fee accounts for other public facilities and from other city funds.

(4) Amounts withdrawn from an impact fee account must be used solely in accordance with the provisions of this article. Amounts on deposit in an impact fee account shall not be used for any expenditure that

PROOFS

would be classified as a maintenance, operations, or repair expense or to address existing deficiencies in public facilities.

(Code 1983, § 22-411; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-12. Refunds.**

(a) Upon application, impact fees may be returned to the fee payer if the approved development is canceled due to noncommencement of construction or the building permit expires or is revoked before the funds have been spent. Refunds may be made in accordance with this section, provided the fee payer files a petition for a refund within six months from the date of noncommencement, expiration, or revocation.

(b) Upon application, in the event impact fees are not spent by the city within six years from the date of collection, the city shall refund the amount of the fee, with accrued interest, to the owner of the land for which the fee was collected. For purposes of refunds, the owner of the land on which an impact fee was paid shall be the owner of record at the time that the refund is applied for. Refunds may be made in accordance with this section, provided the landowner files a petition for a refund within one year from the date of expiration of the six-year timeframe.

(c) A refund application shall include the following information:

(1) Evidence that the impact fee was paid for the property, the date of payment, and the amount paid;

(2) A certified copy of the latest recorded deed for the property; and

(3) Other information deemed by the director to be necessary in order to determine compliance with the provisions of this section, based on the circumstances of the refund request.

(d) Within 15 working days of receipt of a refund application, the director shall determine if it is complete. If the director determines the refund application is not complete, the director shall send a written statement specifying the deficiencies by mail to the person submitting the refund application. Unless the deficiencies are corrected, the director shall take no further action on the refund application.

(e) When the director determines the refund application is complete, the director shall review it within 30 working days, and shall approve the proposed refund if he determines that a refund is appropriate pursuant to the requirements of this section.

(Code 1983, § 22-412; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-13. Updating; inflationary adjustment.**

(a) At least once every three years, the city shall update the methodology report which provides the basis for the impact fees imposed under this article.

(b) During years when no update occurs, as required above, beginning one year after the effective date of the ordinance from which this article is derived, the impact fee schedules set forth in sections 113-15 through 113-19, as applicable, shall be adjusted annually to account for inflationary increases in the costs to the city of providing public facilities to new development. The inflationary adjustment shall be based on cost data from the engineering-news record, the consumer price index, the county property appraiser, the state department of transportation, or other reliable indicator of cost increases for the city over the relevant period of time.

(c) The city shall comply with the notice requirements for updates and inflationary adjustments as provided in F.S. § 163.31801.

(Code 1983, § 22-413; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-14. Appeals.**

(a) *General.* An applicant may appeal any final decision of the director, made pursuant to this article, to the city commission on a form provided by the director. Such appeal must be filed within 60 calendar days of the final decision. The appeal shall state the grounds of the appeal with specificity. The director shall place the appeal on the city commission's agenda for a regularly scheduled meeting or a special meeting called for that purpose, and forward the record of the matter that is on appeal to the city commission.

PROOFS

(b) *Record.* The record considered by the city commission shall be the record of the application related to the final decision of the director.

(c) *Notice.* The director shall provide the applicant at least 15 calendar days' notice of the appeal before the hearing by the city commission, by certified mail or hand delivery.

(d) *Hearing on appeal.* At the hearing on the appeal, the city commission shall provide the appellant an opportunity to identify the grounds for the appeal and the basis for the director's alleged error on the decision, based on the record. To the extent relevant, the director, other city staff involved in the decision, and the appellant shall be allowed to respond, based on the record. After the presentations, the city commission may hear from any other person it deems appropriate, and then based on the testimony heard at the hearing and the record affirm, modify, or reverse the decision of the director based on the standards in subsection (e) of this section.

(e) *Standards.* To reverse a decision of the director, the city commission shall find that there is a clear and demonstrable error in the application of the facts in the record to the standards for review related to the final decision of the director. If the city commission reverses or modifies the director's decision, it shall provide the director clear direction on the proper decision. The decision of the city commission shall be final.

(f) *Form of decision.* The city commission's decision on the appeal shall be in writing and include findings of fact and the application of those facts to the relevant standards.

(Code 1983, § 22-414; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-15. Parks and recreation impact fee.**

(a) *Parks and recreation impact fee schedule.* A parks and recreation impact fee shall be assessed and collected from residential new development, pursuant to all applicable provisions of this article, in accordance with the ~~following~~ fee schedule established by resolution.

| ~~Land Use~~ | ~~Impact Unit~~ | ~~<Adopted on November 17, 2008, at 60% of total fee>~~ |
|---|---|---|
| ~~*Residential*~~ | | |
| ~~Single-Family Detached~~ | | |
| ~~- Less than 1,500 sf~~ | ~~du~~ | ~~$ 696.37~~ |
| ~~- 1,500 to 2,499 sf~~ | ~~du~~ | ~~783.41~~ |
| ~~- 2,500 sf or greater~~ | ~~du~~ | ~~853.05~~ |
| ~~*Multi Family*~~ | ~~du~~ | ~~780.13~~ |
| ~~*Mobile Home Park*~~ | ~~du~~ | ~~771.61~~ |

(b) *Parks and recreation impact fee account.* There is hereby established a parks and recreation impact fee account into which all parks and recreation impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the parks and recreation impact fee account. Parks and recreation impact fee revenues shall be spent only on parks and recreation facilities and parks and recreation capital costs as provided in section 113-11.

(Code 1983, § 22-415; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-16. Government buildings impact fee.**

(a) *Government buildings impact fee schedule.* A government buildings impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the ~~following~~ fee schedule established by resolution.

| ~~Land Use~~ | ~~Impact Unit~~ | ~~<Adopted on November 17, 2008, at 60% of total fee>~~ |
|---|---|---|

PROOFS

| | | |
|---|---|---|
| *Residential* | | |
| Single Family Detached | | |
| - Less than 1,500 sf | du | $374.41 |
| - 1,500 to 2,499 sf | du | 421.73 |
| - 2,500 sf or greater | du | 458.76 |
| Multi Family | du | 369.81 |
| Mobile Home Park | du | 364.49 |
| *Transient, Assisted, Group* | | |
| Hotel | room | 210.18 |
| Motel | room | 210.18 |
| Nursing Home/ALF | bed | 260.73 |
| *Recreational* | | |
| RV Park | site | 172.93 |
| Marina | berth | $50.55 |
| Golf Course | hole | 287.33 |
| Movie Theater | screen | 1,590.99 |
| Amusement Park | acre | 2,261.44 |
| General Recreation | acre | 53.21 |
| Racquet Club/Health Club/Spa/Dance Studio | 1,000 sf | 822.10 |
| Bowling Alley | 1,000 sf | 806.14 |
| Community Center | 1,000 sf | 377.80 |
| *Institutional* | | |
| Hospital | 1,000 sf | 438.98 |
| Elementary School | student | 15.97 |
| Middle School | student | 18.62 |
| High School | student | 21.28 |
| Junior/Community College | student | 15.97 |
| University | student | 34.58 |
| Church | 1,000 sf | 151.65 |
| Day Care Center | 1,000 sf | 236.78 |
| *Office* | | |
| Office 50,000 sf or less | 1,000 sf | $377.80 |
| Office 50,001 - 100,000 sf | 1,000 sf | $343.21 |
| Office 100,001 - 200,000 sf | 1,000 sf | 292.66 |
| Office 200,001 - 400,000 sf | 1,000 sf | 250.09 |
| Office greater than 400,000 sf | 1,000 sf | 212.84 |

PROOFS

| | | |
|---|---|---|
| ~~Medical Office/Clinic~~ | ~~1,000 sf~~ | ~~457.61~~ |
| ~~Business Park~~ | ~~1,000 sf~~ | ~~268.71~~ |
| ~~*Commercial/Retail*~~ | | |
| ~~Specialty Retail, Including Bars/Taverns~~ | ~~1,000 sf~~ | ~~449.63~~ |
| ~~Retail 50,000 gsf or less~~ | ~~1,000 sf~~ | ~~651.83~~ |
| ~~Retail 50,001 gsf to 200,000 gsf~~ | ~~1,000 sf~~ | ~~622.56~~ |
| ~~Retail 200,001 gsf to 400,000 gsf~~ | ~~1,000 sf~~ | ~~665.13~~ |
| ~~Retail greater than 400,000 gsf~~ | ~~1,000 sf~~ | ~~569.35~~ |
| ~~Pharmacy/Drug Store w/Drive-Thru~~ | ~~1,000 sf~~ | ~~521.46~~ |
| ~~Home Improvement Superstore~~ | ~~1,000 sf~~ | ~~473.57~~ |
| ~~Quality Restaurant~~ | ~~1,000 sf~~ | ~~1,814.47~~ |
| ~~High-Turnover Restaurant~~ | ~~1,000 sf~~ | ~~1,880.99~~ |
| ~~Fast Food Rest w/Drive-Thru~~ | ~~1,000 sf~~ | ~~2,397.13~~ |
| ~~Gas/Service Station~~ | ~~fuel pos.~~ | ~~526.78~~ |
| ~~Quick Lube~~ | ~~service bay~~ | ~~308.62~~ |
| ~~Supermarket~~ | ~~1,000 sf~~ | ~~545.41~~ |
| ~~Convenience Store w/Gas Pumps~~ | ~~1,000 sf~~ | ~~1,551.08~~ |
| ~~Auto Repair or Body Shop~~ | ~~1,000 sf~~ | ~~819.44~~ |
| ~~New and Used Car Sales~~ | ~~1,000 sf~~ | ~~454.95~~ |
| ~~Building Materials and Lumber~~ | ~~1,000 sf~~ | ~~412.38~~ |
| ~~Discount Superstore~~ | ~~1,000 sf~~ | ~~489.53~~ |
| ~~Hardware/Paint Store~~ | ~~1,000 sf~~ | ~~335.23~~ |
| ~~Auto Parts Sales~~ | ~~1,000 sf~~ | ~~497.52~~ |
| ~~Tire Store~~ | ~~1,000 sf~~ | ~~920.54~~ |
| ~~Self Service Car Wash~~ | ~~service bay~~ | ~~502.84~~ |
| ~~Furniture Store~~ | ~~1,000 sf~~ | ~~85.13~~ |
| ~~Bank/Savings Walk-In~~ | ~~1,000 sf~~ | ~~683.75~~ |
| ~~Bank/Savings Drive-In~~ | ~~1,000 sf~~ | ~~630.55~~ |
| ~~Convenience/Gas/Fast Food~~ | ~~1,000 sf~~ | ~~1,902.27~~ |
| ~~*Industrial*~~ | | |
| ~~General Industrial/Industrial Park~~ | ~~1,000 sf~~ | ~~183.58~~ |
| ~~General Heavy Industrial~~ | ~~1,000 sf~~ | ~~130.37~~ |
| ~~Manufacturing~~ | ~~1,000 sf~~ | ~~133.03~~ |
| ~~Warehouse~~ | ~~1,000 sf~~ | ~~103.76~~ |
| ~~Mini-Warehouse~~ | ~~1,000 sf~~ | ~~18.62~~ |

(b) *Government buildings impact fee account.* There is hereby established a government buildings impact

PROOFS

fee account into which all government buildings impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the government buildings impact fee account. Government buildings impact fee revenues shall be spent only on government building facilities and government building facilities capital costs as provided in section 113-11.

(Code 1983, § 22-416; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-17. Solid waste impact fee.**

(a) *Solid waste impact fee schedule.* A solid waste impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the ~~following~~ fee schedule established by resolution.

| ~~Land Use~~ | ~~Impact Unit~~ | ~~<Adopted on November 17, 2008, at 60% of total fee>~~ |
|---|---|---|
| ~~*Residential*~~ | | |
| ~~Single Family Detached~~ | | |
| ~~- Less than 1,500 sf~~ | ~~du~~ | ~~$120.65~~ |
| ~~- 1,500 to 2,499 sf~~ | ~~du~~ | ~~135.92~~ |
| ~~- 2,500 sf or greater~~ | ~~du~~ | ~~148.13~~ |
| ~~Multi Family~~ | ~~du~~ | ~~92.39~~ |
| ~~Mobile Home Park~~ | ~~du~~ | ~~90.86~~ |
| ~~Transient, Assisted, Group~~ | | |
| ~~Hotel~~ | ~~room~~ | ~~51.92~~ |
| ~~Motel~~ | ~~room~~ | ~~51.92~~ |
| ~~Nursing Home/ALF~~ | ~~1,000 sf~~ | ~~74.83~~ |
| ~~*Recreational*~~ | | |
| ~~RV Park~~ | ~~site~~ | ~~19.09~~ |
| ~~Marina~~ | ~~1,000 sf~~ | ~~190.90~~ |
| ~~Golf Course~~ | ~~1,000 sf~~ | ~~190.90~~ |
| ~~Movie Theater~~ | ~~1,000 sf~~ | ~~293.21~~ |
| ~~Amusement Park~~ | ~~1,000 sf~~ | ~~190.90~~ |
| ~~General Recreation~~ | ~~acre~~ | ~~137.45~~ |
| ~~Racquet Club/Health Club/Spa/Dance Studio~~ | ~~1,000 sf~~ | ~~190.90~~ |
| ~~Bowling Alley~~ | ~~1,000 sf~~ | ~~70.25~~ |
| ~~Community Center~~ | ~~1,000 sf~~ | ~~168.75~~ |
| ~~*Institutional*~~ | | |
| ~~Hospital~~ | ~~1,000 sf~~ | ~~75.59~~ |
| ~~Elementary School~~ | ~~1,000 sf~~ | ~~265.73~~ |
| ~~Middle School~~ | ~~1,000 sf~~ | ~~265.73~~ |
| ~~High School~~ | ~~1,000 sf~~ | ~~265.73~~ |
| ~~Junior/Community College~~ | ~~1,000 sf~~ | ~~265.73~~ |

PROOFS

| | | |
|---|---|---|
| ~~University~~ | ~~1,000 sf~~ | ~~265.73~~ |
| ~~Church~~ | ~~1,000 sf~~ | ~~35.89~~ |
| ~~Day Care Center~~ | ~~1,000 sf~~ | ~~194.71~~ |
| ~~*Office*~~ | | |
| ~~Office 50,000 sf or less~~ | ~~1,000 sf~~ | ~~87.05~~ |
| ~~Office 50,001 – 100,000 sf~~ | ~~1,000 sf~~ | ~~87.05~~ |
| ~~Office 100,001 – 200,000 sf~~ | ~~1,000 sf~~ | ~~87.05~~ |
| ~~Office 200,001 – 400,000 sf~~ | ~~1,000 sf~~ | ~~87.05~~ |
| ~~Office greater than 400,000 sf~~ | ~~1,000 sf~~ | ~~87.05~~ |
| ~~Medical Office/Clinic~~ | ~~1,000 sf~~ | ~~103.09~~ |
| ~~Business Park~~ | ~~1,000 sf~~ | ~~87.05~~ |
| ~~*Commercial/Retail*~~ | | |
| ~~Specialty Retail, Including Bars/Taverns~~ | ~~1,000 sf~~ | ~~279.47~~ |
| ~~Retail 50,000 gsf or less~~ | ~~1,000 sf~~ | ~~184.79~~ |
| ~~Retail 50,001 gsf to 200,000 gsf~~ | ~~1,000 sf~~ | ~~184.79~~ |
| ~~Retail 200,001 gsf to 400,000 gsf~~ | ~~1,000 sf~~ | ~~184.79~~ |
| ~~Retail greater than 400,000 gsf~~ | ~~1,000 sf~~ | ~~184.79~~ |
| ~~Pharmacy/Drug Store w/Drive Thru~~ | ~~1,000 sf~~ | ~~258.86~~ |
| ~~Home Improvement Superstore~~ | ~~1,000 sf~~ | ~~59.56~~ |
| ~~Quality Restaurant~~ | ~~1,000 sf~~ | ~~885.76~~ |
| ~~High Turnover Restaurant~~ | ~~1,000 sf~~ | ~~885.76~~ |
| ~~Fast Food Rest w/ Drive Thru~~ | ~~1,000 sf~~ | ~~1,386.67~~ |
| ~~Gas/Service Station~~ | ~~fuel pos.~~ | ~~46.58~~ |
| ~~Quick Lube~~ | ~~service bay~~ | ~~105.37~~ |
| ~~Supermarket~~ | ~~1,000 sf~~ | ~~566.58~~ |
| ~~Convenience Store w/Gas Pumps~~ | ~~1,000 sf~~ | ~~739.15~~ |
| ~~Auto Repair or Body Shop~~ | ~~1,000 sf~~ | ~~233.66~~ |
| ~~New and Used Car Sales~~ | ~~1,000 sf~~ | ~~133.63~~ |
| ~~Building Materials and Lumber~~ | ~~1,000 sf~~ | ~~59.56~~ |
| ~~Discount Superstore~~ | ~~1,000 sf~~ | ~~170.28~~ |
| ~~Hardware/Paint Store~~ | ~~1,000 sf~~ | ~~258.86~~ |
| ~~Auto Parts Sales~~ | ~~1,000 sf~~ | ~~258.86~~ |
| ~~Tire Store~~ | ~~1,000 sf~~ | ~~233.66~~ |
| ~~Self Service Car Wash~~ | ~~service bay~~ | ~~123.70~~ |
| ~~Furniture Store~~ | ~~1,000 sf~~ | ~~258.86~~ |
| ~~Bank/Savings Walk-In~~ | ~~1,000 sf~~ | ~~113.77~~ |
| ~~Bank/Savings Drive-In~~ | ~~1,000 sf~~ | ~~113.77~~ |

PROOFS

| | | |
|---|---|---|
| ~~Convenience/Gas/Fast Food~~ | ~~1,000 sf~~ | ~~739.15~~ |
| ~~*Industrial*~~ | | |
| ~~General Industrial/Industrial Park~~ | ~~1,000 sf~~ | ~~158.83~~ |
| ~~General Heavy Industrial~~ | ~~1,000 sf~~ | ~~51.92~~ |
| ~~Manufacturing~~ | ~~1,000 sf~~ | ~~158.83~~ |
| ~~Warehouse~~ | ~~1,000 sf~~ | ~~180.20~~ |
| ~~Mini-Warehouse~~ | ~~1,000 sf~~ | ~~63.38~~ |

(b) *Solid waste impact fee account.* There is hereby established a solid waste impact fee account into which all solid waste impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the solid waste impact fee account. Solid waste impact fee revenues shall be spent only on solid waste facilities and solid waste facilities capital costs as provided in section 113-11.

(Code 1983, § 22-417; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-18. Stormwater impact fee.**

(a) *Stormwater impact fee schedule.* A stormwater impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the ~~following~~ fee schedule established by resolution.

| | ~~Impact Unit~~ | ~~<Adopted on November 17, 2008, at 60% of total fee >~~ |
|---|---|---|
| ~~All Land Uses~~ | ~~sq. foot of impervious area~~ | ~~$0.04~~ |

(b) *Stormwater impact fee account.* There is hereby established a stormwater impact fee account into which all stormwater impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the stormwater impact fee account. Stormwater impact fee revenues shall be spent only on stormwater facilities and stormwater facilities capital costs as provided in section 113-11.

(Code 1983, § 22-418; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-19. Transportation impact fee.**

(a) *Transportation impact fee schedule.* A transportation impact fee shall be assessed and collected from new residential and nonresidential development, pursuant to all applicable provisions of this article, in accordance with the ~~following~~ fee schedule established by resolution.

| ~~Land Use~~ | ~~Impact Unit~~ | ~~<Adopted on November 17, 2008, at 60% of total fee>~~ |
|---|---|---|
| ~~*Residential*~~ | | |
| ~~Single Family Detached~~ | | |
| ~~- Less than 1,500 sf~~ | ~~du~~ | ~~$424.78~~ |
| ~~- 1,500 to 2,499 sf~~ | ~~du~~ | ~~586.20~~ |
| ~~- 2,500 sf or greater~~ | ~~du~~ | ~~629.77~~ |
| ~~Multi Family~~ | ~~du~~ | ~~452.19~~ |
| ~~Mobile Home Park~~ | ~~du~~ | ~~269.84~~ |
| ~~*Transient, Assisted, Group*~~ | | |

PROOFS

| | | |
|---|---|---|
| ~~Hotel~~ | ~~room~~ | ~~456.52~~ |
| ~~Motel~~ | ~~room~~ | ~~246.13~~ |
| ~~Nursing Home/ALF~~ | ~~bed~~ | ~~75.30~~ |
| ~~*Recreational*~~ | | |
| ~~RV Park~~ | ~~site~~ | ~~229.87~~ |
| ~~Marina~~ | ~~berth~~ | ~~155.62~~ |
| ~~Golf Course~~ | ~~hole~~ | ~~1,809.40~~ |
| ~~Movie Theater~~ | ~~screen~~ | ~~2,747.38~~ |
| ~~Amusement Park~~ | ~~acre~~ | ~~3,965.81~~ |
| ~~General Recreation~~ | ~~acre~~ | ~~108.67~~ |
| ~~Racquet Club/Health Club/Spa/Dance Studio~~ | ~~1,000 sf~~ | ~~1,787.47~~ |
| ~~Bowling Alley~~ | ~~1,000 sf~~ | ~~1,809.43~~ |
| ~~Community Center~~ | ~~1,000 sf~~ | ~~1,183.06~~ |
| ~~*Institutional*~~ | | |
| ~~Hospital~~ | ~~1,000 sf~~ | ~~907.85~~ |
| ~~Elementary School~~ | ~~student~~ | ~~58.52~~ |
| ~~Middle School~~ | ~~student~~ | ~~84.56~~ |
| ~~High School~~ | ~~student~~ | ~~89.47~~ |
| ~~Junior/Community College~~ | ~~student~~ | ~~76.20~~ |
| ~~University~~ | ~~student~~ | ~~155.49~~ |
| ~~Church~~ | ~~1,000 sf~~ | ~~433.52~~ |
| ~~Day Care Center~~ | ~~1,000 sf~~ | ~~1,532.61~~ |
| ~~*Office*~~ | | |
| ~~Office 50,000 sf or less~~ | ~~1,000 sf~~ | ~~998.43~~ |
| ~~Office 50,001 – 100,000 sf~~ | ~~1,000 sf~~ | ~~907.52~~ |
| ~~Office 100,001 – 200,000 sf~~ | ~~1,000 sf~~ | ~~771.08~~ |
| ~~Office 200,001 – 400,000 sf~~ | ~~1,000 sf~~ | ~~654.87~~ |
| ~~Office greater than 400,000 sf~~ | ~~1,000 sf~~ | ~~555.50~~ |
| ~~Medical Office/Clinic~~ | ~~1,000 sf~~ | ~~2,371.45~~ |
| ~~Business Park~~ | ~~1,000 sf~~ | ~~827.15~~ |
| ~~*Commercial/Retail*~~ | | |
| ~~Specialty Retail, Including Bars/Taverns~~ | ~~1,000 sf~~ | ~~1,947.98~~ |
| ~~Retail 50,000 gsf or less~~ | ~~1,000 sf~~ | ~~1,025.90~~ |
| ~~Retail 50,001 gsf to 200,000 gsf~~ | ~~1,000 sf~~ | ~~892.68~~ |
| ~~Retail 200,001 gsf to 400,000 gsf~~ | ~~1,000 sf~~ | ~~851.23~~ |
| ~~Retail greater than 400,000 gsf~~ | ~~1,000 sf~~ | ~~899.44~~ |

PROOFS

| | | |
|---|---|---|
| ~~Pharmacy/Drug Store w/Drive Thru~~ | ~~1,000 sf~~ | ~~859.06~~ |
| ~~Home Improvement Superstore~~ | ~~1,000 sf~~ | ~~1,298.32~~ |
| ~~Quality Restaurant~~ | ~~1,000 sf~~ | ~~2,915.24~~ |
| ~~High-Turnover Restaurant~~ | ~~1,000 sf~~ | ~~3,863.56~~ |
| ~~Fast Food Rest w/Drive-Thru~~ | ~~1,000 sf~~ | ~~9,796.09~~ |
| ~~Gas/Service Station~~ | ~~fuel pos.~~ | ~~988.24~~ |
| ~~Quick Lube~~ | ~~service bay~~ | ~~1,158.25~~ |
| ~~Supermarket~~ | ~~1,000 sf~~ | ~~1,622.89~~ |
| ~~Convenience Store w/Gas Pumps~~ | ~~1,000 sf~~ | ~~4,358.75~~ |
| ~~Auto Repair or Body Shop~~ | ~~1,000 sf~~ | ~~1,183.88~~ |
| ~~New and Used Car Sales~~ | ~~1,000 sf~~ | ~~1,605.71~~ |
| ~~Building Materials and Lumber~~ | ~~1,000 sf~~ | ~~2,857.51~~ |
| ~~Discount Superstore~~ | ~~1,000 sf~~ | ~~3,649.75~~ |
| ~~Hardware/Paint Store~~ | ~~1,000 sf~~ | ~~1,440.56~~ |
| ~~Auto Parts Sales~~ | ~~1,000 sf~~ | ~~1,759.36~~ |
| ~~Tire Store~~ | ~~1,000 sf~~ | ~~694.96~~ |
| ~~Self Service Car Wash~~ | ~~service bay~~ | ~~2,207.16~~ |
| ~~Furniture Store~~ | ~~1,000 sf~~ | ~~209.28~~ |
| ~~Bank/Savings Walk-In~~ | ~~1,000 sf~~ | ~~2,388.74~~ |
| ~~Bank/Savings Drive-In~~ | ~~1,000 sf~~ | ~~4,332.97~~ |
| ~~Convenience/Gas/Fast Food~~ | ~~1,000 sf~~ | ~~11,093.60~~ |
| ~~*Industrial*~~ | | |
| ~~General Industrial/Industrial Park~~ | ~~1,000 sf~~ | ~~442.40~~ |
| ~~General Heavy Industrial~~ | ~~1,000 sf~~ | ~~87.16~~ |
| ~~Manufacturing~~ | ~~1,000 sf~~ | ~~237.82~~ |
| ~~Warehouse~~ | ~~1,000 sf~~ | ~~311.88~~ |
| ~~Mini-Warehouse~~ | ~~1,000 sf~~ | ~~155.65~~ |

PROOFS

(b) *Transportation impact fee account.* There is hereby established a transportation impact fee account into which all transportation impact fees collected shall be deposited. Other than interest that accrues on the account, no other funds shall be maintained in the transportation impact fee account. Transportation impact fee revenues shall be spent only on transportation facilities and transportation capital costs as provided in section 113-11.

(Code 1983, § 22-419; Ord. No. L-61, § 2, 11-17-2008)

**Sec. 113-20. Economic development impact fee mitigation program**

(a) For the purpose of this section, the term "qualified target industry business" shall mean a new or expanding business in the city that has a positive economic and fiscal impact on the city and meets the requirements of F.S. § 288.106, or its statutory successor in function, as a qualified target industry business. For the purpose of this section, the term "applicant" shall include any person, company, research institute or business park developer that will house qualified target industry businesses.

(b) Because the imposition of the impact fees herein may place the city in a non-competitive position with other local governments that have chosen not to require growth to pay its fair share of needed capital facilities, thus hindering efforts by the city and the community to encourage economic development opportunities within the city and to create permanent employment expansion opportunities for the city's citizens, there is hereby created an economic development impact fee mitigation program for certain qualified target industry businesses to mitigate any real or perceived disadvantage occurring from the imposition of the impact fees.

(c) This program is not intended as an entitlement program. The program is intended to provide the city commission the opportunity, in its sole discretion, to grant impact fee mitigation to qualified target industry businesses.

(d) To be eligible for an economic development impact fee waiver, an applicant must meet the following requirements:

(1) Qualify as a qualified target industry business and create a minimum of ten new jobs or a ten percent increase in existing employment (whichever is greater) with an average private sector wage (excluding benefits) of 100 percent of the county's average private sector wage (excluding the top two executive salaries) and make a capital investment in the city of $5,000,000.00 or greater in construction, renovations, equipment purchases, or other major capital investment items and remain in the city for a minimum of ten years; and

(2) Enter into an agreement with the city wherein the applicant agrees to locate or expand its business operations to/within the city for a period of at least ten years. The agreement will also require the applicant to provide the city with the applicant's quarterly report (UCT-6) and all other documentation to demonstrate that the job creation and salary level commitments were achieved.

(e) Any applicant seeking an economic development impact fee waiver shall file an application for waiver with the city manager prior to the issuance of the building permit for the subject capital facilities impact construction. The application shall contain:

(1) A designation of the capital facilities impact construction for which the application is being submitted, including a current and complete legal description of the property upon which the qualified target industry business is proposed to be located;

(2) The name and address of the owner of the property upon which the qualified target industry business is proposed to be located;

(3) Proof that the capital facilities impact construction will be a qualified target industry business;

(4) A notarized affidavit and all necessary supporting evidence affirming that the requirements of subsection (d)(1) or (d)(2) of this section will be met within one year of the date the certificate of occupancy is issued which term may be extended by the city commissioner upon good cause shown; and

(5) Other necessary information as determined by the city manager.

(f) Any applicant who submits an application for economic development impact fee mitigation pursuant to this section and desires the immediate issuance of a building permit prior to approval of the application shall pay the impact fees imposed herein. Should the city commission approve and accept the mitigation application, the mitigation amount shall be refunded to the applicant or owner.

(g) If the applicant meets the requirements provided above for mitigation, the applicant shall be eligible for the following:

(1) If the applicant qualifies under subsection (d)(1) of this section, it shall be eligible to receive an economic development impact fee mitigation in the following amounts; provided, however, that the city commission may increase these mitigation amounts in the event the applicant exceeds these requirements:

| *Economic Development Impact Fee Mitigation Amount* | | |
|---|---|---|
| Number of jobs created | Total capital investment | Waiver amount (percent of total impact fees) |

PROOFS

| | | |
|---|---|---|
| Minimum of ten | $5,000,000.00 to $9,999,999.99 | 40 |
| Minimum of ten | $10,000,000.00 to $14,999,999.99 | 50 |
| Minimum of ten | $15,000,000.00 or more | 60 |

(h) If the city manager finds that the applicant meets the requirements provided herein for mitigation, the city manager shall agenda an impact fee mitigation agreement before the city commission, which shall contain, but not be limited to, the city impact fee mitigation application for qualified target industries and any other documents as requested by the city manager. Because this program is not an entitlement program, the city commission may reject the request for mitigation without cause.

(i) Any incentive approved pursuant to the economic development impact fee mitigation program shall be paid from other legally available funds (other than impact fees).

(j) Any request for economic development impact fee mitigation must be submitted to the city by the applicant prior to the applicant deciding whether or not they will expand or locate in the city.

(Code 1983, § 22-420; Ord. No. 15-002, § 1, 2-17-2015 )

PROOFS

Chapter 114

**RESERVED**

PROOFS

Chapter 115

# MISCELLEANOUS PROVISIONS*

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

## ARTICLE I. IN GENERAL

**Secs. 115-1--115-18. Reserved.**

## ARTICLE II. DREDGE DISPOSAL SITE REQUIREMENTS

**Sec. 115-19. Definitions.**

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

~~As used in this article, the following terms shall have the indicated meaning:~~

*Canal* means a trench, the bottom of which is normally covered by water, with the upper edges of its two sides normally above water.

*Certification of completion* consists of drawings of record prepared and sealed by a registered professional engineer or professional land surveyor following completion of a dredging disposal project in compliance with a valid city permit issued for that purpose and soil testing reports completed after final dredge material removal. For dredging disposal projects constructed where prior to a city permit, or where the certification of completion was not a requirement of the permit, the certification of completion may instead include other competent and substantial evidence of pre-existing conditions, including, but not limited to, evidence from adducted soil borings, on-site conditions, prior surveys, aerial photographs, or other exhibits acceptable to the city engineer. A certificate of completion shall also include a sworn affidavit, signed by the owner, contractor, or both, that the work has been completed in compliance with this Code.

*Certificate of compliance* means the written determination by the city engineer that all requirements of the permit and this Code, including, but not limited to, the submission of the required certificate of completion have been complied with.

*Channel* means a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

*City engineer* means the city engineer of the City of Fort Pierce or his authorized representative.

*Drainage ditch* or *irrigation ditch* means a manmade trench dug for the purpose of draining water from the land or the transporting of water for use and is not built for navigation purposes.

*Dredging* means the excavation of any material, by any means, in waters of the city, county, state or U.S. government or private ownership. It is also the excavation (or creation) of a water body which, or is to be, connected to any of the water listed above, directly or via an excavated water body or series of water bodies.

*Filling* means the disposition, by any means, of materials in any lands within the city.

*Materials* means matter of any kind, including, but not limited to, dredge material, sand, clay, silt, rock, construction debris, solid waste, pilings or other structures, and residues from industrial and domestic purposes.

*Swale* means a manmade trench which:

(1) Has a top width-to-depth ratio of the cross-section equal or greater than 6:1, or side slopes equal or greater than three feet horizontal to one foot vertical;

(2) Contains contiguous areas of standing or flowing water only following a rainfall event.

PROOFS

(Code 1983, § 17-52; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-20. Requirements for disposal sites.**

It shall be unlawful to dispose of any dredging material within the city without a valid city permit. City permits for disposal sites have an expiration time of 12 months from the date of issuance. Up to two three-month permit extensions may be considered, upon written request, by the city engineer, provided that the applicant has made diligent effort to obtain a dredge and fill permit from other agencies, and any other documentation as may be required.

(Code 1983, § 17-51; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-21. Permit; application process and fees; transfers.**

(a) A permit shall be required for the disposal of any dredging material within the city. City dredged material disposal site permits that have been issued, as provided under this article, may be considered for transfer by the city upon written application to the city engineer.

(b) The application for a permit or permit transfer shall be submitted along with the required application fee ~~of one hundred fifty dollars ($150.00).~~ in the amount established by resolution.

(c) The following documentation shall be provided to the city engineer for review to obtain city permits and for applications for permit transfers, in addition to any documentation the city engineer deems relevant or necessary:

(1) Property and topography survey with legal description of site.

(2) Recent aerial photograph.

(3) Proof of site ownership or transfer lease or easement agreement from existing owner of site, if site not owned by applicant.

(4) Completed city application for city dredge disposal site permit.

(5) All required state or federal dredge material storage permits.

(6) Proof of general liability insurance as specified herein.

(7) Vicinity map showing location of the site in relation to the nearby roadways. City may provide mapping and aerial information at a nominal cost.

(8) Specific physical description of proposed site, including required property setbacks, current zoning, and capacity of disposal site taking into account ponding depth, freeboard, dike stability, retention times, effluent quality requirements.

(9) Comparison of dredge volume with the existing disposal capabilities of the site.

(10) Any document or proof demonstrating compliance with other governmental approvals, permits, and constraints requirements.

(11) Identification of truck haul route for transporting material to site, when applicable.

(12) Evidence and ownership of existing local roads conditions along a designated haul route, including video and/or photographs if requested.

(13) Destination of material to be transported if removed from the site for another destination.

(14) Authorization for entry upon any portion of the site by city representatives for purpose of inspections.

(15) Identification of any wetlands, native habitats, nearby storm sewers, channels, canals, ditches, swales, or any other drainage conveyance system within 100 feet radius of the proposed site must be identified and listed.

(16) Results and reports of chemical testing on the material to be dredged material as may be required by the city engineer.

(d) Application for a city dredge material storage site permit shall be made on forms prescribed by the city engineer and shall be submitted to the city's building department at least 30 days prior to the start of dredging work accompanied by the prescribed permit processing fee and all required documentation. The application shall include

PROOFS

a sworn affidavit signed by the owner, contractor, or both as may be required by the city engineer, that no work has begun on the site prior to issuance of the permit and that the owner and/or contractor agrees to comply with the requirements of this article and any applicable this Code.

(e) To ensure protection of public health, safety and welfare, all engineering documents and related materials provided with the application and final certification of completion shall be signed and sealed by a professional engineer in accordance to F.S. ch. 471. Any land survey associated with an application shall be certified by a professional land surveyor in accordance with F.S. ch. 472.

(f) Within 30 days after receipt of the application for permit, or receipt of additional information, the city engineer shall examine the application and all required documents and notify the applicant of any apparent errors or omissions, and request any additional information needed to clarify the documentation on the application or in subsequent submissions. The applicant shall have 90 days after the city engineer mails a timely request for additional information to submit the information requested.

(g) If the applicant requires more than 90 days in which to respond to a request for additional information, the applicant shall notify the city engineer in writing within ten days of the expiration of the first 90-day period of the circumstances, at which time the application shall be held in active status for one additional 90-day period. Failure of the applicant to provide the requested information by the applicable deadline of the final 90-day period will result in the application being denied and the loss of the processing fee.

(h) If the applicant is making a good faith and diligent effort to obtain the requested additional information, such as a valid dredge and fill permit from other agencies, the city engineer may extend the requested 90-day respond period to subsequent periods, provided that written evidence is submitted that such delays are beyond the applicant's control.

(Code 1983, § 17-53; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-22. Site inspection.**

The city shall have the right to inspect any proposed dredge material storage site or any dredge material storage site having a current city permit. The permit application or permit transfer processing fee shall cover the cost of three pre-permit inspections. One inspection to evaluate the proposed disposal site during the permit application review period, one during construction, and a final inspection after the certificate of completion. Any additional city inspections that are required due to negligence of the permit applicant, a permit holder, and/or contractor in their performance of the work shall be at the rate ~~of fifty dollars ($50.00) per inspection~~ established by resolution. A permit applicant or permit holder may request city inspections upon 48 hours' advance notice.

(Code 1983, § 17-54; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-23. Site requirements.**

The applicant must demonstrate that the site has the capability for confined disposal of specified volumes of dredge material in an environmentally sound and efficient manner for the requested life of the permit. The applicant must demonstrate that the proposed site has a setback of a minimum of 100 feet from any adjoining property, public right-of-way, environmentally sensitive lands, wetland, canal, ditch, swale, or body of water. The following information must be provided as part of the application:

(1) Volume of dredge material proposed to be stored on the site according to physical and chemical characteristics of the sediments to be contained in confined disposal areas. Applicant shall submit test reports with application.

(2) Dredged material storage site capabilities and limitations of contained storage site.

(3) Identification of environmental protection needs and documentation describing the method for addressing the identified needs. Any natural resources concerns associated with the proposed disposal site shall be identified and addressed. Environmental protection needs that must be addressed include, but are not limited to, contamination of soil or groundwater, the effect of the proposed dredge material storage on adjacent properties, swales, ditches, canals, channels, wells, groundwater, or other water bodies.

(4) Specification of the set back of the dredge material storage site, measured in feet, from adjoining

PROOFS

property, public right-of-way, environmentally sensitive land, wetland, canal, ditch, swale, or body of water.

(5) Chemical testing results and reports as required and specified by the city engineer.

(Code 1983, § 17-55; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-24. Bond and insurance required.**

(a) The permit applicant shall, at its own expense, procure and maintain until expiration of the permit, or until certificate of completion, whichever shall occur first, with insurers acceptable to the city, the types and amounts of insurance conforming to the minimum requirements set forth herein. The permit shall not be issued until the required insurance is in force and evidence of insurance acceptable to the city has been provided to and approved by the city. An appropriate certificate of insurance such as a standard ACORD certificate of liability insurance (ACORD Form 25-S), which includes 30 days' written notice of cancellation to the city of all coverages, shall be satisfactory evidence of insurance. Notwithstanding the prior submission of a certificate of insurance, or other insurance acceptable to the city, if requested by the city, the applicant shall provide the city with a certified complete copy of the policies of insurance providing the coverage required.

(1) *General liability insurance.* Such insurance shall be no more restrictive than that provided by coverage A (bodily injury and property damage) and coverage B (personal and advertising injury) of the latest addition of the standard occurrence commercial general liability form (Form CG 00 01) as filed for use in the state by the insurance services office (ISO), without any restrictive endorsements other than any endorsements specifically required by ISO or the state. The minimum limits shall be:

a. $1,000,000.00 general aggregate.

b. $1,000,000.00 products/completed operations aggregate.

c. $1,000,000.00 personal and advertising injury.

d. $1,000,000.00 each occurrence.

(2) *Environmental impairment insurance.* Such insurance shall provide coverage for third-party liability and cleanup costs at the proposed site resulting from pollution or other environmental impairment arising out of the activities which are contemplated by the permit. Such insurance shall be on a form acceptable to the city attorney. The applicant shall either be the named insured on the policy or, if another party is the named insured on the policy, applicant shall be shown as an additional insured. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

a. $1,000,000.00 each claim/occurrence.

b. $1,000,000.00 annual aggregate.

If such insurance is on a claims made basis, insurance must respond to claims reported within three years following the termination of the permit.

(b) The permit applicant shall post a performance bond, in a form acceptable to the city, conditioned upon the applicant faithfully performing its duties and obligations under this article. Such bond shall provide that if the applicant fails to fulfill its duties and obligations as outlined in the permit and in this article, there shall be recoverable any damage or loss suffered by the city as a result thereof, including the full amount of any compensation, indemnification, cost of completing unfinished duties or obligations of the applicant, including, but not limited to, removal of stored dredge material, plus a reasonable allowance for attorney fees, up to the full amount of the bond. Any bond posted under this article shall provide, in writing, "This bond may not be canceled or allowed to lapse."

(c) The minimum acceptable performance bond amount shall be $100,000.00. The city shall have the right to require the posting of a performance bond in any amount that the city, in its discretion, deems necessary to cover costs necessary based on the potential cost to the city if the applicant fails to fully perform its duties and obligations under the permit and this article.

(d) In lieu of the performance bond, the city, at its discretion, may elect to accept a letter of credit or a cash security fund in the specified amount.

PROOFS

(Code 1983, § 17-56; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-25. Reservation of rights.**

The rights reserved to the city with respect to any performance bond established pursuant to this section are in addition to all other rights and remedies the city may have under this Code, state or federal law. No action, proceeding, or exercise of any right with respect to a performance bond, letter of credit or security fund shall ~~effect~~ any other right the city may have.

(Code 1983, § 17-57; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-26. Removal of dredged material from storage site.**

(a) All holders of city dredge material storage permits issued under this article shall be required to remove all dredged material from the storage site within 120 days from the date the material is placed on the storage site as provided for under the terms and conditions of this article.

(b) Absolutely no dredged material may be stored on any site beyond 120 days and failure to comply with the removal requirement shall result in permit revocation and the imposition of fines and penalties in the amount of $100.00 per day.

(c) Removal of materials from the dredge storage site shall be along pre-approved truck routes as specified and approved in writing by the city engineer.

(d) The stored dredged material may not be relocated to any other storage site within the city and must be removed from the city for disposal.

(e) Any owner of property within the city where dredged material is stored as of the effective date of the ordinance from which this article is derived shall have 60 days to come into compliance all requirements of this article and the owner of such property shall be subjected to fines and penalties as provided herein for failure to comply with the requirements of this article.

(Code 1983, § 17-58; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-27. Certificate of completion.**

(a) Upon completion of all duties and obligations of the permit holder under the permit or this Code being fulfilled, including, but not limited to, timely removal of all dredged material from the dredge material storage site, and the permit holder has provided a certificate of compliance to the city engineer, as defined and provided for herein, the permit holder, may apply, in writing, for a certificate of completion, as defined herein, from the city engineer.

(b) The city engineer shall inspect the dredge material storage site, and in addition may require further chemical testing of soil on the storage site.

(c) Upon determination by the city engineer that the permit holder has fulfilled its obligations under the permit and this Code, the city engineer will issue a written certificate of completion, which shall in effect terminate the permit, but in no event shall terminate any insurance obligations required herein.

(Code 1983, § 17-59; Ord. No. K-233, § 1, 11-3-2003)

**Sec. 115-28. Enforcement remedies.**

(a) In addition to any other remedies available at law or equity or provided in this article, the city, at its option, may apply any one or combination of the following remedies in the event that a permit applicant, permit holder, or any other person violates this article, or applicable local law or order related to use of any site for dredge material storage. In determining which remedy or remedies are appropriate, the city shall take into consideration the nature of the violation, the persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the city determines are appropriate to the public interest.

(b) Failure to comply with the provisions of this article or other law applicable may result in imposition of penalties ~~to the city~~ in an amount of not less than $100.00 per day or part thereof that the violation continues.

PROOFS

(c) Before imposing a fine pursuant to this section, the city engineer or designee shall give written notice of the violation and the intention of the city to assess such penalties, which notice shall contain a description of the alleged violation. Notice shall be by regular U.S. mail or by hand delivery. Following receipt of such notice, the person committing the violation shall have 30 days to either:

(1) Cure the violation to the city's satisfaction; or

(2) File a written appeal with the special magistrate to contest the alleged violation.

(d) Upon receipt of the written appeal, or the violator's failure to cure the violation, the city engineer or designee shall place the matter before a special magistrate, for consideration within 45 days.

(e) Any violation that is not cured within that 30-day period shall accrue fines as provided herein, beginning with the first day of the violation, through any means allowed by law.

(f) In the event that the city engineer or his designee has reason to believe that a violation of this article presents a serious threat to the public health, safety, or welfare, the city engineer or his designee may directly refer the matter to any special magistrate appointed by the city commission.

(g) Failure of the city to enforce any requirements of this article shall not constitute a waiver of the city's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

(h) In any proceeding before the city regarding performance of obligations pursuant to this article, opportunity shall be afforded to provide such information as may be relevant concerning compliance with the terms and conditions of this article.

(i) After hearing any matter relating to violations of this article the special magistrate shall issue findings of fact, based on evidence of record, and conclusions of law and shall issue an order affording the proper relief consistent with this article and the powers granted under state and local law.

(j) Any officer who has probable cause to believe that any person has committed a violation of any kind, or any part of this article is hereby authorized to issue a citation to that person~~, as set forth in section 2-269~~ and the county court in and for the county will hear the charge. Such citation for violation shall be a civil infraction with a maximum civil penalty of $500.00 per violation. The form of written citation issued shall be in a form prescribed by the city commission or by administrative order of the chief judge of the 19th judicial circuit.

(Code 1983, § 17-60; Ord. No. K-233, § 1, 11-3-2003; Ord. No. 17-017 , § 13, 6-5-2017)

PROOFS

Chapter 116

**RESERVED**

PROOFS

Chapter 117

# SIGNS*

***State law reference**—Sign ordinances, F.S. §§ 163.3202(1)(f) 166.0425; outdoor advertising, F.S. ch. 479.

## Sec. 117-1. Definitions.

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

~~The following definitions shall apply in this chapter:~~

*A-frame or sandwich sign* means a portable upright, rigid supporting sign in the form of a triangle or an inverted V.

*Advertising structure* means a sign or sign structure erected or intended for advertising purposes, with or without advertisement displayed thereon, situated upon or attached to real estate, upon which any poster, bill, printing, painting or device is fastened, affixed or displayed.

*Animated sign* means a sign which depicts action or motion or which changes color. An animated sign differs from a flashing sign in that it uses movement to create a special effect or scene, rather than as an attention-getting technique.

*Banner sign* means a sign made of cloth, fabric, paper, nonrigid plastic or similar type of material.

*Billboard.* (See *Off-premises sign.*)

*Completely obliterated* means not only complete removal of old signage such that it will not be visible, but also that restoration of the wall area upon which the signage was affixed shall be in the same color, and of the same texture, and materials as the rest of the wall.

*Construction project sign* means a temporary sign identifying an active construction project.

*Directional sign* means:

(1) A sign erected by an official government agency to denote the name of any thoroughfare; to point out the route to any city, educational institution, public building, historic place or hospital; to direct and regulate traffic; and to denote any railroad crossing, bridge or other transportation facility for the convenience and safety of the general public.

(2) A sign giving directions or information about an establishment without advertising except that business logos are permitted. Such name and/or logo shall not exceed 50 percent of sign area. Directional signs may be used to identify entrances, exits, parking areas, clearances, standpipes, business hours, restrictions and traffic directions and order boards.

*Facade.* (See *Wall face.*)

*Flag of the United States of America*, often referred to as the American flag, consists of 13 equal horizontal stripes of red (top and bottom) alternating with white, with a blue rectangle in the canton (referred to specifically as the union) bearing 50 small, white, five-pointed stars arranged in nine offset horizontal rows, where rows of six stars (top and bottom) alternate with rows of five stars.

*Flag, all other*, means a piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as the symbol or emblem of a country or institution or as a decoration during public festivities.

*Flashing sign* means any sign which contains a continually intermittent or sequential flashing light source.

*Ground sign* means a sign affixed to the ground, either flush or on poles, and not attached to any building for

PROOFS

support, which may include a reader board (also called a detached, pole or freestanding sign).

*Group of establishments* means two or more commercial, industrial or public establishments that share common frontage, access points, off-street parking, loading and identity containing one or more structures approved as a single development.

*Illuminated sign* means any sign designed to emit artificial light or designed to reflect light from one or more sources of artificial light.

*Interchange of copy* means the change or replacement of lettering on a sign without the replacement of the sign face itself.

*Main street* means an abutting public right-of-way which has the greatest vehicular design capacity or current traffic volume relative to all other abutting public rights-of-way.

*Marquee* means any hood, awning or canopy of permanent construction which projects from the wall face of a building.

*Marquee sign* means a sign which is attached to a marquee.

*Message sign* means an electronically changeable sign upon which graphic displays, symbols or words can be varied upon the face or faces of the sign by a computer controller.

*Mural* means a painting or artistic work composed of graphics, photographs or arrangements of color, that displays a noncommercial message and is painted on the walls of a building or similar rigid surface. The definition of the term "mural" includes any painting, regardless of content, when the painting is done by a paid or unpaid artist and the artist; or when the painting is done by any other person or entity without compensation.

*Obscene* means the status of material which the average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest, or depicts or describes, in a patently offensive way, sexual conduct, or taken as a whole lacks serious literary, artistic, political or scientific value.

*Off-premises sign* means any sign which advertises a use, establishment, product or service that is sold, produced, manufactured or furnished at a place other than on the property on which said sign is located. (Also called an outdoor advertising sign or billboard.)

*On-premises sign* means a sign which advertises or directs attention to a use or establishment located on-premises or a product or service available on-premises.

*Out parcel* means a parcel of property containing a single structure with one tenant located within a group of establishments which may be separately owned or leased from the owner of the group of establishments.

*Parapet* means a false front or wall extension above the roof line.

*Pedestrian sign* means a sign which is attached to the underside of a cantilevered roof, portico or overhang that extends from the wall face of an establishment or use and covers a pedestrian passageway.

*Pennant* means any relatively long, tapering flag or banner.

*Pole banner* means a banner that is attached to and displayed upon an upright pole or staff; also called a vertical banner or feather banner.

*Portable sign* means a moveable sign not secured or permanently attached to the ground. (Also a trailer, A-frame or sandwich sign.)

*Projecting sign* means a sign which is affixed to and extends from the outside wall or facade of a building.

*Reader board* means a sign upon which copy is manually changed periodically to advertise special sales or to otherwise convey a message to the public.

*Roof sign* means any sign erected over or on the roof of a building.

*Sign* means any exterior identification, description, illustration or device which directs attention to a product, service, place, activity, person, establishment, institution or business; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information.

PROOFS

*Sign areas* means:

(1) *Ground and projecting signs.* The entire area within and enclosed by the exterior perimeter of all cabinets or modules within a single, continuous geometric figure, including, but not limited to, all written copy, logos, symbols, decorative embellishments and border or roof treatments. This shall include all open areas within said perimeters and all space separating said cabinets or modules. Only one face (the largest) of any multiple-faced sign shall be counted in calculating sign area.

(2) *Wall signs.* The entire area within a single continuous perimeter composed of squares, rectangles or other geometric figures which enclose the extreme limits of all sign elements affixed to the wall, including, but not limited to, cabinet structures, written copy, logos, symbols and illustrations.

*Sign face* means the part of a sign that is or may be used for advertising purposes.

*Sign structure* means all the interrelated parts and materials, such as beams, poles, and mounts, which are constructed for the purpose of supporting or displaying a message or informative content.

*Special event sign* means a sign which calls attention to activities of a temporary nature.

*Temporary sign* means a sign which advertises, for a limited period of time, issues, including, but not limited to, political candidates, parties or issues; active construction projects and proposed development projects; real estate for sale, rent or lease; business grand openings, sales events or other types of special events that do not require a special event permit under section 28-78.

*Trailer sign* means an advertising structure mounted on skids, wheel or wheels, constructed for the sole purpose of advertising, licensed or unlicensed.

*Vehicular sign* means a sign affixed to a vehicle or trailer for the purpose of advertising. For the purposes of this chapter, such signs shall only be applicable when said vehicle or trailer is temporarily or permanently located on a parcel for the primary purpose of conveying a business message.

*Wall face* means the entire building front, including the parapet.

*Wall sign* means a sign erected parallel to the outside wall facade of any building including flat, painted, individual letter or cabinet signs. Mansard and marquee signs shall conform to wall sign provisions.

*Window sign* means a sign which is painted on or displayed within a storefront window or door.

(Code 1960, § 23A-2(1—47); Code 1983, § 15-1; Ord. No. 17-019 , § 1, 6-19-2017; Ord. No. 17-029 , § 1, 1-2-2018)

**Sec. 117-2. Purpose and intent.**

The purpose and intent of this chapter is to establish requirements for the replacement, installation and maintenance of signs, in order to protect and preserve the health, safety, welfare, appearance and general wellbeing of the citizens of the city.

(Code 1960, § 23A-1; Code 1983, § 15-2; Ord. No. 17-019 , § 1, 6-19-2017)

**Sec. 117-3. Administration and enforcement.**

(a) *General.* The requirements of this chapter shall be administered and enforced by the city manager or his designee.

(b) *Removal of signs.*

(1) *Vacant premises.* A sign shall be removed by the property owner or lessee of the premises when the establishment which it advertises is no longer active or shall replace the sign face with an opaque, blank face on both sides. Upon the premises becoming vacant, the owner or lessee thereof shall remove and keep the windows clean and free from any lettering or advertising signs of the previous business or profession. Signs painted on or affixed to such premises advertising a previous business or profession shall be removed or completely obliterated after the premises becomes vacant. If the owner or lessee fails to remove any such signs, or to modify the sign face as aforesaid, the owner shall be given 30 days' written notice to remove it. Upon failure to comply with said notice, the sign shall be declared a nuisance and abated in accordance with section 24-22.

PROOFS

(2) *Maintenance.* All signs and advertising structures regulated by this chapter shall be maintained in accordance with the provisions of chapter 5 of this Code. The owner or lessee of any sign that is unsightly because of a deterioration or lack of maintenance shall be notified in writing and allowed 30 days to correct said violations. Upon failure to comply with said notice, the sign shall be declared a nuisance and abated in accordance with section 24-22.

(3) *Nuisance; abatement.* Any sign which is erected, used or maintained in violation of this chapter is hereby declared to be a public and private nuisance and shall be forthwith removed, obliterated or abated in accordance with section 24-22. For such purpose city staff or duly contracted vendor may enter upon private property without incurring any liability therefor. However, if any such sign bears the name of the owner thereof, and said owner holds an unexpired permit issued under this chapter, the said owner shall be given written notice of the violation in accordance with the provisions of section 24-22.

(c) *Emergency removal.* In cases where it reasonably appears that there is imminent danger to life or safety of any person unless a sign located on public or private property is immediately altered, repaired or removed, the sign is hereby declared unsafe. All such unsafe signs are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the International Property Maintenance Code, subject to all amendments, modifications or deletions, or other local ordinance, including article II of chapter 24 of this Code.

(Code 1960, § 23A-9; Code 1983, § 15-3; Ord. No. J-128, § 1, 12-19-1994; Ord. No J-201, § 2, 8-20-1996; Ord. No. 17-019 , § 1, 6-19-2017)

**Sec. 117-4. Nonconforming signs.**

(a) *General.* Any sign or advertising structure within the city on the effective date of the ordinance from which this chapter is derived, or a sign or advertising structure existing within any area annexed to the city after the effective date of this chapter, which, by its height, size, zone, location or use does not conform to the requirements of this chapter, shall be termed nonconforming.

(b) *Continuation or removal.* All nonconforming signs or advertising structures properly permitted and conforming to the sign ordinances of the city in effect on July 1, 1980, or existing within any area annexed to the city after the effective date of the ordinance from which this chapter is derived may continue in use in accordance with the other provisions of this section.

(c) *Structural alterations.* Nonconforming signs shall not be structurally altered or enlarged unless they are made to conform with all the requirements of this chapter, except that substitution or interchange of copy may be permitted.

(d) *Natural damage.* Nonconforming signs that incur more than 50 percent damage to the sign structure by wind, deterioration or other damage shall be made to conform with all the requirements of this chapter, or be completely removed.

(e) *Off-premises signs with less than the minimum separation.* Where two or more off-premises signs, each of which was lawfully installed at its time of installation, are situated closer to each other than permitted by section 117-6(c), then all such signs except the one first installed in the city shall be nonconforming.

(Code 1960, § 23A-7; Code 1983, § 15-4; Ord. No. J-201, § 3, 8-20-1996; Ord. No. 17-019 , § 1, 6-19-2017)

**Sec. 117-5. Prohibited signs or sign characteristics.**

The following signs or types of signs shall be prohibited within the city except for those which are specifically authorized or required by the city commission, state law or court order:

(1) Roof signs.

(2) Portable or trailer signs.

(3) A-frame or sandwich signs that do not comply with subsection 117-6(d)(1).

(4) Signs attached to any tree, shrub or plant that have the potential to damage the tree, shrub or plant.

(5) Signs located over or on any right-of-way except for approved projecting signs or temporary signs that

PROOFS

have been properly permitted.

(6) Signs attached to or placed upon any utility pole, streetlight, sidewalk, curb, fire hydrant, bridge or any other public property.

(7) Vehicular signs except for those affixed to franchised buses, taxis, commercial vehicles or other vehicles during their normal course of business or lawfully parked.

(8) Signs which copy or imitate official signs or which purport to have official status including signs utilizing fluorescent colors in the yellow and red spectrum typically associated with traffic control, safety notices and emergency response.

~~(9)Signs which display any lewd, lascivious, obscene, indecent or immoral written or graphic message.~~

(9) Signs which obstruct or interfere with any door, fire exit, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.

~~Signs which constitute a traffic safety hazard by reason of size, location, movement, content, coloring or method of illumination, including flashing, animated or noise making signs; obstruct the vision of motorists or pedestrians; obstruct or detract from any official traffic control device; divert or tend to divert the attention of motorists from traffic movement on streets, roads, intersections or access facilities; utilize flashing or revolving red, green, blue or amber lights; or utilize the words "stop," "look," "danger" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.~~

(Code 1960, § 23A-6; Code 1983, § 15-5; Ord. No. 17-019 , § 1, 6-19-2017)

**Sec. 117-6. Regulation.**

(a) *General.* In addition to the requirements set forth in sections 117-7 and 117-8 for permitted signs, this section shall apply to specific types of signs.

(b) *On-premises signs.*

(1) *Wall signs.*

a. Shall not extend more than 18 inches from the wall or facade of the building to which they are attached.

b. Shall not extend more than 24 inches above the roof or parapet of a building, whichever is greater.

c. Shall be located on the main street wall face of the establishment or building they identify except that up to 50 percent of such permitted sign area may be located on other wall faces.

d. Shall be adequately constructed and installed in accordance with the provisions of the state building code.

(2) *Projecting signs.*

a. Shall provide a vertical clearance of not less than nine feet over any pedestrian walkway or 14 feet over any vehicular driveway.

b. Shall not extend closer (leading edge measured horizontally) than 18 inches to the curb face or, where no curb is installed, to the curblines as established by the city engineer, whichever is less.

c. Shall not extend more than 24 inches above the roof or parapet of a building, whichever is greater.

d. Shall be adequately constructed and installed in accordance with the provisions of the state building code.

(3) *Ground signs.*

a. Sites that are less than or equal to three acres shall have a maximum height of ten feet in height.

1. Sites that are greater than three acres and less than or equal to five acres shall have a maximum height of 12 feet.

2. Sites that are greater than five acres and less than or equal to ten acres shall have a maximum

PROOFS

height of 15 feet.

3. Sites that are greater than ten acres and less than or equal to 20 acres shall have a maximum height of 18 feet.

4. Sites that are greater than 20 acres shall have a maximum height of 20 feet.

b. Any sign which was permitted on or before November 30, 2004, may not be located less than 18 inches from any public right-of-way line, adjacent property line or structure. If such sign structure sustains at least 50 percent damage and requires a new permit for repair or replacement, it shall be reconstructed under current regulations, but may maintain the 18-inch setback requirement. Any sign newly permitted on or after December 1, 2004, shall not be located less than five feet from any public right-of-way line, adjacent property line, or structure.

c. Shall provide a vertical clearance of not less than nine feet over any pedestrian walkway or 14 feet over any vehicular driveway.

d. Shall be adequately constructed and installed in accordance with the provisions of the state building code.

~~Reserved.~~

e. Shall conform to the clear vision areas of section 125-308 with support structures limited to a maximum two feet in diameter.

(c) *Off-premises signs.*

(1) Shall not exceed an aggregate sign area of 400 square feet including all trim, molding or skirting.

(2) Shall not exceed a sign dimension of 40 feet horizontally or 12 feet vertically including all trim, molding or skirting.

(3) Shall not exceed a total height above natural ground level of 25 feet.

(4) Shall be located a minimum of 25 feet from any right-of-way, property line or structure on the same property, except the minimum setback shall be increased one foot for each ten square feet or portion thereof that the sign exceeds 200 square feet.

(5) Shall have the following minimum distances between any two off-premises signs:

a. Five hundred feet where at least one off-premises sign is more than 100 square feet in sign area.

b. Five thousand feet where both signs are more than 100 square feet in off-premise sign area.

(6) May have two signs situated back-to-back or oriented in a single V having an included angle of not more than 30 degrees.

(7) Shall comply with subsection (b)(3) of this section where the off-premises sign is also a ground sign.

(d) *Temporary signs.*

(1) *Temporary movable A-frame—sandwich board type signs.* A single, temporary movable A-frame—sandwich board type sign is permitted. It must be no larger than two feet by three feet and placed within ten feet of the entrance to the business and may not block access to any part of the building or sidewalk per the ADA Code and Florida Accessibility Code regarding clearance standards and accessibility. Temporary A-frame signs may be placed on public sidewalks that have sufficient width to comply with this section but shall not be placed in the parking lot, city right-of-way, landscaping or swales.

(2) *Special event signs.* Temporary signs announcing special events may be installed subject to an approved special event permit issued under section 28-78. No special event signs may be located within a public right-of-way, except as specifically authorized herein. The signs may be in the form of freestanding signs no larger than six square feet, flags, banners, pennants, or balloons and exhibited only for that period of time specified on the special event permit. The number of special events signs shall not exceed 75 signs.

a. Special event sign permit applications shall include:

PROOFS

1. Type of signage proposed. Provided information shall include, but is not limited to, the description of signage, dimensions, materials used, method of construction and placement, including dimensions from driveway, right-of-way and edge of pavement, list of sign locations, and such other information as the city may require.
2. Responsible agents. Identify the name and phone number of the sponsoring entity and principle contacts responsible for erecting and removing signage.
3. At the time of submission of an application for a special event sign permit, the applicant shall pay a ~~fifty dollar ($50.00)~~ processing fee in the amount established by resolution.

b. Shall not be illuminated.

c. May not be placed for a period in excess of 30 days.

d. ~~Banners shall not exceed 32 square feet in sign area, except that the combined area of all banners shall not exceed the sign area allowed for on-premises wall or projecting signs.~~

e. May not impede the clear vision area of driveways or intersections.

f. May be located on the city right-of-way providing all of the above requirements are met.

(3) *Streamers, pennants, ~~pole~~ banner and flags.*

a. Shall be maintained in good condition; torn, weathered or otherwise deteriorated streamers, pennants, pole banners or flags shall be repaired, replaced or removed.

b. Pole banners must be spaced a minimum of 25 feet apart.

c. May not be placed in the right-of-way or in a way that it impedes pedestrian traffic.

d. May not impede the clear vision area of driveways or intersections.

(4) *All other temporary signs.* Temporary signs, as defined in this chapter, shall comply with the following regulations:

a. Shall be maintained in good condition; torn, weathered or otherwise deteriorated signs shall be repaired, replaced or removed.

b. May not impede the clear vision area of driveways or intersections.

c. May not be placed on city property, in the city right-of-way, medians or parks.

(Code 1960, § 23A-3; Code 1983, § 15-6; Ord. No. I-304, §§ 1—3, 12-19-1988; Ord. No. K-03, § 1, 1-18-2000; Ord. No. K-53, § 1, 1-16-2001; Ord. No. K-303, §§ 1—6, 10, 1-3-2005; Ord. No. 17-019 , § 1, 6-19-2017)

**Sec. 117-7. Permitted signs.**

The following types and sizes of signs or advertising structures shall be permitted within the following zoning districts:

(1) *Single-family residential zoning districts (E-1, E-2, E-3, R-1, R-2 and R-3).*

a. *Semi-restricted uses.* Temporary signs that comply with subsection 117-6(d) and that do not exceed eight square feet and one non-illuminated wall sign per individual dwelling unit, which shall not exceed one square foot in sign area.

b. *Conditional uses.* Types and sizes of signs or advertising structures as permitted by section 117-8(3) in an office commercial zoning district, except that ground signs shall not exceed 18 square feet in sign area.

(2) *Multi-family residential zoning districts (R-4, R-4A and R-5).*

a. *Semi-restricted uses.*

1. Temporary signs that comply with Sec. 117-6(d) and that do not to exceed 32 square feet on lots of one acre or more, or eight square feet on all other parcels; and one non-illuminated wall sign per individual dwelling unit, which shall not exceed one square foot in sign area.

PROOFS

2. One non-illuminated wall or ground sign per entrance of a permitted principal building or use, which shall not exceed 18 square feet in sign area. Ground signs shall not exceed six feet in height.

3. Non-illuminated directional signs, which shall not exceed six square feet in sign area, may be installed as needed with the approval of the director in accordance with section 117-9.

b. *Conditional uses.* Types and sizes of signs or advertising structures as permitted by section 117-8(d) in limited commercial zoning districts except that ground signs shall not exceed 32 square feet in sign area.

(3) *Office commercial and Edgartown Settlement zoning districts (C-1, ES).*

a. *Semi-restricted uses.*

1. Temporary signs that comply with subsection 117-6(d) and that do not to exceed 32 square feet. Temporary signs must be placed a minimum of 25 feet apart and one wall sign per tenant or occupant which shall not exceed two square feet in sign area.

2. One wall sign per building, which shall not exceed 24 square feet in sign area.

3. Any establishment, or group of establishments, which has main street lot frontage of 60 linear feet or more, shall also be permitted one ground sign, which shall not exceed 48 square feet in sign area and six feet in height.

4. Directional signs, which shall not exceed six square feet in sign area may be installed as needed with the approval of the director in accordance with section 117-9.

b. *Conditional uses.* Types and sizes of signs or advertising structures as permitted by section 117-8(d) in limited commercial zoning districts unless restricted by the city commission when the conditional use is approved.

(4) *Limited commercial and open space/recreational zoning districts (C-2, C-5, C-6, OS-1, OS-2, A-1 and A-2).*

a. *Semi-restricted uses.*

1. One wall sign or one projecting sign per tenant, which shall not exceed a sign area equal to 20 percent of the total wall face area fronting on the main street.

2. Any establishment, or group of establishments, which has a main street lot frontage of 60 linear feet or more, shall also be permitted one ground sign. Such sign shall not exceed a sign area equal to one square foot for every three linear feet of main street lot frontage, up to a maximum of 200 feet. Structures on out parcels with a single tenant having 60 feet of frontage or more shall also be permitted a separate ground sign subject to the restrictions above. The out parcel frontage shall not be subtracted in calculating the frontage for the group of establishments.

3. One pedestrian sign per tenant, which shall not exceed six square feet in sign area.

4. One rear entrance wall sign per tenant which shall not exceed six square feet in sign area.

5. Window signs per tenant, which shall not exceed 25 percent of such open window display area.

6. Directional signs, which shall not exceed six square feet each in sign area, may be installed as needed with the approval of the director in accordance with section 117-9.

7. Temporary signs that comply with subsection 117-6(d) and that do not exceed 32 square feet. Temporary signs must be placed a minimum of 25 feet apart.

b. *Conditional uses.* Same as semi-restricted uses.

(5) *General commercial and industrial zoning districts (C-3, C-4, CP, I-1, I-2, and I-3).*

a. *Semi-restricted uses.*

PROOFS

1. Off-premises signs.
2. One wall sign or one projecting sign per tenant, which shall not exceed a sign area equal to 20 percent of the total wall face area fronting on the main street.
3. Any establishment, or group of establishments, which has a main street lot frontage of 60 linear feet or more, shall also be permitted one ground sign. Such sign shall not exceed a sign area equal to one square foot for every three linear feet of main street lot frontage, up to a maximum of 200 square feet except that one additional ground sign shall be permitted when the main street lot frontage exceeds 500 feet. The second ground sign shall not exceed a sign area equal to one square foot for every three linear feet of main street lot frontage in excess of the first 500 feet of frontage, up to a maximum of 200 square feet. Structures on out parcels with a single tenant having 60 feet of frontage or more shall also be permitted a separate ground sign subject to the restrictions above. The out parcel frontage shall not be subtracted in calculating the frontage for the group of establishments.
4. One pedestrian sign per tenant, which shall not exceed six square feet in sign area.
5. One rear entrance wall sign per tenant, which shall not exceed six square feet in sign area.
6. Window display signs per tenant, which shall not exceed 25 percent of such open window area.
7. Directional signs, which shall not exceed six square feet in sign area, may be installed as needed.
8. Temporary signs that comply with subsection 117-6(d) and that do not exceed 32 square feet. Temporary signs must be placed a minimum of 25 feet apart.

b. *Conditional uses.* Same as semi-restricted uses.

(6) *Planned development and planned unit redevelopment zoning district (PD or PUR).* Except for temporary signs that comply with subsection 117-6(d) and that do not exceed 32 square feet, the types and sizes of signs and advertising structures permitted shall be determined by the city commission as part of the final development or redevelopment plan except that in no instance may the permitted signage exceed that permitted ~~by subsection 117-8(5)a.2., 3., 4., 5., 6., 7. and 117-8(5)b~~ elsewhere in this chapter.

(7) *I-95 and turnpike interchange district.*

a. *Area defined.* The area subject to this section shall include all commercial and industrial lots or parts thereof located within:

1. One-half mile of where I-95 N intersects with State Road 70;
2. One-half mile of the commencement of the southbound turnpike off ramp; or
3. Extends one-half mile both north and south of State Road 70 between the two interchanges.

b. *Ground sign standards.* Any establishment or group of establishments, which has a main street frontage of 60 linear feet or more, located on a lot which lies in whole or in part in the district provided for by this section, shall be permitted one ground sign. Such sign shall not exceed a sign area equal to one square foot for every three linear feet of main street frontage, up to a maximum of 300 square feet. The maximum height shall be 65 feet.

c. *Other standards.* Additional signs in this district shall conform with regulations and standards provided by this chapter or the appropriate zoning category.

(Code 1960, § 23A-4; Code 1983, § 15-7; Ord. No. I-108, §§ 1, 2, 4-1-1985; Ord. No. I-405, § 4, 12-3-1990; Ord. No. I-462, § 4, 6-3-1991; Ord. No. J-345, § 1, 7-21-1997; Ord. No. K-303, §§ 7—9, 1-3-2005; Ord. No. 17-019 , § 1, 6-19-2017; Ord. No. 17-029 , § 2, 1-2-2018)

**Sec. 117-8. Permit procedures.**

(a) *General.* No person shall place, erect or maintain the structure of a sign including the removal or replacement of the sign face, or cause to be placed, erected or maintained, any sign or advertising structure or

PROOFS

structure or structural alteration thereto except in conformance with the provisions of this chapter.

(b) *Application.* All plans and layouts for a sign or advertising structure shall be accompanied by an application which shall be filed with the building department in accordance with chapter 103 of this Code prior to the issuance of any permit. The application shall be approved or disapproved by the building department within 15 days of the date it is received. In the event it is not either approved or disapproved within such period of time, it shall be deemed approved. Said application shall describe and set forth the following:

(1) The type of proposed sign or advertising structure requested as defined in this chapter.

(2) The street address and legal description of the property upon which said sign is to be located.

(3) The square foot area per sign face and message content.

(4) Plans drawn to scale showing:

a. The location of all proposed signs and existing signs to be retained.

b. Complete design specifications of all proposed signs to show methods of construction and installation in accordance with the provisions of the state building code.

(5) Photographs of all existing on-site signs.

(6) The name and address of the person in control or possession of the property upon which said sign is to be located and authorization from same for possession to place said sign upon the property.

(7) The name of the person or contractor erecting the structure.

(8) Such other pertinent information as may be required by the building department.

(c) *Permit.* After the provisions of this chapter have first been complied with, and the sign or advertising structure does not violate any of the terms, conditions or provisions herein or of any other law or ordinance, a permit shall be issued for such sign or advertising structure.

(d) *Fee schedule.* A permit fee shall be paid in accordance to the fee schedule established in section 103-53. Separately, permit fees for special event signs shall be paid in accordance to the fee established in subsection 117-6(d).

(e) *Permit and fee exemptions.* The following types of signs shall not be required to have a permit or subject to the above fees, but shall meet all other appropriate requirements within this chapter:

(1) Temporary signs, except special event signs.

(2) Murals.

(3) Window signs, including, but not limited to, credit card signs, decals or emblems.

(4) Interchange of copy.

(5) Public convenience sign, which identifies the location of restrooms, public telephones or the like, not including signs required for compliance with the state accessibility code for which a permit is required.

(6) Public utility sign, which identifies the location of underground lines, high voltage areas or the like.

(7) Public warning sign, which indicates the dangers of trespassing, swimming, animals or the like.

(8) Flag, emblem or insignia of the United States, the state or the city.

(9) Seasonal display or decoration not advertising a product, service or establishment.

(f) *Contractors.* No person shall engage in the business of construction, erecting, altering or maintaining signs that require a permit within the city until he is state certified or has a valid certificate of competency from the city.

(g) *Stop-work orders.* Upon notice from the building official or his designee that work on any sign or advertising structure is being done contrary to the provisions of this chapter or the Code or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to his agent or to the person doing the work, and shall state the condition upon which work may be

PROOFS

resumed. Where an emergency exists, no written notice shall be required to be given by the building official.

(h) *Revocation of permit.* The building official may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement, concealment or misrepresentations as to a material fact in the application or plans on which the permit or approval was based.

(Code 1983, § 15-8; Ord. No. 1960, § 23A-8; Ord. No. J-144, § 1, 3-6-1995; Ord. No. J-200, § 1, 8-20-1996; Ord. No. J-345, § 2, 7-21-1997; Ord. No. K-520, § 1, 11-19-2007; Ord. No. L-86, § 3, 7-20-2009; Ord. No. 17-019 , § 1, 6-19-2017; Ord. No. 19-010, § 7, 3-18-2019)

PROOFS

Chapter 118

**RESERVED**

PROOFS

Chapter 119

# STORMWATER MANAGEMENT AND SITE DEVELOPMENT TECHNICAL REGULATIONS*

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

## Sec. 119-1. Purpose.

(a) *Generally.* This chapter applies to all construction, involving site preparation, for which issuance of a building permit is required by article V of chapter 103 of this Code, except that it does not apply to construction of single-family or duplex residential construction on individual lots. It establishes minimum sound design, construction criteria and specifications as to achieve acceptable site development that will be compatible with public need, continuity of the city's enhancement, compliance with the Federal Water Pollution Control Act, ~~Florida DEP Stormwater Rule CH. 17-25, F.A.C.~~ F.A.C. 62-40.431 as delegated to the South Florida Water Management District, the City of Fort Pierce Comprehensive Plan and this Code at minimum long range cost to the taxpayers of the city.

(b) *Criteria and compliance with other requirements.* The specifications contained in this article are minimum criteria based on standard conditions. It is the responsibility of the developer's engineer and/or contractor to determine whether design and construction criteria should exceed these specifications as applicable to each individual site. Such specifications do not relieve the owner, engineer and/or contractor of the responsibility of complying with other local, state or federal regulations, or correcting local deficiencies resulting from conditions not covered here, which may come to light before the city engineer gives final approval to the completion of the construction. Conditions not covered in this article shall be addressed through good engineering and construction practice, with approval by the city engineer before construction starts.

(Code 1983, § 17-26; Ord. No. J-216, § 2, 2-4-1997)

## Sec. 119-2. Site development engineering plans and calculations.

(a) *Requirements.* Site development engineering plans and calculations shall be signed and sealed by a professional engineer registered in the state, unless exempted by subsection (d) of this section, and shall include the following information:

(1) A map to show the general location of the site and adjacent surrounding areas;

(2) Existing and proposed finished grades of both the site and adjacent streets; plans shall show stall and aisle dimensions and proposed landscape areas;

(3) Adjacent lot elevations at the perimeter site with existing adjacent floor slab elevations;

(4) Proposed pavement cross-section;

(5) Retention and/or detention area existing and proposed cross-sections;

(6) Existing and proposed drainage features of site and adjacent streets with pertinent existing and proposed elevations;

(7) A survey prepared and sealed by a state registered land surveyor to show property lines and existing physical features with pertinent elevations to include the site's 100-year flood elevation provided by the Federal Flood Insurance Rate Maps;

(8) Note of compliance with this article and other local, state and federal regulations;

(9) For concrete pavement, a construction joint plan shall be submitted to the city engineer for approval prior to start of construction;

(10) Additional information as specified by the city engineer, should the site involve conditions not addressed by this article.

PROOFS

(b) *Submittal of plans.* In addition to the submittals to the ~~department of development~~ planning department, for site developments that require site plan approval four sets of all engineering plans and at least two sets of calculations shall be submitted to the city engineer at least 15 working days for review prior to approval. For site developments not requiring site plan approval five sets of all engineering plans and at least two sets of calculations shall be submitted. Construction shall not start prior to the approval of plans by the city engineer. One set of signed and sealed engineering plans approved by the city engineer shall be submitted to the ~~department of building and code enforcement~~ building department together with the construction permit application plans.

(c) *Submittal of stormwater management calculations—For sites with more than 5,000 square feet of impervious area.* Stormwater management calculations shall be prepared in accordance with section 119-3(e), signed and sealed by a professional engineer registered in the state and shall be submitted in a complete and final fashion to the city engineer for review and approval.

(d) *Submittal of stormwater management calculations—For sites with less than 5,000 square feet of impervious area.* Stormwater management calculations shall not be required to be prepared, signed or sealed by a professional engineer registered in the state, but calculations shall be submitted in accordance with section 119-3(e).

(Code 1983, § 17-27; Ord. No. J-216, § 2, 2-4-1997)

**Sec. 119-3. Design standards; stormwater management; approvals.**

(a) Parking lot lay-out design shall be in accordance with section 125-315(c) of the zoning ordinance. Parking stalls and aisle dimensions must be shown on development plans. All parking lots regardless of size shall provide for proper drainage. The minimum longitudinal gradient (slope) shall be 0.4 percent in both directions. All runoff shall be collected on site, for provisions of water quality and quantity control, prior to discharge to the city's drainage facilities, as provided in this article.

(b) The minimum drainage pipe shall be 15 inches. Drainage pipes installed in the city R/W shall be R.C.P. All pipes shall meet FDOT standards and exposed ends shall have concrete mitered ends. Site drainage pipes sized 36 inches and under may be comprised of reinforced concrete pipe (RCP), corrugated aluminum pipe (CAP), Polyethylene Pipe Class II (HDPE-II smooth walled interior), or polyvinyl chloride pipe (PVC per ASTM F949). Site drainage pipe exceeding 36 inches in size shall be comprised of either RCP or CAP unless specific approval from the city engineer is obtained for the utilization of HDPE or PVC conduit. All piping shall meet the requirements of the City of Fort Pierce Standard Specifications and Details and the Florida Department of Transportation Standard Specifications.

(c) Design standards for land suitability, street design, street access, conformity to the comprehensive plan, required improvements, zoning and other regulations shall conform to chapters 121 and 125 of this Code.

(d) The number of parking spaces required shall conform to section 22-20 of the zoning ordinance.

(e) Site stormwater management shall include water quality/quantity provisions, surface drainage design and related calculations and shall conform to the SFWMD methodology as shown on volume IV Permitting Information Manual, most current edition. SFWMD or FDOT exemptions do not waive this requirement. Stormwater management design submittal shall provide the following information and compliance with the following criteria:

(1) Minimum roadway and parking lot elevations shall be at least at the highest elevation that may occur at the peak of the ten-year-one-day storm event;

(2) Minimum site perimeter elevations shall be at least the 25-year-three-day stage. Site runoff up to such stage level may not overflow into any adjacent property, unless a permanent drainage easement is obtained;

(3) Dry or wet retention/detention, stage versus storage, stage versus discharge and flood routing calculations for the ten-year-one day, 25-year-three-day and 100-year-three-day storm events for the site shall be submitted with the site development plans;

(4) Building floor elevations shall be at or above the 100-year flood elevation, as determined from the Federal Flood Insurance Rate Maps, city's code enforcement ordinances or calculations following the latest SFWMD methodology, whichever is greater;

PROOFS

(5) Exfiltration trenches are discouraged because the exfiltration that they provide are found to decrease with age, if they are not properly maintained or replaced when they do not provide the services intended by the design. However, if the developer's engineer, developer and/or owner determines that exfiltration trenches are to be provided for water quality or quantity, their design must conform to the methodology of SFWMD. Site's hydraulic conductivity test reports at the location of the proposed trench shall be submitted to the city engineer together with the calculations; site developments that use exfiltration trenches for both, water quality and quantity without overflow capabilities must provide enough trench capacity to handle the difference between the post-development and predevelopment runoff based on the 25-year-three-day storm event;

(6) Off-site discharge shall be limited to predevelopment runoff based on the 25-year-three-day storm event calculated by SFWMD methods;

(7) Rainfall quantities to be used for stormwater management design and calculations shall be as follows:

Ten-year-one-day storm = 6.00 inches (for minimum roadway/parking lot elevation).

Ten-year one-hour storm = 3.20 inches (for exfiltration trench design).

Twenty-five-year-three-day storm = 9.50 inches (for off-site discharge & min. perimeter elevation).

One-hundred-year-three-day storm = 12.23 inches (for minimum floor elevation).

(8) All roof runoff shall be detained on site;

(9) Existing developments that propose additional structures and/or parking facilities for approval must provide stormwater management as required above for the new facilities only. However, it will be the responsibility and a requirement of the developer's engineer to determine and certify that proposed and existing facilities together will not adversely affect the site drainage, state and/or federal regulations as a whole or the existing and future water quality resulting from any increases to the existing impervious areas of the site.

(f) *Approvals; other permits.* Approval of stormwater management by the city engineer, including exfiltration trenches, retention and/or detention facilities, does not relieve the developer's engineer of the responsibility of monitoring the construction, neither does it relieve the developer and/or owner of providing the future necessary maintenance or periodic replacement of drainage facilities when such stormwater management facilities do not provide the water quality or flood protection intended by the original design; developer's engineer shall submit together with the stormwater management plans a written statement, executed by the developer and/or property owner, assuring that the stormwater management facilities will be maintained properly for the continuity of the water quality and drainage characteristics intended by the original design as approved.

(1) Sites adjacent to county, FDOT or other public facilities must obtain applicable permits or exemptions prior to the start of construction. All sites must obtain SFWMD permit or exemption concurrently with the approval of plans by the city engineer.

(2) Approvals by the city engineer for phased projects, or projects that remain idle in construction for a period of time, during which local, state or federal regulations may have changed, shall be revised if the original design and/or approval is not in compliance with current regulations. Submittal of master drainage plans shall be required prior to the approval of subsequent project phases.

(3) Existing paved parking lots that are to be resurfaced with more than one-half inch of resurfacing material will not require a permit, but must obtain approval from the city engineer prior to start of construction. Owner and/or contractor shall submit proposed elevations due to future resurfacing to the city engineer to review for compliance with requirements of this section.

(4) Existing unpaved parking lots that are to be regraded or restabilized will not require a permit, but the owner and/or contractor shall submit a proposed grading plan to the city engineer to review and approve for compliance with requirements of this section prior to start of construction.

(5) Existing unpaved parking lots that are to be paved shall comply with this section and section 119-4.

(Code 1983, § 17-28; Ord. No. J-216, § 2, 2-4-1997; Ord. No. 18-008 , § 1, 4-2-2018)

PROOFS

**Sec. 119-4. Paving and drainage construction.**

(a) *Asphalt pavement.*

(1) Asphalt-paved parking lots must comply with the minimum requirements in this section. All subgrade, base course and wearing surface material and construction shall comply with the latest edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction.

(2) Parking lots subject to no or very moderate truck traffic shall consist of:

a. *Wearing surface.* Minimum of one inch of Type S-3 asphaltic concrete.

b. *Base course.* Base course or base material shall consist of the following:

1. Four inches of compacted limerock with an average density of 98 percent, as determined by AASHO T-180 proctor;

2. Four inches of cemented coquina shell material with an average density of not less than 98 percent, as determined by AASHO T-180 proctor;

3. Two inches of S-1 asphaltic concrete;

4. Six inches of shell, which shall be mollusk shell (oyster, mussel, clam, etc.). Steam shell shall not be permitted. At least 50 percent (by weight) of total material shall be retained on a No. 4 sieve. Not more than 7 1/2 percent (by weight) of the total material shall pass the No. 200 sieve when determined by elutriations (washing); or

5. Soils cement is not allowed to be used as base material.

c. *Subgrade.* Six inches of stabilized subgrade with a Florida Bearing Value of 75 p.s.i.

(b) *Parking lots subject to truck traffic.* Parking lots subject to more than very moderate truck traffic shall comply with the same requirements which apply to city maintained streets (see city engineer for requirements).

(c) *Concrete pavement construction.* Concrete pavement shall consist of a minimum of four inches of Class I (minimum strength of 3,000 p.s.i.) with fibermesh or six by six by ten wire mesh over six inches of stabilized subgrade with a Florida Bearing Value of 75 p.s.i.. The subgrade preparation, setting forms, placing concrete and reinforcement, such as wire mesh or fiber mesh, shall be in accordance with the latest Florida Department of Transportation Standard Specifications for Road and Bridge Construction.

(d) *Drainage conveyance system construction.* Drainage conveyance system, i.e., swales, ditches, storm sewers, curb and gutters, shall be in compliance with the City of Fort Pierce Technical Specifications and Details, latest edition. Installation of drainage conveyance system shall be in accordance with the Florida Department of Transportation Standard for Road and Bridge Construction, latest edition.

(Code 1983, § 17-29; Ord. No. J-216, § 2, 2-4-1997)

**Sec. 119-5. Tests required.**

Tests under this article shall be done by an independent certified testing laboratory. All testing costs shall be borne by the contractor. The following tests shall be made:

(1) *Subgrade; Florida Bearing Value and density tests.* For pavements up to 5,000 square feet in area, a minimum of one test of each shall be required. For pavements up to 10,000 square feet in area, one test shall be required for every 5,000 square feet of pavement or portion thereof. For pavements over 10,000 square feet in size, tests shall be taken for every 7,500 square feet or portion thereof. Copies of test reports shall be submitted to the city engineer, as received by the contractor and/or owner.

(2) *Limerock and shell base.* Field density tests and submittal of reports shall be done at the same rate as for subgrade on subsection (1) of this section. Test reports shall be submitted to the city engineer, as received by the contractor and/or owner.

(3) *Concrete pavements.* One compressive strength test shall be required for every 50 cubic yards, or portion thereof, of concrete placed. Test reports shall be submitted to the city engineer as received by the contractor and/or owner.

PROOFS

(Code 1983, § 17-30; Ord. No. J-216, § 2, 2-4-1997)

**Sec. 119-6. Certification required prior to final inspection and approval by city engineer and the issuance of a certificate of occupancy by code compliance division.**

(a) Prior to final inspection and approval by city engineer and the issuance of a certificate of occupancy by the ~~department of code enforcement~~ ~~code compliance division~~ of site developments over 10,000 square feet of impervious area, the contractor's and/or developer's engineer shall submit certification, in the form supplied by the department of engineering, that all of the required improvements have been completed as per approved drawings; that the developer's engineer has inspected the installation of these improvements during their construction; that improvements have been installed in accordance with this chapter, the approved plans, the latest edition of the City of Fort Pierce Specifications and Details, and applicable local, state and federal regulations, except for deviations noted on the as-built drawings supplied to the city engineer and enumerated thereafter, and that deviations will not result in functional, structural, aesthetical, maintenance or nuisance problems. If deviations are listed in the certification, it shall provide explanation for such deviations and a schedule for the corrections of the same, as applicable. The contractor, engineer or developer shall submit copies of all test reports to the city engineer with certification.

(b) Prior to final inspection and approval by the city engineer and the issuance of a certificate of occupancy, or approval, by the ~~department of code enforcement~~ ~~code compliance division~~ of all site developments less than 10,000 square feet of impervious area, the contractor or engineer shall submit certification, in the form supplied by the department of engineering, that all of the required improvements have been completed as per approved drawings; that he has inspected the installation of these improvements during their construction; that improvements have been installed in accordance with this chapter, the approved plans, the latest edition of the City of Fort Pierce Specifications and Details, and applicable local, state and federal regulations; that all improvements conform to the approved plans, except for deviations noted on the as-built drawings supplied to the city engineer and enumerated thereafter, and that such deviations will not result in functional, structural, aesthetical, maintenance or nuisance problems in the future. If deviations are listed in the certification, it shall provide explanation for such deviations and a schedule for the corrections of the same, as applicable. The contractor, engineer or developer shall submit copies of all test reports to the city engineer with certification.

(Code 1983, § 17-31; Ord. No. J-216, § 2, 2-4-1997)

**Sec. 119-7. Inspection.**

Regular inspections shall be provided by the city engineer or representative for all paving, drainage or other improvements installed in the city's rights-of-way or properties. Contractor, engineer or owner shall notify the city engineer 48 hours before any construction takes place in the city's rights-of-way or properties so that such improvements may be inspected. In the event improvements are installed without inspection, the contractor may be required to expose improvements and replace the same, above or below ground, to the extent such improvements do not comply with this chapter.

(Code 1983, § 17-32; Ord. No. J-216, § 2, 2-4-1997)

**Sec. 119-8. Maintenance of stormwater facilities.**

(a) The property owner, and/or homeowner association shall be responsible for the proper maintenance of the site stormwater facilities for their continuous function, to include, but not to be limited to, retention/detention areas for water quality control, site and perimeter flood control, to provide the services intended by the approved design. Should the site stormwater management facility, or portion thereof, become a nuisance, potential flood or other safety hazard to the site or surrounding areas, or do not comply with the water quantity or quality requirements as originally approved, the property owner, and/or homeowner association shall be notified by the city engineer of the existing conditions and the necessary steps for maintenance or reconstruction, as required, to bring the stormwater management facility, or portion thereof, to the original conditions shown on the previously approved plans.

(b) After receiving the city engineer's notification, the property owner or homeowner association shall correct the deficiencies within 30 calendar days from the date of notice. Should the property owner and/or homeowner association neglect to correct the deficiency in the time specified, the city engineer shall notify the

PROOFS

~~director of building and code enforcement~~ code compliance manager for the proper enforcement of this section.

(Code 1983, § 17-33; Ord. No. J-216, § 2, 2-4-1997)

**Sec. 119-9. Retention/detention and conveyance facilities.**

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

*Control device* means an element of a discharge structure which allows the gradual release of water under controlled conditions. Sometimes referred to as the bleed-down mechanism, or bleeder.

*Control elevation* means the lowest elevation at which water can be released through the control device to the receiving conveyance facilities or eligible bodies of water.

*Detention* means the delay of stormwater runoff prior to discharge into receiving waters.

*Detention volume* means the volume of open surface runoff storage behind the discharge structure between the overflow elevation and the control elevation.

*Retention/detention area, dry,* means water storage area with bottom elevation at least one foot above the control elevation of the area.

*Retention/detention area, wet,* means a water storage area with bottom elevation lower than one foot above the control elevation of the area.

*Retention* means the prevention of stormwater runoff from direct discharge into receiving waters; included as examples are systems which discharge through methods of percolation, exfiltration, filtered bleed-down and evapotranspiration processes.

(a) *Stormwater management compliance.* Design, construction and maintenance of all retention/ detention and conveyance facilities shall comply with section 119-8.

(b) *Location of retention and/or detention facilities.* All retention and/or detention areas shall be located at the rear of the property away from public rights-of-way and landscaped with at least a 36-inch hedge around the perimeter so as to screen such areas from the view of vehicles and/or pedestrians using the public rights-of-way with the following exceptions:

(1) When properties designated for development have frontage on more than one public right-of-way and such property has a gross acreage under two acres it shall be allowable to construct a dry retention/detention area ~~within~~ maintaining a 15-foot setback from ~~of~~ a public right-of-way pursuant to the following conditions being met:

a. The dry retention/detention area shall be constructed with a maximum depth of 36 inches and have banks constructed at a maximum slope of 4((H):1((V).

b. The dry retention/detention area shall be screened with a visual buffer such as a wall and/or landscaping. The visual buffer shall be subject to and approved in accordance with section 125-314.

(2) When properties of any size slated for development desire to provide an enhancement to the property by providing a water feature and/or a wet retention/detention area that will front a public right-of-way, the following shall apply:

a. All wet retention/detention areas shall have a minimum water depth of eight feet which shall be maintained at all times by artificial methods such as wells or other resources necessary to sustain the required water surface elevation as approved by the city engineer. In addition, in order to prevent stagnant water and the growth of plant materials it shall be necessary to provide a water feature such as a fountain to ensure proper aeration.

b. Wet retention/detention areas shall have minimum side slopes no steeper than 4:1 (for each four horizontal feet, one foot of rise) to a depth of two feet below the control elevation at which time bank slopes of 2:1 are allowed.

c. Prior to the release of bonds or the issuance of a C/O, a maintenance plan and agreement signed by

PROOFS

the owner and/or operating entity and/or property owners shall be submitted to the city engineer. The agreement shall include the operation and maintenance of the facility and shall ensure the stormwater management system has a plan for the removal of nuisance and invasive exotics or other vegetation and that has continuing monitoring methods to ensure no re-growth of the same.

(Code 1983, § 17-34; Ord. No. K-485, § 2, 4-16-2007)

PROOFS

Chapter 120

**RESERVED**

PROOFS

Chapter 121

# SUBDIVISIONS*

***State law reference—**Municipal Home Rule Powers Act, F.S. ch. 166; subdivision regulations required, F.S. § 163.3202(2)(b).

## Sec. 121-1. Purposes of subdivision regulations.

The public health, safety, morale, and general welfare require the harmonious, orderly, and progressive development of land within the city. In furtherance thereof, these regulations are adopted for the following purposes among others:

(1) To encourage economically sound and stable development of the city;

(2) To ensure the provision of required streets, utilities, and other facilities and services to new land developments;

(3) To ensure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, to new developments;

(4) To ensure the provision of needed public open space and building sites in new land developments through the dedication or reservation of land for recreational, educational, and other public purposes; and

(5) To ensure, in general, the wise development of new areas, in harmony with the adopted comprehensive plan of the city.

(Code 1983, § 18-1; Ord. No. J-04, § 1, 2-18-1992)

## Sec. 121-2. Chapter administration.

This chapter shall be administered by the city manager or his designee.

(Code 1983, § 18-2; Ord. No. J-04, § 1, 2-18-1992)

## Sec. 121-3. Penalty for violation of chapter.

Any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as prescribed by section 1-7 of this Code.

(Code 1983, § 18-3; Ord. No. J-04, § 1, 2-18-1992)

## Sec. 121-4. Definitions.

Except as defined herein, all words used in this chapter have their customary dictionary definition. Words in the present tense include the future. Words in the singular include the plural, and words in the plural include the singular. The term "building" includes the term "structure." The term "shall" is mandatory; the term "may" is permissive. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Block* means a group of contiguous lots within a subdivision.

*Building setback line* means a line across a lot establishing the minimum distance to be provided between the building and the property line.

*Easement* means a grant by the property owner of a strip or parcel of land for specified purposes.

*Lot* means a portion or parcel of land separated from other portions or parcels by description as on a subdivision plat, or record of survey map, or as otherwise described, and intended for transfer of ownership or for building development. For purposes of this chapter, the term "lot" does not include any portion of a dedicated street right-of-way.

PROOFS

*Lot, corner,* means a lot abutting upon two or more streets at their intersection.

*Lot, double frontage,* means a lot other than a corner lot, abutting two streets.

*Lot, interior,* means a lot other than a corner or double frontage lot.

*Minor replat* means any division or redivision of a parcel of land into two separate lots or parcels which conform to the requirements of this chapter and all other applicable city codes.

*Plat, final,* means a drawing of a subdivision showing completely and accurately all legal and engineering information and certification necessary for recording.

*Plat, preliminary,* means a drawing which shows the proposed layout of a subdivision in sufficient detail to indicate its workability in accordance with sections 121-9 and 121-10, but is not in final form for recording and the details are not completely computed.

*Street* means a dedicated and accepted right-of-way for vehicular traffic, whether designated as a highway thoroughfare, expressway, avenue, boulevard, road, lane or other. Following are definitions intended to distinguish between categories of streets as used in this chapter.

*Collector streets* means those which are intended to carry traffic from minor streets to and from the major streets and expressways, and usually include the principal entrance and circulation streets within a subdivision.

*Cul-de-sac* means a street having one end open to traffic, the other end being terminated by a vehicular turnaround.

*Expressways* means high-capacity streets from which access to abutting property is prohibited, and which are intersected at specified locations by major and collector streets.

*Major streets* means those which are designed or designated by an official public agency as streets being capable of carrying large volumes of fast moving traffic.

*Marginal access streets* means minor streets parallel to and adjacent to major streets or expressways, providing access to abutting properties and protection from through traffic.

*Minor streets* means those which are used primarily for access to abutting properties, and usually radiate from collector streets.

*Subdivider* means any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as herein defined, including any agent of the subdivider.

*Subdivision* means any division or redivision of a parcel of land into three or more parcels and intended for future or immediate sale, legacy, or building development. However, the following are not defined as subdivisions for the purpose of this chapter. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots adhere to the standards of the city.

(Code 1983, § 18-4; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-5. Compliance with chapter and certain specified statutes, etc.**

It shall be unlawful for any person, being the owner, agent or person having control of any land within the city, to subdivide and plat such lands into lots, except by a plat in accordance with the regulations contained herein, and in accordance with the following:

(1) F.S. ch. 177.

(2) Regulations of St. Lucie County concerning recording plats.

(3) Regulations of the clerk of the circuit court of the county regarding the recording of plats.

(4) Regulations of all federal, state and local authorities having statutory jurisdiction.

(5) Standards for minimum lot width, depth, and size, including standards in section 121-11(g).

~~(6) Any subdivision proposal or other proposed new development in a floodprone area shall conform to the regulations as set forth in section 22-41(c) and (d).~~

PROOFS

(6) All subdivision proposals shall include base flood elevation data.

Whenever the provision of the ordinance or statute of any governmental authority having jurisdiction applicable to the same subject matter, that requiring the highest or more strict standard shall govern.

(Code 1983, § 18-5; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-6. Authority of ~~director of development~~.**

(a) The ~~director of development~~ planning director may approve a minor replat if the resulting lots or parcels conform to the requirements of chapter 125, and any other applicable city regulations. The ~~director of development~~ planning director shall consult with all affected departments or agencies, including, but not limited to, the ~~department of engineering, the department of public works,~~ engineering department, public works department and the city utility authority.

(b) An applicant requesting a minor replat shall submit the following materials together with the appropriate application fee as described herein:

(1) A statement indicating whether water and/or sanitary sewer service is available to the property;

(2) Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division. All such drawings shall be prepared by a professional land surveyor registered in the state. In the event that the property contains any structures, a survey showing the structures on the property shall accompany the application; and

(3) An identification of any and all easements, rights-of-way, or similar instruments that may be found on or adjacent to the property which is subject to the minor replat.

All such minor replats shall not become effective until a completed application form and filing fee have been received by the ~~director of development~~ planning director and the director shall have advised the city commission of his administrative approval at the earliest practical opportunity. A certified copy of the recorded replat shall also be filed with the ~~department of development~~.

(Code 1983, § 18-6; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-7. Flood hazards.**

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) Base flood elevation data shall be provided for all subdivision proposals.

(Code 1983, § 18-7; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-8. General provisions applicable to subdivision of land.**

It is the intent in the application of this chapter that the following shall apply to:

(1) Any person proposing to subdivide land within the city into lots proposed for development or sale shall submit to the ~~director of development~~ a plat or plats of the proposed subdivision which shall conform to all requirements set forth in this chapter.

(2) Any construction work undertaken on the proposed subdivision site prior to the receipt of preliminary plat approval from the city commission shall be at the sole risk of the developer.

(3) No plats or plat of a proposed subdivision shall be recorded in the office of the clerk of the circuit court of the county until such plat or plats shall have received final approval, as certified herein, from the city commission.

(4) No land dedicated as a public street shall be accepted, opened, or improved nor shall any utilities or other facilities be installed therein, unless such streets shall have been accepted or opened as, or otherwise shall have received the legal status of, a public street prior to the adoption of this chapter, or unless such

PROOFS

street corresponds in its location and lines with a street shown on a plan approved by the city commission or on a plan made and adopted by said commission; provided, however, that the city commission may locate or construct or may accept for construction any other streets.

(5) No building permit shall be issued for and no building or other structure shall be erected on any lot unless such lot has access to a street which shall have been accepted or opened as, or shall have otherwise received the legal status of a public street.

(Code 1983, § 18-8; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-9. Plat procedure; city planning board review.**

(a) Preliminary plat approval.

(1) The subdivider shall submit five copies of the preliminary plat to the ~~director of development~~ planning director.

(2) The ~~director of development~~ planning director will distribute the preliminary plat to all affected departments or agencies, including, but not limited to, the ~~department of engineering, the department of public works, and the director of utilities~~ engineering department, public works department and utilities director. After review by the ~~director of development~~ planning director and other affected departments and agencies, and when in compliance with city rules and regulations governing same, the preliminary plat will be forwarded to the city planning board for review.

(3) The city planning board shall review the proposed plat and make a recommendation to the city commission. If the board recommends disapproval, the reason shall be stated.

(4) The city commission shall hold a public hearing and approve, approve with conditions, or disapprove the preliminary plat.

(5) Minor revisions to the preliminary plat may be approved by the ~~director of development~~ planning director provided that such amendments do not involve an increase in the land area to be subdivided or an increase in the total number of lots to be created.

(b) Final plat approval.

(1) The subdivider shall submit five copies of the final plat to the ~~director of development~~ planning director for approval of compliance with subdivision regulations.

(2) The ~~director of development~~ planning director will distribute the final plat to affected departments and agencies, including, but not limited to, the ~~d department of engineering, the department of public works, and the director of utilities~~ engineering department, public works department and utilities director prior to forwarding the plat to the city commission.

(3) The city commission shall hold a public hearing and approve, approve with conditions, or disapprove the final plat.

(c) The city planning board shall consider whether the following standards have been met in its review of the application:

(1) Adequate vehicular access and traffic circulation to each lot in the proposed subdivision.

(2) That adopted levels of service (LOS) standards in the comprehensive plan are not adversely impacted by the proposed plat. If such standards are negatively affected that appropriate mitigation plans as described in this chapter are also included in the proposed plat.

(3) That other applicable comprehensive plan policies are addressed by the proposed plat.

(Code 1983, § 18-9; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-10. Plat specification.**

(a) Preliminary plat specifications.

(1) The preliminary plat shall represent the entire area which the subdivider contemplates developing, including possible unit divisions not scheduled for immediate development.

PROOFS

(2) Five copies of the preliminary plat shall be submitted along with the application for preliminary plat approval to the ~~director of development~~.

(3) The preliminary plat shall be prepared by a land surveyor registered in the state and shall contain the following information:

a. Proposed name of the subdivision.

b. Name and address of owner of record.

c. Name, address and telephone number of subdivider.

d. Scale, north arrow, and the date plat was drawn.

e. Boundary lines of the tract indicated by a heavy line giving approximate dimensions.

f. Approximate number of lots, and typical lot sizes.

g. Divisions or state development, if any, proposed by the subdivider.

h. Natural and manmade features within the proposed subdivision, including drainage, channels, bodies of water, or other significant features.

i. Contour lines, having a one-foot interval.

j. Development features such as rights-of-way and pavement widths, easements including their purpose and width, other dedications including their purpose.

k. Names of adjacent platted subdivisions.

l. Names of adjacent unplatted property owners.

m. Location and size of nearest water, sewer and storm drainage lines that will serve the subdivision.

n. Certificate of preliminary plat preparation.

o. Vicinity sketch showing the relation of the proposed subdivision to adjoining property and the city.

p. Name and address of the engineer and/or surveyor who prepared the plat and design improvements be listed on the preliminary plat.

q. Certification from the developer's engineer whether federal, state, or local agencies have jurisdiction over the proposed project.

(4) After the preliminary plat has been approved by city commission, and before submission of the final plat, the following detailed plans prepared by an engineer registered in the state, shall be submitted to the ~~director of development~~ planning director for review and distribution to affected departments and/or agencies:

a. Two sets of construction plans of the proposed streets, including storm sewer and sanitary sewer and will show the following:

1. All lateral widths.

2. Centerline profile grade relative to elevations of adjacent properties at the right-of-way line.

3. Elevations at points of grade (tangent).

4. Curve data for horizontal and vertical curves.

5. Pipe size, grade and location of manholes, and inlets.

6. Stationing at intervals of 100 feet, minimum, and all of new construction.

b. Two sets of construction plans of the proposed water system that will serve the subdivision showing the size and location of mains and services.

c. Construction plans be drawn on profile paper having sheet size of 24 inches by 36 inches. Also, that plans be drawn at as large a scale as practicable.

d. Two sets of drainage plans, which may be part of the construction plans, and which shall conform

PROOFS

to drainage requirements found in the South Florida Water Management District Permit Information Manual, Volume IV.

(5) Approval of the plans specified in subsection (a)(4) of this section must be received before construction commences.

(6) Whenever city utility authority electrical energy is proposed to be used, the subdivider shall consult with the utilities authority. The utilities authority shall arrange for the furnishing of electrical energy in accordance with the regulations of the city utility authority.

(7) Whenever city utility authority gas energy is proposed to be used, the subdivider shall consult with the utilities authority. The authority shall arrange for the furnishing of gas energy in accordance with the regulations of the city utility authority.

(b) Final plat specifications.

(1) The final plat shall substantially conform to the preliminary plat; it may, however, represent only that portion of the approved preliminary plat which the subdivider proposes to develop and record at any one time, provided that such portion conforms to the requirements of this chapter.

(2) The submittal of the final plat shall consist of the original drawing, and two Mylar reproducible prints thereof. The submission shall be to the ~~director of development~~.

(3) The final plat shall be clearly and legibly drawn at a scale no less than one inch equals 50 feet and shall be on sheets no smaller than 24 inches by 36 inches.

(4) The final plat shall contain the following information:

a. Name of subdivision.

b. Name of subdivider.

c. Date of survey, date of plat drawing, graphic scale, north arrow.

d. Indication of reference bearings.

e. Location of tract (township, range, section) and acreage.

f. Index map, if more than one sheet is required to present map.

g. Boundaries of the tract with distances measured to the nearest 1/100 foot and angles to the nearest second. Tract boundaries shall be determined by accurate survey in the field.

h. Location of right-of-way widths, and names of all streets within and immediately adjoining the plat. Street name duplications shall be avoided, and all street names approved by the city commission.

i. Lot lines with dimensions to the nearest 1/100 foot.

j. Location of all permanent tract boundary monuments.

k. Blocks lettered alphabetically or numbered numerically; within each block, lots or sites numbered in numerical order.

l. Location dimensions and purposes of: Easements; public service utility right-of-way lines, areas (other than streets) to be reserved, donated, or dedicated to public use; sites for other than residential use with notes stating their purpose and limitations; and any areas to be reserved by deed covenant for common uses of all property owners within the subdivision.

m. Certificates, as specified in section (c)(2) of this section.

(c) Plat certificates.

(1) The following certificates are required for a preliminary plat:

a. Appropriate space shall be provided on the preliminary plat for the following certificate:

CITY COMMISSION CERTIFICATE:

PROOFS

"Pursuant to the provisions of the Fort Pierce City Commission this plat was given Preliminary Approval by the City Commission at a meeting held on _____, 20___.

_____

City Clerk"

(2) The following certificates are required for final plat approval:

a. Before a final plat is submitted the subdivider shall have stamped or printed thereon, and signed, substantially as follows:

SURVEYORS CERTIFICATE:

"I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist, and their location, size, type and material adhere to the requirements of Chapter 177 Florida Statutes. _____, 20___.

_____

Registered Land Surveyor"

CERTIFICATE OF FINAL APPROVAL BY THE CITY COMMISSION:

"Pursuant to the provisions of the Fort Pierce City Commission this plat was given Final Approval by the City Commission at a meeting held on _____, 20___.

_____

City Clerk"

OWNER'S ACKNOWLEDGMENT:

(i) Must follow ~~Chapter 177 of Florida State Statutes section~~ F.S. § 177.081.

(ii) Dedication. In connection with the description there shall be a dedication of the plat by the owners, whose signatures must be witnessed, and their executions of the dedication must be acknowledged in the same manner as deeds conveying lands are required to be witnessed and acknowledged; and in all cases the title, caption and dedication must agree. In case the dedication is to be made by a corporation then it shall be signed by the president or a vice-president, and by the secretary or an assistant secretary, respectively, of the corporation, by and with the authority of its board of directors.

(Code 1983, § 18-10; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-11. Design standards.**

(a) *Land suitability.*

(1) Land that is subject to flooding, periodic inundation, erosion, or otherwise deemed by the city commission to be topographically unsuitable for residential use shall not be developed for such use unless the necessary steps are taken to eliminate such conditions.

(b) *Street access.*

(1) All subdivisions shall have access to publicly dedicated and accepted streets.

(2) Every lot within a platted subdivision shall have access to a publicly dedicated and accepted street.

(3) No subdivision shall be designed so as to completely eliminate street access to adjoining parcels of land.

(c) *Conformity to the comprehensive plan.*

(1) All proposed subdivisions shall conform to the adopted comprehensive plan at the time of plat submission.

(2) When approval of the proposed subdivision will reduce levels of service (LOS) below standards adopted

PROOFS

in the comprehensive plan, the subdivider shall mitigate such LOS reductions through reserving and dedicating the necessary additional facilities. Dedications may include school sites, parks, streets, open space, and any other affected facilities. The city commission shall disapprove any plat where such planned features, as specified by the adopted comprehensive plan, are not incorporated in the subdivision plat.

(d) *Zoning and other regulations.* Whenever there is a discrepancy between the minimum standards noted in these regulations and those contained in the zoning ordinance, or other city ordinances, the most restrictive shall apply.

(e) *Street design.*

(1) The arrangement, character, extent, width, grade and location of all streets shall conform to the major thoroughfare plan and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

(2) The arrangement of streets within the subdivision, where not shown on the major thoroughfare plan, shall either:

a. Provide for the continuation or appropriate projection of existing streets in the surrounding area at the same or greater width, but in no case less than the required minimum width; or

b. Conform to a plan approved or adopted by the city commission to meet a particular situation where existing conditions make continuance of existing streets impractical.

(3) Minor streets shall be so laid out that their use by through traffic will be discouraged.

(4) Where a subdivision abuts or contains an existing or proposed major street, the planning board may require marginal access streets to provide for adequate protection of residential properties and to afford separation of through and local traffic.

(5) Right-of-way width. Street right-of-way width shall be as follows:

a. Major street: 100 feet.

b. Collector street: 70 feet.

c. Minor street: 60 feet.

d. Marginal access street: 60 feet.

e. Cul-de-sac:

1. Turnaround radius: 50 feet.

2. Other than turnaround: 50 feet.

(6) Right-of-way exception. Right-of-way requirements in excess of 60 feet shall be reserved for acquisition by the appropriate public body.

(7) Street classifications. All streets shall be classified by the city commission.

(8) Half streets. Half streets or half right-of-way easements for street locations shall not be permitted.

(9) Horizontal curves. Horizontal curves shall be measured at the centerline and have a minimum radius as follows:

a. Major street; As specified in the state department of transportation specifications.

b. Collector street: 300 feet.

c. Minor street: 100 feet.

d. Marginal access street: 100 feet.

(10) Reverse curves. The tangent between reverse curves shall be not less than the following:

a. Major street: as specified in the state department of transportation specifications.

PROOFS

b. Collector street: 100 feet.

c. Minor street: 50 feet.

d. Marginal access street: 50 feet.

(11) Visibility. The minimum visibility, measured between two points in the centerline and above the pavement level shall be:

a. Major street, as specified in the state department of transportation specifications.

b. Collector street: 300 feet.

c. Minor street: 200 feet.

d. Marginal access street: 200 feet.

(12) Street intersections.

a. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at any angle less than 60 degrees.

b. Right-of-way lines at street intersections shall be rounded with a radius of not less than 25 feet.

c. Intersections with centerline offsets of less than 125 feet are prohibited.

(13) Cul-de-sac. The length of a cul-de-sac shall not exceed 700 feet.

(14) Reserve strips. Reserve strips controlling access to streets, or public grounds shall not be permitted unless their control is placed with the city.

(f) *Blocks*.

(1) The length, width, and shapes of blocks shall be determined with due regard to:

a. Provision of adequate building sites suitable to the needs of the type of use contemplated;

b. Zoning requirements as to lot sizes, building sizes and area requirements;

c. Needs for convenient access, circulation, control and safety of street traffic; and

d. Limitations and opportunities of topography.

(2) In general, the length of blocks shall not be greater than 1,000 feet. This requirement may be waived in the case of peculiarly shaped tracts of land.

(3) Blocks shall be wide enough to provide two tiers of lots, except where fronting on major streets or topographic conditions or size of property does not make this requirement practical.

(g) *Lots*.

(1) Insofar as practical, side lot lines shall be perpendicular to street lines. Each lot shall have access to a publicly dedicated street.

(2) Double frontage lots shall be avoided; where used, a planting reservation at least ten feet in width shall be provided along the rear property line. Access through such planting shall be prohibited.

(3) All corner lots shall have a minimum width of 75 feet.

(4) Notwithstanding the provisions of this chapter, all lot dimensions shall conform with the standards contained in the zoning ordinance. In all cases, the most restrictive regulations regarding lot dimensions shall apply.

(Code 1983, § 18-11; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-12. Required improvements.**

(a) *In general.*

(1) Every subdivider at his own expense shall be required to install, or have installed the physical improvements specified in this section.

PROOFS

(2) Perimeter street improvements.

a. The city commission shall not waive the provision or installation of street paving but may waive the provision or installation of such portions of these improvements as sidewalks, curbs and gutters by the subdivider on or in streets on the exterior boundary or perimeter of the subdivision.

b. The subdivider may request the city to construct the improvements required and if the city commission agrees, the subdivider shall deposit with the city, cash, a letter of credit, and/or a surety bond for the estimated cost of the improvements as determined by the city engineer which will pay 110 percent of the total cost of the improvements requested on a fully dedicated street. The letter of credit, and/or surety bond shall be allowed for a maximum of two years from the date the subdivision plat was approved by the city commission, and the surety bond is to be secured from a bonding company licensed by the State of Florida, with a Best's financial rating of AAAA or better and a Best's general policy holder's rating of A+.

c. At the time of such deposit, the city commission in consideration thereof, shall officially agree to begin construction of the improvements agreed upon within two years without further cost to the subdivider or future owners of affected property, as to those specific improvements, and the city commission shall specify the approximate dates that such work shall commence and be completed, and the city shall be thereby officially bound to so perform.

(b) *Street grading*.

(1) All street rights-of-way shall be cleared and graded in accordance with the city standards and specifications.

(2) Finished grades shall be at levels approved by the director of public works.

(c) *Street paving*.

(1) Street pavements shall be installed in accordance to the city standards and specifications.

(2) Paving widths. Street paving widths shall be measured from face of curb to face of curb, and contain the following minimum dimensions:

a. Major street: as specified in official public plans.

b. Collector street: 35 feet.

c. Minor street: 23 feet.

d. Marginal access street: 23 feet.

e. Cul-de-sac (street): 23 feet.

f. Cul-de-sac (radius): 25 feet.

g. Any street divided by a median strip shall have a minimum paving width of 16 feet on each side of the median strip.

(d) *Curbs and gutters*.

(1) Standard curbs and gutters shall be installed on all streets, and to conform to the city standards and specifications.

(2) In the case of streets having median strips, standard curbs and gutters shall be required on the side of the street adjacent to the median strip as well as to the outside of the street.

(e) *Sidewalks*.

(1) Sidewalks shall be installed on both sides of all streets in the subdivision.

(2) The installation of required sidewalks shall be in accordance to the city standards and specifications.

(f) *Water supply*.

(1) A water distribution system shall be installed in accordance to the city utility authority standards and specifications.

PROOFS

(2) All underground main lines and lateral lines to the meter shall be installed prior to the paving of the street.

(3) Private water systems or individual wells are not permitted for domestic use.

(4) When, in the written opinion of the city utility authority, a water supply line is not accessible, an alternate method of supplying water may be provided when in compliance to the state or county health department regulations.

(g) *Sanitary sewage disposal*.

(1) All subdivisions shall be served by sanitary sewers and shall be installed in accordance to the city utility authority standards and specifications.

(2) Whenever a sanitary sewer is required to be installed within the right-of-way of a street, the street shall not be paved without such sewer first being installed and accepted by the city utility authority.

(3) When in the written opinion of the director of city utility authority a public sanitary sewer is not accessible, an alternate method of sewage disposal may be provided when in compliance to the state or county health department regulations.

(h) *Storm drainage*.

(1) Every subdivision shall be served by an appropriate storm drainage control system. All drainage facilities shall conform to the South Florida Water Management District Permit Information Manual, volume IV.

(2) All storm drainage facilities shall be designed to serve the entire drainage area in which these facilities are located.

(3) Storm drainage facilities shall include gutters, ditches, catch basins, culverts, drainage lines and other necessary facilities to assist in the control of storm drainage water.

(i) *Monuments.* All monuments shall conform to standards found in F.S. ch. 177.

(j) *Utilities*.

(1) Utilities shall be installed and maintained only in accordance with the adopted rules and procedures of the city utility authority.

(2) Fire hydrants, when required, shall be installed at the expense of the developer.

(Code 1983, § 18-12; Ord. No. J-04, § 1, 2-18-1992; Ord. No. L-260, § 4, 6-18-2012; Ord. No. 18-003 , § 1, 2-5-2018)

**Sec. 121-13. Subdivider's bond, etc., to secure construction of improvements; certificate of completion, maintenance of improvements; assumption of maintenance by city.**

(a) The subdivider shall file with the ~~director of finance~~ finance director a surety bond, letter of credit, cashier's check, or a certified check upon a solvent local bank conditioned to secure the construction of the improvements listed in this chapter in a satisfactory manner in accordance with the plans as approved by the city engineer, and within a period specified by the city commission, such a period not to exceed two years. No such bond, letter of credit, or check shall be accepted unless it be enforceable by or payable to the city in a sum at least equal to the cost of constructing the improvements as estimated by the city engineer and in form with surety and conditions approved by the city attorney. The subdivider shall have the election of providing an escrow account acceptable to the city attorney of an amount to be determined by the city engineer and such conditions for disbursement based upon completion of improvements, if required under the escrow agreement, with all costs of the escrow to be borne by the subdivider. The escrow account shall be with a local bank institution.

(b) Upon completion of all work, the developer's engineer shall submit to the city engineer a certificate of completion stating that all work has been completed in its entirety, that it was constructed under his supervision and that fit conforms to the development plan and these regulations. All releases from affected regulatory agencies shall also be submitted. The written certificate of completion shall be expressed in the following form:

CERTIFICATION

I hereby certify that all of the project improvements required by the City Commission and in accordance

PROOFS

with the provisions of Chapter 18, Fort Pierce Code of Ordinances, have been completed on (Project Name) and that I have inspected the construction incrementally in accordance with the requirements of the City of Fort Pierce for public works construction. These improvements conform to the development plans with the following deviations (if any): These deviations will not result in functional or structural problems, other than routine maintenance based on my evaluation and professional opinion.

Certified by: _____

Florida Professional Engineer No. _____

(c) Upon conformation from the city engineer that all improvements are acceptably completed the city commission shall act on conditionally accepting the findings of completion. Acceptance of the improvements shall be conditioned on a one-year and 30-day period, during which time the developer shall maintain all improvements and correct all deficiencies that occur. If the city commission conditionally accepts the improvements, the developer shall provide security in the amount of 15 percent of the cost of the improvements. At the end of the one-year and 30-day period, the city engineer shall report to the city commission on the status of the improvements. If the improvements are satisfactory, the city commission will accept the maintenance of the facilities and the developer will be entitled to the remaining balance of the security amount, if any.

(Code 1983, § 18-13; Ord. No. J-04, § 1, 2-18-1992; Ord. No. 18-003 , § 2, 2-5-2018)

**Sec. 121-14. Filing fees.**

A fee schedule established by the city commission by resolution shall be paid to the city upon filing of an application.

(Code 1983, § 18-14; Ord. No. J-04, § 1, 2-18-1992; Ord. No. L-86, § 4, 7-20-2009)

**Sec. 121-15. Chapter amendments—Authorized.**

This chapter may be amended from time to time by the city commission; provided, however, that all suggested amendments shall be reviewed by the city planning board and the city commission, and a public hearing shall be held prior to the adoption of any amendment.

(Code 1983, § 18-15; Ord. No. J-04, § 1, 2-18-1992)

**Sec. 121-16. Chapter amendments—Public hearing; application fee; procedure.**

Whenever a change in this chapter becomes necessary a public hearing shall be required before such change may become lawful. The application fee for a requested change shall be ~~twenty-five dollars ($25.00)~~ as established by resolution and paid to the city by the applicant. However, if a change in this chapter is initiated by the city commission, the application fee shall be waived. The procedure is as follows:

(1) The department of development shall accept the application for the requested change.

(2) The completed application shall be forwarded to the city planning board and to the city commission by the ~~department of development~~ planning department.

(3) No change to this chapter shall become effective except by ordinance approved by the city commission. Such ordinance shall be adopted at a public hearing after being duly advertised as required by state statutes.

(Code 1983, § 18-16; Ord. No. J-04, § 1, 2-18-1992)

PROOFS

Chapter 122

**RESERVED**

PROOFS

Chapter 123

# VEGETATION*

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

## ARTICLE I. IN GENERAL

### Sec. 123-1. Definitions.

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

*Clear trunk* means the distance measured from ground level up to the first live branch or palm frond. Clear trunk of a palm tree should be measured disregarding the boots or the persistent palm frond bases.

*Crown spread* means the average extent of the horizontal reach of branches in the top of a tree. Draw a circle directly under the drip line on the ground. The average diameter of this circle is the crown spread.

*Damage* means abuse to any flora covered by this article, through actions or inactions which have caused severe decline, disfigurement, discoloration, defoliation, removal or death of any such flora. Abuse includes, but is not limited to, failure to properly water, fertilize, control pests and fungus, or prune; it also means physically or chemically damaging flora by cutting the main plant leader stem, removing any mature wood larger than three inches in diameter, topping or heading back, reducing the total circumference or canopy spread by more than one-third, burning, cutting, scaring, painting or poisoning.

*Department* means the ~~department of planning and development~~ planning department for the city.

*Diameter breast height (DBH)* means the diameter of a single stemmed tree measured at 4 1/2 feet above grade. When a tree grows with multiple trunks, stems at breast height, DBH shall be equal to the sum or aggregate of the individual stems diameters measured at 4 1/2 feet above grade.

*Drip line* means an imaginary vertical line extending from the outermost circumference of the branches of a tree to the ground.

*Erosion control plan* means a written description of proposed methods to prevent exposed soil from being carried off property by rain, wind or other natural conditions or any construction operations associated with development.

*Ground cover* means low growing plants that cover the ground and are used in place of turf. They reach a height of not more than 24 inches in approximately 12 months and present a finished appearance.

*Grubbing* means the removal of vegetation from land by means of digging, raking, dragging or otherwise disturbing the roots of vegetation and the soil in which such roots are located.

*Hatracking* means to flat cut the top of a tree, severing the leader; or pruning a tree by stubbing off mature wood larger than three inches in diameter; or reducing the total circumference of canopy spread not in conformance with the current National Arborist Association standards.

*Hedge* means plant materials utilized to provide a continuous screen and that must be a minimum of 24 inches high upon planting, with a maximum spacing of 2 1/2 feet on center. All plant materials must be capable of attaining at least 75 percent opacity within 12 months.

*Historic tree* means a tree which has been determined to be of notable historic interest and value to the city because of its location, size, or historic association with the community, and which has been so designated by the commission in the official record books of the city following a public hearing with due notice in advance by certified mail to the owner.

PROOFS

*Landscaped area* means a plot or plots of ground consisting of, but not limited to, living plant material and non-living plant landscape material.

*Landscaping* means landscaping shall consist of, but not be limited to, grass, ground covers, shrubs, vines, hedges, trees, berms, and complimentary structural landscape architectural features, such as rocks, mulch, fountains, sculptures, decorative walls and tree wells.

*Micro-site* means the process of arranging proposed development on a site.

*Net buildable area* means that portion of a site within a lot on which a structure or improvements, including driveways, sidewalks and parking lots may be erected.

*Person* means any individual, firm, corporation, partnership, joint venture, association, principal, trustee, municipal corporation, political subdivision, special district, or any agent or representative thereof.

*Pollarding* means the term given to the practice of regulating size and shape of a young nursery-age tree (topping a large tree is not pollarding). Also called "high coppicing."

*Protected area* means an area surrounding a protected, or historic tree within which physical intrusion is prohibited in order to prevent damage to the tree, roots and soil around the tree base, the dimensions of which shall be established by the ~~department of development~~ planning director and set forth in the tree removal permit as provided in this chapter.

*Protected tree* means any tree having a diameter at breast height of eight inches and/or a circumference of 25 inches or more.

*Prune or trim* means to cut away parts of a plant/tree top or lateral limbs, so as not to cause death or to shorten the floral life span.

*Remove* or *removal* means:

(1) The actual removal of vegetation;

(2) Direct or indirect actions resulting in the effective removal of vegetation through damage or poison; or

(3) Similar actions directly or indirectly resulting in the death of flora subject to provisions of this article.

*Topping* means the trimming of a tree to prevent the natural upwardly growth of a tree, significantly altering its natural shape.

*Tree* means a living, woody plant having a well-defined stem, a more or less well-defined crown, and which is capable of attaining a height of at least 15 feet.

*Tree canopy* means the crown diameter or spread of a tree.

*Tree survey* means an aerial photograph or drawing prepared by a state-registered surveyor to scale and plotted by accurate techniques, which provides the location, size and common name of all protected trees located in a given lot or parcel.

*Trim* means to reduce, shorten or diminish a tree, plant, or parts of a plant, without substantially altering the existing shape.

(Code 1983, § 22-177; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-2. Purpose.**

(a) The intent of this article is to provide minimum landscaping standards and to further provide for the protection of trees, in order to protect and preserve the appearance, character, and value of the properties within the city and thereby promote the public health, safety and general welfare of the citizens of the city. The article implements strategies for such tree protection, including natural crown development and shading, as well as removal and relocation.

(b) Enforcement provisions are established to ensure maintenance, protection and replacement of landscaping and trees. It is the further intent of this article to provide flexible guidelines which encourage landscaping beyond the minimum standards.

(Code 1983, § 22-175; Ord. No. K-126, § 4, 1-22-2002)

PROOFS

**Sec. 123-3. Scope.**

The terms and provisions of this article shall apply to all real property, public and private, without exception, lying within the municipal boundaries of the city.

(Code 1983, § 22-176; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-4. Submission of plans.**

(a) *Landscape plan for site plan approval.* Where site development approval is required by this Code, a landscape conceptual plan will be submitted to the department with any application for development or redevelopment approval. Review of such landscaping plan will proceed in the same manner as the application for development or redevelopment approval. The landscape plan shall be prepared, signed and sealed by a registered Florida landscape architect when site plan review is subject to section 125-313 or application is made for issuance of a residential building permit for improvements greater than 4,000 square feet of interior floor area and all commercial, industrial or public development.

(b) *Landscape plan for building permit* (after site plan approval). Review of a detailed landscaping plan will proceed in the same manner as the application for development or redevelopment approval. Any construction or improvements of residential structures of 4,000 square feet of interior floor area or nonresidential buildings of any size shall require landscape and irrigation plans prepared, signed and sealed by a registered Florida Landscape Architect, or as may be permitted under F.S. § 481.329. The landscape plan shall include and indicate the following:

(1) Location, type and size of all existing trees to be preserved or removed as described in section 123-66;

(2) Location of all structures, freestanding signs, parking areas, drives, vehicular use areas, retention/detention areas and other improvements to remain or proposed for installation on the property;

(3) Location of existing and proposed overhead power lines and adjacent rights-of-way;

(4) Location and description of existing native plant communities to remain, undisturbed, as applicable;

(5) Location, type, size, and quantity of all proposed landscape materials;

(6) Plant list including quantity, size and botanical names of all proposed landscape materials;

(7) General notes including mulching requirements, fertilization and installation details, and such other information as needed;

(8) Planting detail specifications for trees and shrubs;

(9) Dimensions of the property; and

(10) Tabulations which clearly show relevant statistical information necessary to evaluate compliance with provisions of this chapter. This shall include, but not be limited to, required buffers, vehicular use landscaping/screening, non-vehicular landscaping, and such other information as needed.

(c) *Irrigation plan.* In conjunction with a detailed landscape plan, an irrigation plan shall be required for all residential improvements of 4,000 square feet or nonresidential buildings of any size. Residential improvements less than 4,000 square feet shall have a readily available water supply, with at least one outlet within 100 feet of all plant material to be maintained. Such plan shall indicate use of a low volume irrigation system designed specifically for the proposed landscape installation, establishment and maintenance. All designs shall meet or exceed the minimum compliance set forth within the Standards and Specifications for Turf and Landscape Irrigation Systems published by the Florida Irrigation Society, as amended. The required irrigation plans shall be prepared by or under the landscape architect's authority and shall include the following minimum information:

(1) Scale; same as site plan;

(2) Existing vegetation to remain, species size, condition and location;

(3) Site improvements to remain: the location and outline of existing buildings, drainage swales, stormwater retention/detention areas and other structures;

(4) Proposed improvements. The location and outline of proposed buildings, drainage swales, stormwater retention/detention areas and other structures;

PROOFS

(5) Off-street parking, access aisles, driveways and other vehicular use areas;

(6) Water main. Location, size and specifications;

(7) Valve. Location, size and specifications;

(8) Pump. Location, size and specifications or water source;

(9) Controller. Location and specifications (rain-sensor override devices are required for irrigation systems);

(10) Typical irrigation zone plan: indicate head types, specifications and spacings, and separate zoning details for different types of irrigation heads;

(11) Total volume (gallons required) for typical depths of application and application rate, inches per hour; and

(12) Reclaimed water irrigation system. If applicable, and whether the system is temporary or permanent.

(Code 1983, § 22-178; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-5. Permit applications.**

Application for landscape permit, tree removal and land-clearing permits required by this article shall be made prior to beginning any site work or tree removal, replacement, relocation or substantial alteration and shall be subject to the provisions of this subsection.

(1) *Landscape permit.* A non-refundable administrative fee established by the city commission by resolution to offset the cost of evaluating application and plans shall be paid to the city upon filing of an application.

(2) *Tree removal permit.* A non-refundable administrative fee established by the city commission by resolution to offset the cost of evaluating the application and trees shall be paid to the city upon filing of an application.

(3) *Land-clearing permit.* A non-refundable administrative fee established by the city commission by resolution shall be paid to the city upon filing of an application.

(4) *Application.* Shall be made in writing to the ~~city clerk~~ on a form provided by the ~~city clerk's office~~. The form shall request all information necessary to evaluate the application, including, but not limited to, the following:

a. Statement as to the applicants interest in the property;

b. Legal description of the property and a boundary survey or accurately scaled drawing thereof;

c. A tree survey, if applicable, indicating the species of the trees, which protected trees are intended for removal, relocation or alteration in any way, and those which will be undisturbed. On sites which are larger than two acres, protected trees may be depicted as a group or cluster rather than as individual trees, providing the group or cluster is one which is receiving uniform treatment within its individual members;

d. If land clearing is intended, an erosion control plan together with reasons for clearing or grubbing of the site;

e. The application should be submitted and processed concurrently with site plan review or subdivision approvals when such approvals are otherwise required to make use of the property. The site plan or subdivision plat should be prepared in a manner to allow ready comparison with any tree survey so as to assess whether the cited criteria have been met. All items shown shall be properly dimensioned, scaled and referenced to the property lines and set back requirements. Existing and proposed site elevations and major contours should be included if required;

f. The filing of an application shall be deemed to extend permission to the department to inspect the property subject to such application, if inspection is found necessary for purposes of evaluating the application;

g. For those applications that are not being processed concurrently with site plan or subdivision approval, the department shall have 15 working days following the receipt of a completed

PROOFS

application within which to make a determination on whether a permit shall be issued as requested. If the permit is not issued, the department shall state in writing the reasons for denial and advise the applicant of any re-submission requirements or appeal remedies available. Should additional review time be necessary due to complexity of the submission, the department may have a reasonable extension of time within which to complete its review;

h. Any permit issued hereunder shall remain valid for a term of six months and may be renewed for a second six-month period upon request to the department. The department may require re-application and full review in those renewal instances where site conditions have changed from the date of issuance of the initial permit as a result of natural growth of trees or high winds, hurricane, tornado, flooding, fire or other acts of God. If a permit required by this section has been issued concurrently with site plan or subdivision approval, then such permit shall run concurrently with the site plan or subdivision approval and shall be renewed together therewith;

i. The department may designate, as appropriate, a protected area on the landscaping site where essential for preservation of trees. The protected area shall be established based upon consideration of the species, age, size, condition of the tree, soil condition, topography, means of protective barrier proposed, or other relevant criteria, and shall be established for the purpose of protecting the roots and trunk of a tree during or after construction. Any existing vegetation previously within the protected area and allowed by the department to remain shall be maintained in its natural state so as not to alter the water and oxygen content of the soil or upset the soil's natural function. Grade changes, ditching for underground irrigation or installation of utility lines shall not take place except upon issuance of a permit which shall be issued by the department upon a showing by the applicant to the department satisfaction that plant root systems are protected to the greatest extent possible. The following additional requirements apply to the protected area:

   1. No soil may be removed;
   2. No fill material may be stored, deposited and/or disposed of within a protected area; signs, permits, wires or attachments other than for protection of trees and vegetation within the protective area, and which are non-damaging in nature, may be affixed or attached to the vegetation;
   3. Landscaping may not be installed following designation of the protected area without a permit;
   4. No equipment, including vehicles, may be driven, parked or stored within the designated area.

j. Based upon reasonable forestry considerations, such as species, age, size, location or condition of a tree affected by the work for which application is made, the department may require as a condition for permit application that a suitable protective barrier be placed and maintained around individual trees or groups of trees, in a manner specified by the department. The department may alternatively require, during construction, that designated trees or groups of trees should be prominently highlighted by the installation stakes connected with ropes, plastic tape, ribbon or other material so as to form a continuous, unbroken perimeter at a specified distance from the tree or group of trees to provide protection from clearing activities. Any such perimeter markings should be prominently visible to equipment operators. Any protective barrier or boundary marker required by this subsection shall remain in place until removal is authorized by the department or there is issued a certificate of occupancy.

k. Local permit not exclusive. It is the intent of this section that permits or approvals required hereunder shall be in addition to and not in place of any federal and state approvals which may be required for the same or similar activities. In the event provisions of this article conflict with any other regulations on this subject matter, the more restrictive shall apply. Compliance with provisions of this section does not excuse any person for noncompliance with either applicable federal, state or local laws.

(Code 1983, § 22-179; Ord. No. K-126, § 4, 1-22-2002; Ord. No. L-86, § 6, 7-20-2009)

PROOFS

**Sec. 123-6. Required bond.**

In those instances where the landscape plan is submitted with a site plan requiring review pursuant to section 125-313, the property owner shall file with the director of finance at the time of completion certification by the landscape architect, a security bond, certified deposit (CD), cashier's check or a certified check upon a solvent local bank conditioned to secure 100 percent of the supply and installation cost of the landscaping improvements required by this article, in accordance with the plan approved by the department, for a period of 24 months after certification by the landscape architect to ensure the establishment and maintenance of the plant material required under this section. No such bond, CD, or check shall be accepted unless it be enforceable by or payable to the city. This security bond shall be reduced to ten percent of the supply and installation cost of the landscape improvements for the second year, after the first year inspection determines 100 percent required landscape improvements exist and have been maintained properly. A property owner shall warrant and guarantee a survival rate of 100 percent for all required plantings by other permitting agencies including littoral zone plantings around created lakes and retention ponds for a period of 24 months following the expiration of time for installation of required plant materials, or 24 months following certification of installation by the property owners landscape architect, whichever is earlier. Such security shall be released upon inspection and final approval by the department that the provisions of this section have been met. The standard contract for maintenance of required landscaping, with security as provided in this section is required by the city before issuance of certificate of occupancy.

(Code 1983, § 22-180; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-7. Enforcement.**

After the 24-month establishment period for landscaping subject to section 123-6, the city will inspect the required landscaping and maintenance at least one time a year. Maintenance shall include the replacement of all unhealthy/dead material within 30 days after a notification of violation in conformance with the approved site plan or landscape plan. Violations of this article, or failure to maintain all required landscaping as reflected in the approved landscaping plan, shall be grounds for referral to the special magistrate for appropriate action. The 30-day rule for compliance may be extended when necessary, by the city manager to permit recovery from acts of nature such as a hurricane or freeze.

(Code 1983, § 22-181; Ord. No. K-126, § 4, 1-22-2002; Ord. No. 17-017 , § 14, 6-5-2017)

**Sec. 123-8. Variances and administrative appeals.**

A variance from any of these substantive requirements of this section or an appeal of any administrative determination made by the planning director may be made in accordance with the procedures set forth for such relief under the current zoning code of the city. Any appeal should be initiated by a written notice filed with the planning department within 30 days of the date of the administrative determination which is the subject of such appeal.

(Code 1983, § 22-182 Ord. No. K-126, § 4, 1-22-2002; Ord. No. 19-044, § 16, 11-4-2019)

~~**Sec. 22-183. Severability.**~~

~~If any section, part of a sentence, paragraph, phrase or word of this article is for any reason held to be unconstitutional, inoperative or void, such holding shall not effect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this article without such unconstitutional, invalid or inoperative part.~~

~~(Code 1983, § 22-183; Ord. No. K-126, § 4, 1-22-2002)~~

**Secs. 123-9--123-34. Reserved.**

## ARTICLE II. LANDSCAPING

**Sec. 123-35. Scope.**

This division sets out requirements and standards for plant materials, installation, irrigation, design and developer responsibilities.

(Code 1983, § 22-185; Ord. No. K-126, § 4, 1-22-2002)

PROOFS

**Sec. 123-36. Landscaping design standards for single- and two-family residential structures.**

These standards shall apply to all new single-family and two-family dwelling that have less than 4,000 square feet of interior floor area or the remodeling of existing units with less than 4,000 square feet of interior floor area that require a building permit.

(1) Residential structures constructed with other than slab on grade foundations shall be provided with a continuous skirting of landscaping, in the form of shrubs or hedges, for the entire perimeter of the foundation. Shrubs used to meet the requirements of this section shall be a minimum of 36 inches in height when planted. Hedges shall be planted and maintained so as to form a 36-inch or higher continuous, unbroken, solid screen at time of planting. Stone wall foundations may be used in place of landscaping.

(2) A minimum of four trees must exist or be planted on each developed lot where either a single-family residence or two-family residence is the principal structure. Existing trees must be a species that are acceptable to the department, located away from utility conflicts and in good health. Trees to be planted must be of a variety compatible with the existing soil and drainage conditions and must be provided with adequate water and fertilizer to encourage long term growth. Trees should be planted in locations so as not to present a potentially dangerous condition or interfere with existing structures or utilities at maturity.

(3) Residential lots must either be fully grass-covered or provided with a combination of grass cover and landscape for the entire ground area, except for permitted, impervious surfaces such as sidewalks, patios, and driveways. Landscaping shall comply with section 124-37, as applicable.

(4) Public right-of-way which abuts property on which either a single-family residence or a two-family residence is the principal structure must be sodded by the owner to the back of the curb or edge of the pavement, whichever is applicable. Trees shall be planted, as determined by the department, either on the public right-of-way or land adjacent to the public right-of-way so as to serve as shade for sidewalks and contribute to the streetscape design of the adjoining roadway.

(Code 1983, § 22-186; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-37. General landscaping requirements.**

All landscape plans shall meet or exceed the following general landscaping requirements which shall be considered complimentary to the landscaping provisions of any other city ordinance. This section shall not apply to lots subject to section 124-36. A certificate of occupancy shall not be issued on any permit for the use, construction, repair or renovation of any structure within the city, whether residential, commercial, industrial or accessory, unless application for any such permit is accompanied by a detailed landscape plan meeting all requirements of this article. The department is not authorized to exempt the permit application from any requirement except as expressly provided for in this article.

(1) *Requirements for plant materials.* Plant materials used for conformance with this article shall meet or exceed the standards for Florida No. 1 as set out in the most current edition of Grades and Standards for Nursery Plants Part 1 and Part 2., State of Florida, Department of Agriculture, Tallahassee. The clerk's office shall maintain a stock of these manuals to be given to permit applicants, particularly though not exclusively to homeowners, for the applicant's use in submitting the required landscape plan. All trees required by this article (excluding palms that are exempt from the grades and standards) shall have a Florida No. 1 or better grades and standards certification tag attached at time of delivery through final inspection. Grass sod shall be clean and free of weeds, pests and diseases.

a. *Trees.*

1. Trees used to meet the requirements of this section shall be species which when planted have a height of at least 12 feet and have trunks which can be maintained in a clean condition for over five feet of clear wood. At planting, the trees shall have a diameter of at least 2 1/2 inches at a point 4 1/2 feet above ground level and a spread of at least five feet (except for palms which shall have a minimum clear trunk of ten feet).

PROOFS

2. Trees used to meet the requirements of this section shall also be species which in the county normally grow in a manner such that at maturity they will have a minimum crown spread of 15 feet and a minimum height of 15 feet. Trees which can meet the height requirement at maturity but not the crown requirements may be grouped to form a wider crown, but will be counted as one tree. Three palms may be substituted for one tree provided that 50 percent of requirement shall be trees.

3. Fifty percent of the required trees shall be species other than palm trees (Palmaceae family) except when planted in accordance with an approved plan prepared by a state-registered landscape architect.

4. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 12 feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior containing dimensions shall be three feet times five feet and five feet deep, and for which the construction requirements shall be six-inch thick concrete with fiber mesh and no wire mesh or by a root barrier product approved by the city engineer.

5. None of the following trees shall be planted in the city and where they presently exist when permit application is made, their removal shall be a condition of any final development order: Melaleuca, leucadendron (punk tree), Schinus terebinthifolius (Brazilian pepper) and Casuarina sbp. (Australian pine). Nor may any of the following trees be planted for purposes of complying with requirements of this article: any species designated as category I on the Exotic Plant Pest Council's current list of Florida's Most Invasive Species, Cupaniopsis anacardioides (Carrotwood), Dalbergia sissoo (Rosewood), Albizzia lebbeck (Woman's tongue), Araucaria heterophylia (Norfolk Island pine), Grevillea robusta (Silk oak), Melia azadaracha (Chinaberry), Ficus spp. (non-native Ficus), Eucalyptus spp. (Eucalyptus).

b. *Shrubs and hedges*. Shrubs used to meet the requirements of this section shall be a minimum of 24 inches in height when planted. Hedges, where required, shall be planted and maintained so as to form a 36-inch or higher continuous, unbroken, solid, visual screen.

c. *Ground covers*. Ground covers used in lieu of grass, or in part, to meet the requirements of this section, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within three months after planting.

d. *Grass*. Grass used to meet the requirements of this section shall be planted with species normally grown as permanent lawns in the county. Grass areas will be sodded, except that plugging, sprigging or seeding of grassy areas is permissible with respect to single-family and two-family residential lots. As to all lots, solid sod shall be used in swales, detention or retention areas and other areas subject to erosion.

e. *Existing plant material*. When plant material exists on a site prior to the date application for a permit is made, credit may be allowed for such plant material provided that it is protected during construction and incorporated into the required landscaping in a manner which satisfies the requirements of this article.

(2) *Landscaped areas.* Each separate landscaped area shall have at least one tree, one or more shrubs as approved by the department, or one or more hedges, and ground cover. So as to support long-term plant health, planting soil for all landscaped areas shall consist of existing soil mixed with 50 percent recycled top soil. Such planting soil shall be free of debris, roots, clay, stones, plants or other foreign materials. The planting soil meeting requirements of this subsection shall extend to an appropriate depth so as to eliminate any hindrance to planting operations or detriment to good plant growth. Compliance with these soil requirements shall be verified as part of the final inspection.

(3) *Landscaping design standards.* For commercial, professional, multifamily, industrial and institutional structures, these design standards are in addition to, and not in place of, other requirements imposed by this article.

PROOFS

(4) *Landscape strips.* Between street rights-of-way and vehicular use, building and retention/detention areas, there shall be a landscaped strip of land, except where driveways are located, meeting these requirements:

a. The strip shall be at least six feet wide for lots under 10,000 square feet in size and at least ten feet wide for lots 10,000 square feet or larger;

b. The landscape strip shall include an average of at least one tree for each 300 square feet of required landscaped area. The remainder of the required landscaped area shall be completely covered with grass, ground cover or other landscaped treatment and shall additionally contain a screen of landscaping which shall be installed and maintained so as to form a 36-inch or higher continuous, unbroken, solid, visual screen within a maximum of one year after the landscaping takes place, except in clear vision areas required in section 125-308.

(5) *Other property.* All property, other than the required landscape strip, located between street right-of-way and buildings, shall be completely covered with grass or other ground cover except to the extent there are permitted, impervious surface structure such as sidewalks, plazas and driveways.

(6) *Vehicular use, building, retention/detention areas adjacent to other property.* Landscape standards for these areas are as follows:

a. Where a vehicular use area does not abut a street right-of-way but abuts other property, there will be a landscaped strip of land which is at least ten feet wide. When a property line abuts a building, another structure, a joint driveway or joint parking area, such landscaped strip shall not be required.

b. The landscaping strip required by the immediately foregoing subsection shall include an average of at least one tree for each 200 square feet of the required landscape area. The remainder of the required landscape area shall be landscaped with grass, ground cover or other landscape treatment. When the area to be screened abuts residentially zoned property, a site-obscuring fence or planted material which is not less than six feet in height shall be included. If planted material is used, it shall be planted and maintained so as to form a three-foot or higher continuous, unbroken, solid visual screen within a maximum of one year after planting. The planted material shall be a species which in the county normally grows to a height of six feet or more.

(7) *Interior vehicular use areas.* The following are standards relating to landscaping of interior vehicular use areas:

a. Lots with vehicular use areas that are 4,000 or more square feet in size shall have at least one square foot of interior landscaping for each 15 square feet of vehicular use area, except that areas in an I-1 or I-2 zone shall only be required to have at least one square foot of interior landscaping for each 30 square feet of vehicular use area. Each separate landscaped area shall be curbed and contain a minimum of 100 square feet of area and shall be at least ten feet wide and ten feet deep exclusive of curbing in all locations. Progressive urban parking area designs may be used to provide adequate space for multiple tree plantings and allow for proper tree root development so shade trees can grow and develop large canopies to reduce parking lot heat islands.

b. Interior landscaping shall include an average of at least one tree for each 100 square feet of required landscaped area. The remainder of the required landscaped area shall be landscaped with grass, ground cover or other landscaped treatment. Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide traffic flow and direction.

c. When trees exist on a site prior to site development, the amount of the required interior landscaped area may be reduced by the following amount for preserving existing trees, provided that the total amount of the interior landscaped area is not reduced by more than 50 percent.

| *Diameter of tree* | *Reduction in interior* |
|---|---|
| 4.5 feet above ground level | Landscaped areas |
| Over 12 inches | 500 square feet |

PROOFS

| | |
|---|---|
| 6 inches to 12 inches | 400 square feet |
| Under 6 inches but over 3 inches | 100 square feet |

These reductions in the interior landscaped areas shall only apply where the preserved tree is in a planting area which has dimensions not less than the radius of the crown spread measured from the trunk center and where no grade changes within the landscaped area may be anticipated.

(8) *Lands adjacent to street right-of-way.* Lands immediately adjacent to street right-of-way shall meet the following requirements:

a. Trees will be planted along the public right-of-way in a manner directed by the department so as to ensure shading for sidewalks and to contribute to the streetscape design of the roadway;

b. Palms, trees and shrubs may be required for driveway entrances or other key points of interest as determined by the department to the extent that such plantings do not exceed requirements set for clear vision areas as specified by section 125-308.

~~Reserved.~~

(9) *Other areas.* When an area other than a vehicular use and retention/detention area of a developed lot in a C-1, C-2, C-3, C-4, C-5, I-1, or I-2 zone abuts a lot in an E-1, R-1, R-2, R-3, R-4, R-5, OS-1, or OS-2, such area in a commercial or industrial zone shall have a site obscuring fence or planted material so as to provide a visual and noise buffer between such areas and the lot in the residential or open space zone. Such fence will be constructed from wood, stone, brick or other suitable material and be a minimum of six feet high. If planted material is used, it shall be planted and maintained so as to form a 36-inch or higher continuous, unbroken solid screen. There shall be at least one shrub, bush or vine planted along the fence for each ten feet of fence for the purpose of beautifying the fence. Slats shall not be put into chain-link fence to obscure the view. The planted material shall be a species which in the county normally grows to a height of six feet or more.

(10) *Screening of refuse collection areas.* Refuse and recycling dumpsters utilized by multifamily residential complexes, in commercial, industrial and institutional facilities shall be screened from view on all sides and shall be gated. Gates may be left open only on scheduled pick up days and must be closed following pick up. Such screening shall consist of a six-foot-high masonry wall or wooden fence. In addition, when feasible, one shrub or hedge shall be planted at two-foot centers along the outside perimeter of the screen. Dumpsters shall be located in an area that minimizes public view. This subsection shall apply to dumpsters servicing structures built on or after June 1, 1996.

(11) *Installation of landscaping.* All landscaping required by this article shall be installed in compliance with these requirements:

a. Landscaping shall be installed in accordance with the approved landscape plan, including all specified conditions to a particular landscape approval, and inspected prior to issuance of a certificate of occupancy. Such inspection shall include verification that planting soil meets specified composition and depth requirements. In the event there are any changes to the approved landscape plan, such changes must be reviewed and approved by the department and noted on the plan prior to notification for the final inspection for a certificate of occupancy.

b. Landscaped areas shall be covered in their entirety with shrubs, ground cover, turf, or three inches of bulk organic mulch or other suitable material which permits percolation and is approved by the department. Where mulch is used, it must be protected from washing out of the planting bed. Inorganic mulch, such as gravel or rock, should only be used where washouts occur. The final inspection prior to issuance of certificate of occupancy, shall include verification that any mulch is installed at the requisite depth.

c. Trees which are balled and burlaped must have the burlap removed or folded down at the time of the planting. All twine or rope must be removed. If wire baskets are used, the upper rows must be cut before planting. Remove all soil from above the root flare and plant the tree so the top of the

PROOFS

root ball is ten percent above the landscape soil. Do not place any soil or mulch over the root ball. If stakes or guide wires are used to support a tree, the wire must be covered with protective material where it is in contact with the tree and the stakes or guide wires must be removed after one year.

d. All landscaping required by the city must be protected from vehicular and pedestrian traffic by the installation of curbing, wheel stops or other protective devices along the perimeter of any landscaping which adjoins vehicular use areas or sidewalks. These protected devices shall have a minimum height of six inches above grade.

e. No parking, display of vehicles or outside storage or display of merchandise is permitted in or over any required landscape area, nor are vehicles permitted to overhang any required landscaped area.

f. Soil, except for planting soil, in which required landscape is to be installed must be generally indigenous to the locale. Soil must be loose, friable, and free of limestone and other construction materials, road base material, rocks, weeds, grasses, hard pan, clay or other debris. PH shall be adjusted where necessary to be compatible with the plant species being installed. Soil shall be slightly swaled to retain surface stormwater. Backfill soil material shall be thoroughly watered in and around plant root balls to prevent any air pockets. The use of amended and enriched soils may be required by the department where necessary to increase the water retention capabilities of soil in order to reduce the amount of watering needed to meet the landscaping water requirement. Final inspection of required landscape prior to issuance of the certificate of occupancy shall include PH testing to verify compatibility with permitted plantings.

g. To minimize traffic hazards at street or driveway intersections, all landscaping installations must provide unobstructed views as required in section 125-308.

h. Any irrigation system placed on city right-of-way will be the responsibility of the property owner who shall relocate, replace or repair the system as appropriate in the event it is damaged due to permitted construction in the right-of-way.

i. Prior to issuance of certificate of occupancy, final landscape installation shall be certified as complete and in conformance to the approved landscape plan by submission of a certification letter by a landscape architect.

(12) *Maintenance of landscaping.* Property owners shall maintain all required landscaping so that it continues to present a healthy, neat and orderly appearance free of refuse and debris, in conformity with the following requirements:

a. Vegetation required by this article shall be replaced with equivalent vegetation if it is not living. All trees for which credit is awarded and which subsequently die shall be replaced by the same number of living trees according to the standards established in this article.

b. Maintenance shall include sufficient weeding, watering, fertilizing, pruning, mowing, edging, mulching and other horticultural practices so as to ensure that the landscaping continues to maintain a healthy, neat and orderly appearance.

(Code 1983, § 22-187; Ord. No. K-126, § 4, 1-22-2002; Ord. No. K-485, § 1, 4-16-2007)

**Secs. 123-38--123-62. Reserved.**

## ARTICLE III. TREE PROTECTION

### Sec. 123-63. Benefits of tree protection.

Trees can be used to combat pollution, protect soil and water resources, beautify, increase property values and generally enhance the quality of life in a community. Tree removal impairs benefits to existing property owners in the surrounding area, impairs economic stability and the value of improved and unimproved real property, and causes environmental problems such as increased surface draining and soil erosion resulting in increased public expense.

(Code 1983, § 22-191; Ord. No. K-126, § 4, 1-22-2002)

PROOFS

**Sec. 123-64. Permit required.**

(a) *Tree removal permit.* No person shall, directly or indirectly, cut down, substantially alter, destroy, remove, relocate, damage or authorize any such act involving a protected tree situated on land within the city, without first obtaining a tree removal permit. But the following activities may be done without applying for a permit:

(1) Pruning and trimming of trees or other vegetation when necessary to conduct a survey or site examination for the preparation of subdivision plats, site plans or tree surveys, providing that such pruning and trimming is conducted under the direction of a state-registered surveyor or engineer.

(2) Routine landscape maintenance such as limited trimming or pruning of vegetation that is not intended to result in the eventual death of the plant, or any other landscaping activity which is commonly recognized as routine maintenance.

(3) Removal, trimming, pruning or alteration of any tree or vegetation in an existing utility easement or public right-of-way, provided such work is done by or under the control of the operating utility company and said company has received all necessary licenses or permits to provide utility service within the easement. This exemption shall not apply to the removal, trimming or alteration of any historic tree, Live oak (Quercus virginiana) tree or other valuable tree designated by the department that falls in the protected tree size range.

(4) Removal, trimming or alteration of any tree or vegetation for the purpose of maintaining existing legal access to a property.

(5) Any activity conducted by a lawfully operating and bond fide commercial nursery or agricultural operation, when the activity occurs on property owned or lawfully occupied by the person conducting such activity.

(6) Removal or replacement of any tree which has been damaged or destroyed beyond saving, from extreme weather conditions, insects, disease and fire, or which constitutes an immediate peril to life or property and has been confirmed by the department.

(b) *Permitting requirements.* The permitting requirements of this section may be suspended or waived by the department during a period officially declared by the city manager. Nor shall removal of any of the trees belonging to any of the following species require a permit:

(1) Casuarina spp. (Australian pine);

(2) Melaleuca quinquenervia (Melaleuca);

(3) Schinus terebinthifolius (Brazilian pepper).

(Code 1983, § 22-192; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-65. Conditions for issuing permits.**

The following permits shall be available upon proper application at the ~~city clerk's office~~ in compliance with this section: tree removal permit and land clearing permit. Criteria governing issuance:

(1) *Tree removal permit.* No tree removal permit shall be issued unless the department finds that at least one of the following criteria is satisfied with respect to each protected tree designated for removal:

a. That the tree is located within the net buildable area of a given site as identified on the tree survey and site plan by the applicant;

b. The tree is located within an existing or proposed right-of-way;

c. The tree is located within an existing or proposed easement, stormwater management tract or facility, provided that only the minimum area reasonably necessary for the service or use shall be considered for purposes of determining whether there is necessity for tree removal;

d. The tree is located where it creates or will create a safety or health hazard or a nuisance with respect to existing or proposed structures or vehicles or pedestrian routes;

e. The tree is located where it interferes with the installation, delivery or maintenance of proposed or

PROOFS

existing utility services to the site except a higher degree of necessity must be demonstrated by the applicant in the case of a historic tree, Live oak tree (Quercus virginiana) or other valuable tree designated by the department which qualifies as a protected tree;

f. The tree is confirmed by the department to be diseased, severely injured or in danger of falling; or

g. The tree unreasonably prevents development of a lot or parcel of the physical use thereof. However, a tree removal permit shall not be granted where the applicant has failed to design and locate the proposed improvements so as to minimize the removal of trees consistent with the permitted use of the lot or parcel under the zoning ordinance, as amended.

(2) *Land-clearing permit.* No land-clearing permit shall be issued unless the department finds that each of the following criteria is satisfied:

a. The land clearing or grubbing is necessary to make those certain site improvements authorized by an improved site plan, subdivision approval or land development permit. In the event the area to be cleared is the minimum necessary for such work or in the event the aforementioned approvals are not required by law for the intended use of the property, that the proposed clearing is the minimum necessary for the proposed use or improvement;

b. The applicant provides a written erosion control plan describing methods to control erosion which may be expected to occur as a result of the proposed clearing or grubbing;

c. The applicant is complying with all other provisions of this article and specific codes such as section 18-1, open burning of trash, garbage, etc., or as appropriate;

d. A land clearing permit does not authorize the damage, removal, relocation or destruction of protected trees.

(Code 1983, § 22-193; Ord. No. K-126, § 4, 1-22-2002)

**Sec. 123-66. Tree protection and mitigation.**

(a) Prior to the removal or grubbing of native vegetation for the purpose of implementing a final development order, the removal plan shall demonstrate that reasonable effort was made to micro-site impervious surfaces so as to protect such vegetation.

(b) Any native tree at least 14 inches in diameter at breast height (DBH), except for palms which have a minimum clear trunk of ten feet, shall be preserved and protected in accordance with this article, unless the tree is determined to be a safety hazard, prevents the reasonable development of a site, is causing damage to structures or more desirable trees around it, is infected with disease or is infested with insects. A land clearing applicant shall demonstrate why the tree should not be protected or why it is not feasible to develop without removing the tree.

(c) When a native tree is at least 14 inches DBH, except for palms which shall have a minimum clear trunk of ten feet, is to be removed pursuant to a tree removal permit, such permit shall not be issued unless or until there is additionally approved by the department a mitigation plan. Any replacement trees which are the subject of such mitigation shall be planted, relocated, or preserved before issuance of the final development order.

(d) Mitigation shall be required for the loss of any native tree at least 14 inches DBH (except for palms which shall have a minimum clear trunk of ten feet) and shall include the following:

(1) The replacement trees, either preserved, relocated or newly planted, shall be of the same or other native species as the tree approved for removal;

(2) The quality and replacement of the replacement trees shall exceed the minimum landscape requirements otherwise set out in this article and shall be at least 12 feet tall and 2 1/2 inches DBH except for palms which shall have a minimum clear trunk of ten feet. Any tree which is the subject of a mitigation plan shall be replaced at a ratio of one inch DBH for each inch of DBH removed, except that each palm tree which is preserved through on-site protection or relocation will count towards any required palm tree mitigation requirement at a rate of one palm tree preserved/relocated equal to one palm tree removed. The following mitigation credit shall apply:

a. Trees preserved or relocated on-site, which exceed the minimum landscape requirements of this

PROOFS

article shall count as equivalent replacement DBH;

b. Trees planted on-site which exceed the minimum landscape code shall count as half credit towards the mitigation requirements.

(3) The replanting design shall provide adequate space for root and crown development;

(4) The property owner shall be responsible for maintenance of the mitigation trees, such responsibility to include replacement of unhealthy and dead trees. The property owner shall submit to an on-site inspection of the planted/preserved vegetation 12 months after the issuance of the final development order or permit approval. If it is determined that the planted vegetation is dead, diseased or otherwise not in compliance with provisions of this Code and the original approved mitigation plan, the property owner shall be provided notice and directed to correct any such deficiencies and replace all noncompliant materials within 60 days;

(5) When the property being developed is not suitable for on-site mitigation, the applicant's plan, may, with city approval, provide for use of a site on city public lands providing that the applicant furnishes all necessary services incident to such mitigation on public property, including, but not limited to, funding of plant materials and labor. Alternatively, the applicant may contribute a fee established by the city commission by resolution per inch DBH required for mitigation to the city to be used by the city for acquisition, maintenance or planting of native trees on publicly owned lands. Any such monies contributed in satisfaction of the applicant's mitigation requirement shall be placed in a specially designated fund entitled the City of Fort Pierce Tree Preservation Funds, the use of which is limited as provided in this section.

(e) Tree protection as justification for variance relief from other land development regulations. Inasmuch as tree protection is determined to be a vital importance to the health, safety, aesthetics and wellbeing of the community, the interest in preserving a protected tree shall be considered prima facie a unique or special condition or circumstance peculiar to the land involved for the purpose of application for a variance from the literal requirements of a land development ordinance, such as building setbacks, parking space requirements, or minor or residential street right-of-way widths, providing adjustments are made elsewhere on the site to preserve the maximum permitted lot coverage and the total minimum number of parking spaces, and provided safety precautions are taken to offset any hazard resulting from decreased right-of-way widths.

(f) Pruning and trimming. Trees shall be pruned only as necessary to promote uniform healthy growth. Trees shall be allowed to attain their natural size. Trees may be pruned to remove diseased or dying portions in areas where falling limbs may be a hazard to people or property. Lower limbs and suckers may be selectively removed to provide clearance for pedestrians. In addition, trees located in association with vehicular use areas shall also be pruned to allow for a clearance of seven feet from ground level to avoid potential for damage or injury to vehicles and pedestrians. However, excessive pruning or pollarding of trees into round balls of crown or branches, which results in an unnecessary reduction of leaf mass shall be prohibited. Severe cutting back of lateral branches and canopy or toppings or hatracking trees is expressly prohibited. All pruning shall be accomplished in accordance with National Arborists Association standards for pruning. The department shall maintain a stock of these written standards to give out to permit applicants, particularly though not exclusively to homeowners. Pruning restrictions shall not apply to trees under power lines except for historic trees, Live oak trees (Quercus virginiana) and other valuable trees specified by the department that fall in the protected tree size range. In the event that any tree trimmer is found to be in violation of these guidelines, the ~~director of development~~ planning director is authorized to direct that all tree trimming activities are halted until corrective measures are accomplished, such as, but not limited to, installation of protective covers for electric wires that will eliminate the need for trimming specific trees.

(Code 1983, § 22-194; Ord. No. K-126, § 4, 1-22-2002; Ord. No. L-86, § 7, 7-20-2009)

PROOFS

Chapter 124

**RESERVED**

PROOFS

Chapter 125

# ZONING

## ARTICLE I. IN GENERAL

### Sec. 125-1. Title.

This chapter shall be known as "The Zoning Ordinance of the City of Fort Pierce, Florida."

(Code 1983, § 22-1; Ord. No. H-186, § 30-1, 6-15-1981)

### Sec. 125-2. Purposes.

The purposes of this chapter are to further the objectives and goals of the comprehensive plan; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of public and private transportation, water, sewerage, other public utility services, schools, parks and other public requirements.

(Code 1983, § 22-2; Ord. No. H-186, § 30-2, 6-15-1981)

### Sec. 125-3. Definitions; generally.

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

*General.* For the purposes of this chapter, certain words and phrases are defined as indicated in this section. Terms in the present tense include the future, the singular includes the plural and the plural the singular; the terms "shall," "will" and "must" are mandatory, and the term "may" is permissive.

*Accessory use* or *accessory structure* means a use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use. In all residential zoning districts, accessory structures shall be limited in size to no more than 25 percent of the main structure, which size limitation shall be cumulative and calculated in combination with any other existing accessory structure so that the total size of all accessory structures shall not exceed this maximum. Such accessory structures shall further not exceed the maximum building height of the existing or planned main structure. In calculating maximum building size, existing or planned attached garages shall not be considered. Detached garages which are permanently affixed to the property with a proper foundation shall not be subject to the 25 percent size limitation specified herein; provided, however, such detached garages shall conform with the applicable height restriction. Nothing in this section shall supersede lot coverage standards provided elsewhere in the Code restricting the total size of all structures which may be located on any property.

*Adult congregate living facility* means a facility which undertakes through its ownership or management to provide, for a period exceeding 24 hours, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services. Personal services means in addition to housing and food service, which include, but are not limited to, personal assistance with bathing, dressing, ambulation, housekeeping, supervision, eating, supervision of self-administered medications and assistance with securing health care from appropriate sources. Any such facility shall be licensed as such by the state pursuant to F.S. § ~~440.401~~ 429.07, and regulations applying thereto, as it now exists or as subsequently recodified. This definition shall not be deemed to include boardinghouses or roominghouses as defined in this section.

*Alley* means a public thoroughfare which affords only a secondary means of access to abutting property.

*Amusement arcade* means that portion of an interior premises consisting of three or more amusement devices, but no more than 49 amusement devices.

PROOFS

*Amusement device* means any table, platform, mechanical or electronic device or apparatus operated or intended to be operated indoors for amusement, pleasure, test of a skill, competition or sport, where the use or operation of which is conditioned upon payment of a consideration either by insertion of a coin, electronic card, or token in a slot or otherwise so long as the person playing does not receive anything of value or any prize in violation of state or federal law. The definition of the term "amusement device" includes, but is not be limited to, devices commonly known or simulated baseball, simulated football, simulated basketball, simulated hockey, simulated boxing, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin or not). Such definition does not include a bowling alley, juke box, or other coin-operated music machine, or a mechanical children's amusement riding device.

*Amusement park* means a large scale permanent or transient commercially operated enterprise, the majority of which is outdoors, that supplies various forms of amusement, entertainment and recreation, such as a carnival, circus, theme park and amusement ride facility.

*Aquaculture facilities* means facilities for the raising, feeding, planting and harvesting of aquatic organisms.

*Aquatic areas* means tidal waters and wetlands and nontidal sloughs, streams, lakes and wetlands. The lands underlying the waters are also included. The upper limit of aquatic areas is the mean high tide line in tidal areas and the ordinary high water line in nontidal areas.

*Arcade amusement center* means that portion of an interior premises consisting of 50 or more amusement devices. ~~Arcade amusement centers shall operate in accordance with the provisions outlined in F.S. § 849.161(1)(a)(1) as amended from time to time.~~

*Arterial street* means a street designated as an arterial street in the comprehensive plan.

*Bankline/streamline alteration* means realignment of a stream bank or the entire stream, either within or without its normal high water boundaries.

*Boardinghouse (roominghouse)* means an establishment, other than an adult congregate living facility or a health care facility, with lodging for four, but not more than nine persons. There shall be no provision for cooking in individual sleeping rooms but meals may be regularly prepared and served for compensation, provided the food is placed upon the table family-style without service or ordering individual portions from a menu.

*Building* means any structure, temporary or permanent, having a roof impervious to weather and a fixed base on a fixed connection to the ground and which is used or built for the shelter or enclosure of persons, animals or property of any kind.

*Building height* means the vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points of other types of roofs.

*Business service establishments* means businesses primarily engaged in rendering services; other than professional, educational, repair or contract construction services; to other business establishments. These services include, but are not limited to, employment services, advertising services, consumer credit and reporting services, collection services, mailing services and building maintenance services.

*Collector street* means a street designated as a collector street in the comprehensive plan.

*Commercial off-street parking lot* means any area, other than a public right-of-way, which is used for the parking of cars and is available to the public for a fee and which includes all of the space needed for the movement of vehicles and people, landscaping and access drives.

*Communication service establishments* means businesses primarily engaged in communications activities, including newspaper and printing services, television and radio services and telephone and telegraph services.

*Comprehensive plan* means the comprehensive development plan for the city adopted by the city commission, comprised of plans, maps, reports or any combination thereof which relates to the future economic and physical growth and development or redevelopment of the city.

*Condo hotel* means a building constructed, maintained, operated and managed as a hotel or resort hotel in which each sleeping unit in the facility is individually owned and in which all sleeping units are available for transient occupancy, i.e., daily, weekly or monthly rent and where the structure, common areas and facilities are

PROOFS

owned by all owners on a proportional individual basis.

*Conventional home/mobile home subdivision* means a subdivision in which the principal uses of property are limited to conventional single-family dwellings, mobile homes and community facilities by the subdivision covenants.

*Cul-de-sac* means a street with only one outlet which has a vehicular turnaround at the opposite end from the outlet.

*Day care center* means an establishment where six or more children, other than members of the family occupying the premises, are cared for away from their own home by day or night, except foster homes.

*Density, gross,* means the number of dwelling units per gross acre of land, determined by dividing the total acreage within the lot or parcel excluding aquatic areas but including portions of the property which are or are proposed to be streets, sites dedicated to a governmental body for public use and other common areas.

*Density, net,* means a term which refers to the number of dwelling units per net acre of land and which is determined by dividing the number of dwelling units by the total acreage within the lot or parcel excluding aquatic areas and streets.

*Dike* means a structure designed and built to prevent inundation of nonaquatic areas by water.

*Dock/moorage facilities* means a pier or secured float for boat tie-up or other water use, often associated with a specific land use on the adjacent shoreland, such as a residence, a group of residences, a commercial use or a light industrial facility. Small, commercial moorages (less than 15 berths) with minimal shoreside services and no solid breakwater are also included in this category. Floathouses, which are used for boat storage, net-drying and similar purposes, are also included in this category.

*Dredged material disposal* means the deposition of dredged material in aquatic areas or shorelands. Methods include land disposal, in-water disposal, in-water disposal to create land, beach nourishment, flow-land disposal, ocean disposal and other in-water disposal.

*Dredging* means the removal of sediment or other material from a stream, river, estuary or other aquatic area for the purpose of deepening a navigation channel, mooring basin or other navigational areas, or obtaining fill material.

*Duplex* means a building containing only two dwellings.

*Duplex subdivision* means a subdivision in which the principal uses of property are limited to duplexes and community facilities by the subdivision covenants.

*Dwelling rental (dwelling unit)* means one or more rooms connected together in a building, constituting a separate, independent housekeeping establishment, other than a motel/hotel, for purposes of rental on a daily, weekly or longer basis, though less than what is otherwise provided for a dwelling, physically separated from any other rooms or dwelling units which may be in the building, and containing sleeping and sanitary facilities and one kitchen.

*Dwelling unit* means one or more rooms, designed, occupied, or intended for owner occupancy, or rental for six months or longer in R-1 and R-2 residential zoning districts, used as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

*Dwelling, single-family,* means a building containing only one dwelling.

*Dwelling, townhome,* means a single dwelling unit attached by at least one, but no more than two, party wall along more than 50 percent of the maximum depth of the unit to one or more other dwelling unit on a continuous foundation, with said party wall being centered on the common property line between adjacent lots.

*Educational service establishments* means businesses primarily engaged in education, including, vocational and trade schools, business and stenographic schools, art and music schools, dancing schools and correspondence schools.

*Family* means an individual or two or more persons related by blood, marriage, legal adoption or legal

PROOFS

guardianship, living together as one housekeeping unit using one kitchen, or a group of not more than two unrelated persons living together as one housekeeping unit using one kitchen.

*Farmers market complex* means an establishment or group of establishments primarily engaged in rendering agricultural sales and services including distribution, wholesale and retail sale of produce and related merchandise, agricultural tourism, training and education, and compatible uses. Such uses include, but are not limited to, retail and wholesale produce markets, agricultural products and food distribution, wholesale bakeries, cafeterias which are intended primarily for use by employees of surrounding businesses, enclosed livestock and equestrian facilities designed for special events and educational service establishments and laboratories for agricultural training classrooms, greenhouses, and aquaculture facilities.

*Farmstand sales establishment* means a business which is contained within a permanent building with restroom facilities and which is engaged in the wholesale and retail sale of produce and related merchandise to customers. The business shall be located contiguous to an active agricultural use and shall not be located on Indian River Drive.

*Fast food establishment* means a restaurant which dispenses food at a walk-up window, drive-up window, at parked vehicles or at an indoor counter to be consumed outdoors on the premises or off the premises. Any establishment with one or more of the service methods described above shall be termed a fast food establishment notwithstanding that tables, booths or counter seating is provided indoors for the consumption of food.

*Fence* means a freestanding accessory structure, designed and intended to serve as a barrier or as a means of enclosing a structure, yard or other area, or to serve as a boundary feature separating two or more properties.

*Finance establishments* means businesses primarily engaged in offering financial services, such as those provided by banks; savings and loan associations; credit unions; security and commodity brokers, dealers and exchanges; and holding and other investment companies.

*Gasoline service station* means a business primarily engaged in the retail dispensing of automotive fuels and oil and where grease, batteries, tires and other automobile accessories may be dispensed at retail principally for automobiles, and where various automotive and convenience services may be provided, except restaurant services, major mechanical and body work, straightening of frames or body parts, steam cleaning, painting, welding, storage of automobiles not in operating condition and operation of a commercial off-street parking lot.

*Grade (ground level)* means the average elevation of the finished ground at the centers of all walls of the buildings, except if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

*Gross floor area* means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls excluding public corridors, common restrooms, attic areas with a headroom of less than seven feet, unenclosed stairs or fire escapes, elevator structures, cooling towers, areas devoted to building machinery and equipment (such as air conditioning, ventilating or heating), parking structures and basement space where the ceiling is not more than an average of six feet above the general finished and graded level of the adjacent portion of the lot.

*Guest house* means a dwelling unit in a building separate from, and in addition to, the principal residential building on a lot, but not exceeding 50 percent of the floor area of said principal residential building, intended for intermittent or temporary occupancy.

*Hazardous liquids* means liquids which are dangerous to people's health because of toxicity, flammability, explosiveness or other characteristics.

*Home occupation* means an accessory use of a dwelling unit as set out in section 125-318.

*Hospital* means a building or group of buildings having facilities for overnight care of one or more human patients, providing services to in-patients and medical care to the sick and injured, and which may include, as accessory uses, laboratories, out-patient services, training facilities, central service facilities and staff facilities.

*Hotel* means a facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting spaces, entertainment, and recreational facilities.

*Impervious surfaces* means any surface which has been altered, covered or controlled resulting in the virtual

PROOFS

elimination of the infiltration and percolation of water to the underlying soils. The term "impervious surfaces" includes most conventionally surfaced streets, roofs, sidewalks, parking lots and similar facilities.

*Indoor amusement, entertainment and/or recreation facilities* means enclosed facilities, which for each wall face have no entrance/exit points wider than five feet or 20 percent of the main wall face, whichever is greater, pertaining to amusement entertainment and/or recreational activities, such as theaters, bowling alleys, pool halls, dance halls and indoor tennis court, handball and swimming pool facilities. This shall not include adult establishments or amusement arcades.

*Junkyard* means a "junkyard" as defined and regulated in chapter 22, article VII, of this Code of Ordinances.

*Kennels* means any premises, except where accessory to an agricultural use, where five or more dogs or other domestic animals which are not sick or injured and are four months in age or older are boarded for compensation, cared for, trained for hire, kept for sale, or bred for sale, but not including veterinary clinics.

*Land* means ground, water, marsh and swamp.

*Landscaping* means living material, such as, but not limited to, grass, ground covers, shrubs, vines, hedges and trees (including palms) and nonliving durable material commonly used in landscaping such as, but not limited to, bark chips, rocks, pebbles, sand and fences, but excluding paving.

*Land transportation facilities* means highways, railroads, bridges and associated structures and signs which provide for land transportation of motorized and/or nonmotorized vehicles.

*Limited cooking facilities* means a collection of customary appliances which may include sinks, wet bar areas, refrigerators and microwave ovens provided in transient lodging accommodations for the use, enjoyment and convenience of transient occupants but specifically excluding dish washers, stoves and ovens.

*Lot* means a parcel, plot or tract of land of at least sufficient size to meet the minimum requirements of this chapter (provided that certain nonconforming lots of record at the effective date of these regulations (June 22, 1981) or their amendment are exempted from certain provisions in accordance with section 125-70).

*Lot area* means the total horizontal area within the lot lines of a lot exclusive of aquatic areas and streets.

*Lot, corner,* means a lot abutting on two or more streets at their intersection.

*Lot coverage* means the portion of the lot area which is covered by a building.

*Lot depth* means 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.

*Lot, double frontage,* means a lot having a frontage on two nonintersecting streets as distinguished from a corner lot.

*Lot line* means a property line separating a lot from property outside the lot.

*Lot of record* means a lot which is part of a subdivision, recorded in the office of the county clerk in the county, or a lot described by metes and bounds, the description of which has been recorded in such office.

*Lot, waterfront,* means any lot or parcel of land which abuts or adjoins any navigable waterway, river, cove, stream, canal, lake or other navigable body of water.

*Lot width* means the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost point of the side lot lines in front and the rearmost points of the side lot lines in the rear.

*Low intensity recreation* means small scale recreational improvements involving a relatively minimal capital investment and no structures over 500 square feet in size. Examples of the types of small scale facilities involved are trails, picnic tables, restrooms, viewing platforms, shelters and small piers.

*Major utility* means towers, power generating plants, facilities and lines of communication and power transmission; solid waste disposal; waste water treatment plants; water treatment plants; storm water and treated waste water outfalls (including industrial); major water, sewer and gas lines, excluding any such lines used for direct distribution to or collection from customers.

PROOFS

*Marinas* means facilities which provide moorage, launching, storage, supplies and a variety of services for recreational, commercial fishing and charter fishing vessels. They are differentiated from docks/moorages by their larger scale, the provision of significant landside services and/or the use of a solid breakwater (rock, bulkheading, etc.).

*Mean high tide line* means the mean high water line as determined according to F.S. ch. 177, pt. II (F.S. § 177.25 et seq.).

*Mobile home* means a structure, transportable in one or more sections, which has a body eight feet or more in width, is built with a chassis, is designed to be used as a permanent residence when connected to the required utilities and includes plumbing, heating and electrical systems suitable for a residence.

*Mobile home park* means a place where two or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or offer space free in connection with securing the trade or patronage of such person.

*Mobile home subdivision* means a subdivision in which the principal uses of property are limited to mobile homes and community facilities by the subdivision covenants.

*Motel* means a facility offering transient lodging accommodations to the general public with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

*Multifamily housing development* means any development which within two calendar years will have five or more dwelling units on a lot.

*Multimodal transit center* means transportation facility that connects multiple modes of transportation to include, but not limited to, walking, cycling, automobile and public transit.

*Navigational structures* means structures such as pile dikes, groins, fills, jetties and breakwaters that are installed to help maintain navigation channels, control erosion, or protect marinas and harbors by controlling water flow, wave action and sand movement.

*Breakwaters* may be of rock, steel, concrete or piling, or the floating kind. They are used to protect harbors and marinas against waves and currents.

*Fills* means placements by man of sediment or other material (excluding solid waste) in an aquatic area to create new shorelands or on shorelands to raise the elevation of the land.

*Groins* means analogous to pile dikes, but are constructed from rocks. They can withstand more intensive wave action than pile dikes, are often used on beaches, where they exert a strong influence on sand transport and extend from the backshore seaward across the beach.

*Jetties* means the largest of all navigational structures; they are made of rock or concrete and are used to stabilize the channel and improve the scour at the mouth of an estuary. They must be able to withstand extreme wave conditions and may alter longshore sand transport for many miles along the coast.

*Pile dikes* means flow-control structures that are used primarily in river systems and are made of closely spaced piling connected by timbers; usually they are perpendicular to the shore. They are constructed to increase scour in the navigation channel and/or control shoreline erosion by interrupting sand transport and encouraging sedimentation in the sheltered lee of the pile dike. A single pile dike is unusual; they are generally constructed in groups.

*Parking space* means an enclosed or unenclosed area exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a drive, street or alley which affords ingress and egress for automobiles.

*Person* means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

*Personal service establishments* means businesses primarily engaged in providing services involving apparel or the care of a person (other than health care), including laundering and dry-cleaning services (except those which primarily serve other businesses), beauty and barber services, garment alterations and funeral homes. This definition

PROOFS

shall not include adult massage parlors.

*Professional service establishments* means businesses primarily engaged in providing services such as the following: medical and other health services; legal services; engineering and architectural services; and accounting, auditing and bookkeeping services.

*Property owner* means one who possesses title to real property or to whom real property belongs with the requisite intent to own.

*Public use* means a structure or use intended or used for a public purpose by a city, school district, county, state or by any other public agency or by a public utility.

*Public utility structures* means a building or structure which is used to provide telephone, power, gas, oil, water or wastewater services and which belongs to a governmental body or to a public organization vested with public/governmental interest and subject to governmental regulations. Aboveground facilities such as electric or gas substations, water tower, pump station, switching station, equipment storage and material storage which are not limited to an interior wall but to a perimeter fence or property line for zoning regulations.

*Quadraplex* means a building containing only four dwellings.

*Railroad passenger station* means a facility, either light or heavy rail, for the boarding of passengers and related ticketing sales and offices.

*Recreational vehicle* means a vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle and which is intended for human occupancy, is designed for vacation or recreation purposes (not residential), and including, but not limited to, travel trailers, camping trailers, truck campers and motor homes.

*Recreational vehicle park* means an area which is designed to accommodate the parking of recreational vehicles.

*Repair service establishments* means business primarily engaged in repairing items and which undertake no more than a minimal amount of manufacturing.

*Replacement value* means the estimated current replacement cost of the building or structure in kind, as such structure existed before the damage occurred. The cost shall be determined by using the most recent building valuation data for the state as compiled by the International Code Counsel (ICC) using the Marshall Evaluation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California, or the contract price given the applicant by a licensed contractor, whichever is higher.

*Resort hotel* means a tourist-oriented destination resort facility offering transient lodging accommodations with sleeping units available to the general public in conjunction with marine, aquatic, golf or other recreational amenities, including, but not limited to, organized programs, activities, camps and excursions for both adults and/or children, fitness and spa facilities, as well as other services and amenities including restaurants, meeting, conference and/or banquet facilities as well as entertainment where such sleeping units are intended for the exclusive use as transient lodging accommodations.

*Resource enhancement* means the use of artificial or natural means to improve the quantity or quality of a specific resource.

*Retail sales establishments* means businesses which are primarily engaged in selling merchandise to customers for personal, household or farm use (including incidental manufacturing and repairing of goods on the premises; provided, however, that the space devoted to manufacturing and repairing does not exceed 20 percent of the gross floor area of the establishment) such as restaurants, bars, grocery stores, bakeries, department stores, clothing stores, fabric shops, luggage stores, gift shops, jewelry stores, florist shops, camera shops, record stores, toy stores, bookstores, newsstands, stationery stores, drugstores, sporting goods stores, furniture stores, appliance stores, hardware stores, auto parts stores, gasoline service stations, bicycle shops and auto sales facilities. This definition shall not include adult bookstores, adult dancing establishments or other adult establishments.

*Semi-public use* means a structure or use intended or used for a semi-public purpose by a church, lodge, club or any other nonprofit organization.

PROOFS

*Shopping center* means two or more commercial establishments which as a group contain a minimum of 15,000 square feet of gross floor area and which are built on a site under unified legal control.

*Shoreline stabilization* means the protection of the banks of tidal or nontidal stream, river or estuarine waters by vegetative or structural means.

*Shrub* means a self-supporting, woody, evergreen species, as normally grown in the county.

*Sign* means a sign as defined and regulated in chapter 117.

*Slaughterhouse* means an enclosed building where animals are slaughtered for commercial gain or compensation.

*Sleeping unit* means one or more rooms designed, occupied, or intended for occupancy as transient lodging accommodations with limited cooking, and sanitary facilities provided within the sleeping unit for the exclusive use as transient lodging accommodations.

*Street* means the entire width of a public or private thoroughfare between property lines which affords the principal means of access to abutting property, except for some corner lots.

*Structure* means something constructed or erected on the ground, attached to something located on the ground or requiring construction or erection on the ground, such as buildings, billboards and fences.

*Structure alteration* means any change in the supporting members of a building, such as bearing walls, bearing partitions, column beams or girders, or any complete rebuilding of the roof or any extension wall.

*Student housing* means a permanent building consisting of separate sleeping rooms and a common area with a kitchen. A sleeping room is defined as an area with one bed which is intended for one person. The building may contain uses consistent with student housing such as restaurants, cafes, coffee shops, laundry services, and food shops. Tenants occupying the rental units must be students attending colleges, universities, or institutions of higher learning. Parking shall be a minimum of one parking space per two sleeping rooms. Bicycle parking shall be a minimum of one bicycle space per two sleeping rooms. Sleeping rooms in student housing are not subject to density, dwelling unit, or gross floor area definitions of this section. Criteria to be considered in approving a conditional use application for student housing may be found in Resolution No. 09-28. A transit fee shall be paid at the time of issuance of a certificate of occupancy or as directed by the city. This fee shall be adopted by resolution.

*Townhome development* means a series of townhome units proposed on one or more parcels which, prior to replatting, has a contiguous frontage of at least 200 feet along a public roadway. The maximum length of contiguous building line in a townhome development is 200 feet. The townhome development shall be exempt from subsection 121-11(e).

*Transit stop* means an intermediate stop along a public transportation route where passengers or goods are loaded or unloaded that is of a smaller scale than a rail station or intermodal station and primarily oriented to interface with pedestrian modes.

*Trees* means self-supporting woody plants and palms of species which normally grow to an overall height of a minimum of 15 feet in the county.

*Triplex* means a building containing only three dwellings.

*Use* means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

*Vehicular use area* means any area used for the display or parking of any and all types of vehicles (including boats and heavy construction equipment) whether or not the vehicles are self-propelled and any land upon which vehicles traverse the property as a function of the primary use.

*Water-dependent* means uses and activities which can only be carried out on, in or adjacent to water, and the water location or access must be needed for one of the following:

(1) Waterborne transportation (navigation, moorage, fueling and servicing of ships or boats, terminals and transfer facilities, resource material receiving and shipping);

PROOFS

(2) Recreation (active recreation such as swimming, boating or fishing or passive recreation such as viewing or walking);

(3) A source of water (energy production, cooling of industrial equipment or wastewater or other industrial processes); or

(4) Marine research or education (viewing, sampling, recording information, conducting experiments or teaching).

*Water-related* means refers to uses and activities that do not require water access (are not water-dependent), but may be appropriate as consistent with other development criteria because:

(1) They provide goods and/or services that are directly associated with water-dependent uses (supplying materials to, using products of or offering commercial or personal services to water-dependent uses);

(2) A location other than adjacent to the water would result in a public loss of quality in the goods and services offered (evaluation of public loss of quality will involve a subjective consideration of economic, social and environmental consequences of the use).

*Water reservoirs and control structures* means bodies of water collected and stored in a natural system or artificial structure that serve as reserve water supplies or storm/wastewater storage areas and facilities associated with controlling these waters.

*Wholesale trade establishments* means businesses which generally have substantial quantities of merchandise on the premises and which are primarily engaged in selling merchandise to other wholesalers, retailers, manufacturers, other businesses, governments or institutions.

*Yard* means:

(1) A required open space, which is unobstructed from the ground upward except as otherwise allowed in this chapter and except for fences, walls, poles, posts, permitted signs, children's play equipment, other customary yard accessories, driveways, ornaments, statuary and furniture which will not violate height limitations and requirements limiting obstruction of visibility.

(2) The depth of a front, rear, side or special yard shall be measured at right angles to the appropriate lot line so that the yard established is a strip of the minimum depth required by district regulations.

*Yard, front,* means a yard extending between side lot lines across the front of a lot adjoining a street; except that on lots fronting on more than one street, the front yard will be determined by the ~~director of planning and development~~ planning director based on the location of any abutting arterial or collector streets, the prevailing yard patterns and the lot depth requirements of the zone.

*Yard, rear,* means a yard extending across the rear of the lot between inner side yards. On all lots, the rear yard shall be at the opposite end of the lot from the front yard.

*Yard, side,* means a yard extending from the interior (rear) line of the front yard to the rear lot line, except where it extends between the front yard and a special yard, a special yard and the rear yard, or two special yards.

*Yard, special,* means a yard behind any required yard adjacent to a street required to perform the same function as a side or rear yard, but adjacent to a lot line and so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the ~~director of planning and development~~ planning director shall require a yard with minimum dimensions as generally required for a side yard or rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

(Code 1983, § 22-3; Ord. No. H-186, § 30-3(1—105), 6-15-1981; Ord. No. I-10, §§ 1—13, 6-6-1983; Ord. No. I-26, §§ 6—8, 8-15-1983; Ord. No. I-147, § 1, 2-3-1986; Ord. No. I-283, § 1, 5-16-1988; Ord. No. I-406, § 1, 12-3-1990; Ord. No. J-126, § 1, 12-19-1994; Ord. No. J-420, § 3, 4-20-1998; Ord. No. K-114, § 1, 10-15-2001; Ord. No. K-413, § 2, 4-20-2006; Ord. No. K-464, § 1, 11-18-2006; Ord. No. K-441, § 2, 1-16-2007; Ord. No. L-12, § 1, 5-5-2008; Ord. No. L-71, § 1A, 1-5-2009; Ord. No. L-82, § 1, 4-20-2009; Ord. No. L-97, § 1, 11-16-2009; Ord. No. L-217, §§ 1, 2, 12-5-2011; Ord. No. L-263, § 2, 8-20-2012; Ord. No. L-267, § 1, 11-5-2012)

PROOFS

**Sec. 125-4. Compliance.**

A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied or used only as this chapter permits.

(Code 1983, § 22-5; Ord. No. H-186, § 30-5, 6-15-1981)

**Sec. 125-5. Maintenance of minimum requirements.**

No lot area, yard or other open space existing on or after the effective date of the ordinance from which this chapter is derived (June 22, 1981) shall be reduced below the minimum required for it by this chapter, and no lot area, yard or other open space which is required by this chapter for one use shall be used as the required lot area, yard or other space for another use.

(Code 1983, § 22-6; Ord. No. H-186, § 30-6, 6-15-1981)

**Sec. 125-6. Authorization of similar use.**

The city planning board may permit in a particular zone a use not listed in this chapter, provided the use is of the same general type as the uses permitted there by this chapter. However, this section does not authorize the inclusion, in a zone where it is not listed, of a use specifically listed in another zone, or one which is of the same general type and is similar to a use specifically listed in another zone.

(Code 1983, § 22-7; Ord. No. H-186, § 30-7, 6-15-1981)

**Sec. 125-7. Interpretation.**

If the conditions imposed by a provision of this chapter are less restrictive than comparable conditions imposed by another provision of this chapter or of any other ordinance of the city, the provision which is more restrictive shall govern.

(Code 1983, § 22-8; Ord. No. H-186, § 30-8, 6-15-1981)

**Secs. 125-8--125-32. Reserved.**

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. GENERALLY

**Sec. 125-33. Enforcement.**

Provisions of this chapter may be enforced by the city as a civil violation pursuant to chapter 1, article II, or chapter 1, article III.

(Code 1983, § 22-138; Ord. No. H-186, § 30-138, 6-15-1981; Ord. No. 19-014 , § 1, 5-20-2019)

**Sec. 125-34. Appeals from rulings of administrative officer.**

(a) *General*. An appeal to the board of adjustment may be made by any person aggrieved or by any officer of the city affected by any decision of the planning director regarding a provision of this chapter. Such appeal shall be made within a reasonable time, as provided by the rules of this section, by filing a notice of appeal specifying the grounds thereof through the planning department. The planning department shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was made.

(b) *Authorization to grant or disapprove appeals*. The board of adjustment, in conformity with the provision of this section, may reverse or affirm, wholly or partly, or may modify the decision appealed from and may make such decision as ought to be made, and to that end shall have all the power, concerning this chapter, of the planning director. The concurring vote of a majority of the board shall be necessary to reverse any decision of the planning director.

(c) *Stay of proceedings*. An appeal stays all proceedings in furtherance of the action appealed from, unless the planning director certifies to the board of adjustment after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment, on notice to the planning director and on due cause shown.

PROOFS

(d) *Appeals procedure*.

(1) Before the board of adjustment may act on an appeal from a ruling of the planning director pursuant to this section, it will hold a public hearing in accordance with the provisions of section 125-37.

(2) Within 35 days of the public hearing, except the board of adjustment with good cause demonstrated may allow an extension of time, the board of adjustment will make its decision on the appeal.

(3) The board of adjustment decision will be sent by mail to the applicant within five working days of its decision.

(Code 1983, § 22-139; Ord. No. H-186, § 30-140, 6-15-1981; Ord. No. I-98, §§ 1, 4, 1-7-1985; Ord. No. 19-014 , §§ 2, 3, 5-20-2019; Ord. No. 19-044, § 14, 11-4-2019)

**Sec. 125-35. Supplemental application information.**

(a) *General.* Application for certificates of temporary uses, site plan reviews, conditional uses, nonconforming structures as a special exception, and variances shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the property and the size and locations of all existing and proposed structures; the intended use of each structure, the number of households, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this chapter. These applications shall also be accompanied by a legal description of the property involved and any information required by other parts of this chapter.

(b) *Certificates of zoning compliance.* In addition to the information specified in subsection (a) of this section, the following information shall be submitted along with the applications for certificates of zoning compliance: a description of all landscape materials which will be used and plans showing the location of proposed parking spaces, driveways, other vehicular use areas and landscaped areas (including the location of sprinklers or water outlets).

(Code 1983, § 22-140; Ord. No. H-186, § 30-141, 6-15-1981; Ord. No. H-244, § 3, 12-20-1982; Ord. No. 19-014 , § 4, 5-20-2019)

**Sec. 125-36. Filing fees.**

A fee schedule for development applications is established by resolution by the city commission and shall be paid to the city upon filing of an application.

(Code 1983, § 22-141; Ord. No. H-186, § 30-142, 6-15-1981; Ord. No. H-244, § 4, 12-20-1982; Ord. No. K-400, § 1, 2-6-2006; Ord. No. L-86, § 5, 7-20-2009; Ord. No. 19-014 , § 5, 5-20-2019)

**Sec. 125-37. Public hearings.**

(a) *Notice by newspaper*. Before the required public hearing is held for applications including site plan, conditional use, variance, special exception, zoning atlas amendment, and zoning test amendment, or before any public hearing required by this chapter or the state statutes, including an appeal from a ruling of an administrative officer pursuant to the section 125-35 takes place, at least 15 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. In cases where the zoning atlas amendment involves ten contiguous acres or more, and in cases where the zoning text amendment changes the actual list of permitted, conditional, or prohibited uses within a zoning district, notice is required before each of two public hearings and shall be consistent with state statutes. Notice for the zoning atlas amendment shall include a geographic location map which clearly indicates the area.

(b) *Notice by mail.* Before a public hearing required by this chapter takes place for a variance, an appeal from a ruling of an administrative officer pursuant to section 125-35, or any special exception allowed or expressly provided for by this chapter, the ~~department of planning and development~~ planning department shall give notice by mail to each property owner whose property is adjacent to the property and to the property owner for which the variance, appeal or special exception has been requested.

(1) Where the request is for a conditional use or an amendment to the zoning atlas of this chapter, and no more than 500 lots within the city are involved, notice by mail shall be given to each owner of the property located, or having any part thereof, situated within 500 feet of any point of the property for

PROOFS

which the request has been made and to the owner of the property for which the request has been made.

(2) All notices by mail shall contain the legal description of the affected property, the existing zoning classification, an indication of the nature of the request, and time and place of any public hearing which has been scheduled concerning the request.

When the request involves an amendment to the zoning atlas, the following provisions will also apply:

(3) When the amendment is initiated by the city and involves a parcel or parcels of land involving less than ten continuous acres, the ~~city clerk~~ shall notify by mail 30 days prior to the date set for the public hearing each affected real property owner whose land the municipality, in accordance with state statutes.

(4) Prior to the effective date of any zoning classification change, the ~~department of planning and development~~ planning department shall cause an affidavit to be filed with the city clerk certifying that said department has complied with the provisions of this subsection.

(5) The filing of said affidavit shall be prima facie proof of compliance with the requirements of this section.

(6) A failure to give notice shall not affect the decision by the city commission on a zoning amendment except as to the property of the complaining owner.

(c) *Notice by signs.* After an application has been filed for an amendment of the zoning atlas or an application for conditional use, the applicant shall post signs on the property concerned at least five days prior to the planning board meeting thereon. The signs shall not be less than 18 by 24 inches in size as provided by the planning department; and located where, in the judgment of the planning department, the sign would be in proximity to the subject property and in the most conspicuous place to the passing public. The signs shall be posted not less than ten days prior to the public hearing. All notice by sign posting shall identify the existing zoning classification, the proposed zoning classification, if applicable, the type of use being requested, and in the date, time and location of the public hearing.

(d) *Website posting.* Each planning board meeting agenda shall be posted on the city website at least five days prior to the date of the meeting.

(e) *Participation.* All interested parties shall be given an opportunity to be heard at the required public hearings. Interested parties' views may be presented in person or by their designated representative.

(f) *Recesses.* The city commission, city planning board or board of adjustment may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced. An application for any type of development review may be withdrawn at any time as long as no notice has been given that the application will be reviewed at a public hearing. An application for any type development review may be withdrawn at any time with the consent of the reviewing board responsible for reviewing the application.

(g) *Postponement.* Any postponement of a public hearing on an application for any type of development review shall be solely at the discretion of the reviewing board.

(Code 1983, § 22-142; Ord. No. H-186, § 30-143, 6-15-1981; Ord. No. H-244, § 5, 12-20-1982; Ord. No. K-354, §§ 1, 2, 7-5-2005; Ord. No. L-297, § 1, 9-3-2013 ; Ord. No. 19-015 , § 1, 4-15-2019; Ord. No. 19-014 , § 6, 5-20-2019)

**Sec. 125-38. Violations of chapter provisions.**

Any person, association of persons, co-partnership, firm or corporation which shall violate any of the provisions of this chapter or fail to comply herewith or with any of the requirements hereof, shall, for each and every violation or noncompliance, be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by section 1-7.

(Code 1983, § 22-143; Ord. No. H-186, § 30-144, 6-15-1981; Ord. No. 19-014 , § 7, 5-20-2019)

**Sec. 125-39. Administration of environmental performance standards.**

(a) Where determinations can reasonably be made by the ~~building inspector~~ code compliance manager or other city employees, using equipment and personnel normally available to the city or obtainable without

PROOFS

extraordinary expense, such determinations shall be so made before notice of violation is issued. Where technical complexity or extraordinary expense make it unreasonable for the city to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures as herein set out shall be available for protecting individuals from arbitrary and capricious administration and enforcement of environmental performance standard regulations, and for protecting the general public from unnecessary costs for administration and enforcement.

(b) Where determination of violation of environmental performance standards can be made by the ~~building inspector~~ code compliance manager or other duly designated city employees using equipment and personnel available to the city or obtainable without extraordinary expenses, a determination of violation shall be made and the administrative official shall take or cause to be taken lawful action as provided by this chapter to eliminate such violation. Failure to obey lawful orders concerning cessation of violation shall be punishable as provided in this chapter.

(1) *Notice*. The ~~building inspector~~ code compliance manager shall give written notice by certified mail, return receipt requested, or other means ensuring a signed receipt for such notice, to those responsible for the alleged violation. Such notice shall describe the particulars of the alleged violation and the reasons why the ~~building inspector~~ code compliance manager believes there is a violation in fact, and shall require an answer or a correction of the alleged violation to the satisfaction of the ~~building inspector~~ code compliance manager within a reasonable time limit set by the ~~building inspector~~ code compliance manager. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the ~~building inspector~~ code compliance manager within the time limit set constitutes admission of violation. The notice shall further state that upon request of those to whom it is directed, technical determinations as described in the appropriate portions of this chapter will be made, and that if a violation as alleged is found, costs of the determinations will be charged against those responsible in addition to such other penalties as may be appropriate, and that if it is determined that no violation exists, costs of the determinations will be paid by the city.

(2) *Correction of violation within time limit*. If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the ~~building inspector~~ code compliance manager, the ~~building inspector~~ code compliance manager shall note violation corrected on his copy of the notice and shall retain it among his records, taking such other action as may be warranted by the circumstances of the case.

(3) *No correction; no reply*. If there is no reply within the time limits set (thus establishing admission of violation) and the alleged violation is not corrected to the satisfaction of the ~~building inspector~~ code compliance manager within the time limit set, the ~~building inspector~~ code compliance manager shall take or cause to be taken such action as warranted by continuation of an admitted violation after notice to cease.

(4) *Reply requesting extension of time*. If a reply is received within the time limit set indicating that an alleged violation will be corrected to the satisfaction of the ~~building inspector~~ code compliance manager, but that more time is required than was granted by the original notice, the ~~building inspector~~ code compliance manager may grant an extension of time, if he deems such extension warranted in the circumstances of the case, and if such extension will not, in his opinion, cause imminent peril to life, health or property. In acting on such requests for extension of time, the ~~building inspector~~ code compliance manager shall in writing state his reasons for granting or refusing to grant the extension and shall transmit the same by certified mail, return receipt requested, or other means insuring a signed receipt, as provided in subsection (b)(1) of this section, to those to whom original notice was sent.

(5) *Reply requesting technical determination*. If a reply is received within the time limit set requesting technical determinations, as described in the appropriate provisions of this chapter and if the alleged violations continue, the ~~building inspector~~ code compliance manager may call in properly qualified experts to make the determinations. If expert findings indicate violation of the environmental performance standards, the costs of the determinations shall be paid by the persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of this chapter. If no violation is found, costs of the determination shall be paid by the city.

PROOFS

(Code 1983, § 22-144; Ord. No. H-186, § 30-145, 6-15-1981; Ord. No. 19-014 , § 8, 5-20-2019)

~~**Sec. 22-145. Building inspector's special duties for fh zones.**~~

~~*Permits.* Before development as defined in section 22-4(g) is allowed, the building inspector shall make sure that all necessary permits have been obtained from those federal, state or local government agencies from which approval is required before such development takes place.~~

~~Data verification, collection and retention. The building inspector shall:~~

~~Verify and record the actual elevation (in relation to mean sea level) (NGVD) of the lowest habitable floor (including basement) of all new or substantially improved structures; and~~

~~Obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) (NGVD) to which the structure was floodproofed; and, further,~~

~~Maintain for public inspection all records pertaining to the provisions of the flood hazard zones, including records of the above information and certificates required by section 22-41.~~

~~*Notification of major watercourse alterations.* The building inspector shall notify adjacent communities and the Florida Department of Community Affairs prior to any alteration or relocation of any watercourse shown on the flood insurance map (FIRM) dated July 31, 1981, and submit evidence of such notification to the federal emergency management agency.~~

~~*Notification of variances.* The building inspector shall report any variance concerning section 22-41 to the federal emergency management agency upon request.~~

~~*Interpretation of FIRM boundaries.* The building inspector shall make interpretations where needed as to the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).~~

~~(Code 1983, § 22-145; Ord. No. H-186, § 30-146, 6-15-1981; Ord. No. I-28, §§ 6, 7, 12—14, 8-15-1983; Ord. No. 19-014 , § 9, 5-20-2019)~~

**Sec. 125-40. Board of adjustment.**

(a) *Membership*.

(1) *Regular*. The board of adjustment shall consist of five members, with one appointed by each commissioner and one appointed by the mayor. Any member may be removed with or without cause by the city commission. The terms of office of the members of the board shall be concurrent with the mayor's and appointing city commissioner's terms.

(2) *Alternate.* The city commission shall also appoint two alternate members. The terms of office of alternate members shall be three years, except that the first two shall serve respectively for terms of: one for two years and one for three years. Thereafter, as any term expires, the appointment shall be for three years. An alternate member shall sit on the board when a regular member is not in attendance, whether such an absence is excused or not. If an alternate shall on two successive occasions be unable to sit for a meeting as a member of the board when asked to do so, he shall be deemed to have resigned his position as an alternate member of the board.

(3) *Other boards.* At least one, but not more than two members of the board of adjustment may also be members of the city planning board.

(4) *Absences.* Absence from three consecutive regular meetings shall operate to vacate the seat of a regular member unless such absence is excused by the board.

(b) *Officers.* The board of adjustment shall select one of its members as chairperson and one as vice-chairperson, who shall serve in such capacity for a term of one year and until their successors have been selected. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(c) *Meetings.* Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. All meetings shall be open to the public. The board of

PROOFS

adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall also keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of adjustment and shall be public record. A majority of the board of adjustment shall constitute a quorum for the transaction of business. Additional rules shall be adopted by the board of adjustment for the transaction of its business which are consistent with the terms of this chapter and other applicable laws.

(d) *Appropriations and fees.* The city commission is authorized and empowered to appropriate such funds as it may see fit for fees and expenses necessary to conduct the work of the board of adjustment. The board of adjustment shall have the authority to expend all sums so appropriated and other sums made available for its use from fees and other sources to carry out its powers and duties.

(e) *Powers.* The board of adjustment shall have the power and duties specified in this section, section 125-35 and sections 125-98 through 125-107.

(Code 1983, § 22-146; Ord. No. H-186, § 30-147, 6-15-1981; Ord. No. I-16, § 1, 6-6-1983; Ord. No. I-98, §§ 1, 5, 1-7-1985; Ord. No. I-309, §§ 1, 2, 2-21-1989; Ord. No. J-125, §§ 1, 2, 11-21-1994; Ord. No. L-126, § 2, 7-6-2010; Ord. No. 17-016, § 4, 4-17-2017; Ord. No. 19-014 , § 10, 5-20-2019; Ord. No. 19-044, § 15, 11-4-2019)

**Secs. 125-41--125-68. Reserved.**

DIVISION 2. NONCONFORMING LOTS, USES, STRUCTURES AND CHARACTERISTICS OF USES

**Sec. 125-69. Purpose.**

Within the zoning districts established by this chapter or amendments that may be adopted later, there exist lots, structures, uses of land or structures, and characteristics of uses which were lawful before this chapter was passed or amended, but which violate provisions of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to allow their expansion or replacement.

(Code 1983, § 22-99; Ord. No. H-186, § 30-99, 6-15-1981)

**Sec. 125-70. Nonconforming lots.**

If, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, a lot of record exists which could be lawfully used for some purpose and the lot is no longer permissible for any use under the terms of this chapter relating to lot size, and if the entire contiguous land holdings in single ownership have not decreased, other than due to eminent domain proceedings, since the lot became nonconforming, and if the use satisfies other requirements of this chapter, then such lot:

(1) If located in an E-1, R-1, R-2, R-3, R-4, R-4A or R-5 district may be used for a single-family dwelling except mobile home; provided, however, that this section shall not apply to any such lots which immediately adjoin other such lots and which are under common ownership and capable of being replatted so as to create one or more lots which may be used for some purpose after the effective date of adoption or amendment of the ordinance from which this chapter is derived; or

(2) If located in a nonresidential district may be used for any use allowed in the district.

(Code 1983, § 22-100; Ord. No. H-186, § 30-100, 6-15-1981; Ord. No. K-419, § 1, 4-17-2006)

**Sec. 125-71. Nonconforming uses.**

Where, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, a lawful use of property 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:

(1) No structure devoted to a nonconforming use which is damaged may be reconstructed unless:

   a. The damage to the structure does not exceed 50 percent of the replacement value at the time of damage; or

   b. The use of the structure is changed to a use permitted in the district in which it is located.

(2) No structure devoted to a nonconforming use shall be enlarged or moved unless:

PROOFS

a. The use is a nonconforming commercial or manufacturing use in a C-3, C-4, I-1 or I-2 zone; the structure is not enlarged by more than 20 percent; the structure being enlarged does not violate provisions in section 125-72; and the enlargement receives conditional use approval;

b. The use is a nonconforming single-family home use in a C-5 zone; the structure existed prior to June 15, 1981; the structure being enlarged does not violate provisions in section 125-72; and the enlargement receives conditional use approval; or

c. The use of the structure is changed to a use permitted in the district in which the structure is located.

(3) No additional structure may be built in connection with a nonconforming use unless it is an accessory structure for a nonconforming residential use located on land already devoted to the nonconforming residential use.

(4) No nonconforming use shall be allowed to occupy a greater area of land than was occupied at the date when it became nonconforming nor moved in whole or in part to any portion of the lot or structure not occupied by the use on the date it became nonconforming.

(5) If a nonconforming use is discontinued for a period of 12 months, further use of the property shall conform to this chapter.

(6) If a nonconforming use is replaced by another use, the new use shall conform to the provisions in this chapter.

(Code 1983, § 22-101; Ord. No. H-186, § 30-101, 6-15-1981; Ord. No. K-413, § 1, 4-20-2006; Ord. No. L-255, § 2, 5-7-2012)

**Sec. 125-72. Nonconforming structures.**

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could no longer be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue so long as it remains otherwise lawful, subject to the following provisions:

(1) No nonconforming structure may be enlarged except as provided hereinafter by section 125-73.

(2) If a nonconforming structure or nonconforming portion of a structure is destroyed by any means to an extent amounting to more than 50 percent of the replacement value at the time of damage, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) If a nonconforming structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for that district in which it is located after it is moved.

(Code 1983, § 22-102; Ord. No. H-186, § 30-102, 6-15-1981; Ord. No. H-244, § 1, 12-20-1982; Ord. No. K-413, § 3, 4-20-2006)

**Sec. 125-73. Nonconforming structure as special exception.**

(a) The board of adjustment and city commission are authorized to permit the enlargement or alteration of a nonconforming structure, except any sign, as a special exception upon application, notice and hearing as provided in sections 125-36(a), 125-37(11), and 125-38, and upon finding and determining the following:

(1) The granting of the special exception will not adversely affect the public interests;

(2) Such enlargement or alteration is in harmony with the purpose and intent of this chapter and all amendments thereof;

(3) The enlargement or alteration, if allowed, will not violate any height, yard, setback, area or density limitations imposed by the zoning district in which the property is located, or if the enlargement or alteration would increase such violation, such enlargement or alteration would not adversely affect traffic flow, safety and control, pedestrian safety and convenience or visibility at any street intersections, drives, rights-of-way, curbcuts or crosswalks;

(4) Such enlargements or alteration shall be compatible with adjacent properties and other properties within that zoning district;

PROOFS

(5) If in a commercial, business or industrial zone, that adequate buffers are provided between such structures and adjacent residential areas;

(6) That adequate off-street parking shall be provided for any multifamily, commercial, industrial or business use upon the property;

(7) The enlargement or alteration will not increase gross floor area of the principal structure by more than 50 percent;

(8) The use of the structure prior to, and subsequent to, the granting of the request for the special exception shall be a semi-restricted use or permitted conditional use within the district in which the property is located;

(9) There will be adequate availability and access to, and for, public utilities as may be required.

(b) In granting a special exception hereunder, the board of adjustment and city commission may require certain conditions and safeguards for the public health, safety and welfare, concerning the following:

(1) Public off-street parking;

(2) Adequate ingress and egress with particular emphasis upon traffic and pedestrian safety;

(3) Adequacy of and access for fire and other emergency vehicles;

(4) Any signs and/or exterior lighting with reference to effect upon and harmony with surrounding properties;

(5) Any required landscaping, greenbelts, buffers or fencing in any residential, commercial or business districts, with reference to compliance with provisions of this Code, harmony and effect upon surrounding properties, lines of vision.

(c) In granting any special exception, the board of adjustment and city commission may prescribe a reasonable time limit within which the enlargement or alteration for which the special exception is requested shall be begun and/or completed.

(d) The procedure by which an application shall be made to the board of adjustment under this section shall be as provided in section 125-101 and section 125-103.

(e) The approval or disapproval of any enlargement or alteration of a nonconforming structure as a special exception under this section shall require the conforming vote of a majority of the board of adjustment or city commission.

(Code 1983, § 22-102.1; Ord. No. H-244, § 2, 12-20-1982; Ord. No. I-98, § 6, 1-7-1985; Ord. No. 19-044, § 4, 11-4-2019)

**Sec. 125-74. Nonconforming characteristics of uses.**

Where, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, lawful characteristics of a use, such as signs, off-street parking, landscaping or other matters pertaining to the use of land, structures and premises, are made no longer permissible under the terms of this chapter as enacted or amended, or are no longer sufficient to meet the requirements of this chapter as enacted or amended, such characteristics may continue, provided that no change shall thereafter be made in such characteristics of a use or a use itself which increases nonconformity with the regulations of this chapter.

(Code 1983, § 22-103; Ord. No. H-186, § 30-103, 6-15-1981)

**Sec. 125-75. Prior approval.**

Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a structure for which a legal permit has been issued by the city and construction has begun, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit was issued.

(Code 1983, § 22-104; Ord. No. H-186, § 30-104, 6-15-1981)

PROOFS

**Sec. 125-76. Conditional uses.**

Any use which is permitted as a conditional use in a zoning district under the terms of this chapter shall not be deemed a nonconforming use in such district, but shall, without further action, be considered a conforming use.

(Code 1983, § 22-105; Ord. No. H-186, § 30-105, 6-15-1981)

**Sec. 125-77. Duplex as special exception.**

If a lot of record exists which could have been used for multifamily purposes involving a triplex structure or more before January 1, 1985, and the lot is no longer permissible for any use other than as a single-family dwelling then, in that event, the board of adjustment and city commission are authorized to allow use of the lot for a duplex upon application, notice and hearing as provided in sections 125-36(a), 125-37(11), and 125-38, and upon finding and determining the following:

(1) The granting of the special exception will not adversely affect the public interest;

(2) Such duplex use would be in harmony with the purpose and intent of this chapter and all amendments thereof;

(3) The duplex use, if allowed, will not violate any height, yard or setback area limitations imposed by the zoning district in which the property is located;

(4) Such use shall be compatible with properties which are in the vicinity within the zoning district;

(5) The use meets the landscaping requirements ~~of section 22-68(c)~~ as applied to triplex developments;

(6) The size of the lot on which the duplex use is to be located has not decreased since the lot became nonconforming for anything other than a single-family dwelling by the action of the owner.

(Code 1983, § 22-105.1; Ord. No. I-128, § 1, 9-3-1985; Ord. No. 19-0447, § 5, 11-4-2019)

**Secs. 125-78--125-97. Reserved.**

DIVISION 3. VARIANCES

**Sec. 125-98. Purpose.**

The purpose of a variance is to allow a modification of certain zoning ordinance regulations when such modification will not be contrary to the public interest and when, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance provisions would result in unnecessary and undue hardship. Unnecessary and undue hardships may result from the size, shape or dimensions of a site; the location of existing structures on the site; geographic, topographic or physiographic features or other conditions on the site or in the immediate vicinity; or street locations or traffic conditions in the immediate vicinity.

(Code 1983, § 22-106; Ord. No. H-186, § 30-106, 6-15-1981)

**Sec. 125-99. Authorization to grant or disapprove variances.**

The board of adjustment and city commission may authorize a variance from the regulations governing the height, area and size of structures and size of yards and open spaces only when consistent with the purpose of this article, this section and the criteria in section~~s~~ 125-100~~ and 22-109~~. In granting a variance, the board of adjustment and city commission may prescribe appropriate conditions and safeguards which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this chapter. Guarantees and evidence may be required that such conditions will be and are being complied with. The concurring vote of a majority of the board of adjustment and city commission is required:

(1) To grant or disapprove a variance;

(2) To allow the establishment or expansion of a use of property for a purpose not authorized within the zone in which the property is located;

(3) Due to nonconformities in any district or to a permitted use of lands, structures or buildings in an adjoining zoning district;

(4) When a previous request for a variance has been denied by the board of adjustment or city commission

PROOFS

and there has been no material change of circumstances since the previous application; or

(5) To reverse any decision of the planning director.

(Code 1983, § 22-107; Ord. No. H-186, § 30-107, 6-15-1981; Ord. No. 19-044, § 6, 11-4-2019)

**Sec. 125-100. Criteria for granting variances.**

A variance may be granted only in the event that all of the following criteria are satisfied:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;

(2) The special conditions and circumstances do not result from the actions of the applicant;

(3) The literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would result in unnecessary and undue hardship on the applicant;

(4) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and

(5) The granting of the variance will be in harmony with the general intent and purpose of the ordinance codified in this section and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(Code 1983, § 22-108; Ord. No. H-186, § 30-107, 6-15-1981)

~~**Sec. 22-109. Variances for fh zone provisions.**~~

~~The board of adjustment and city commission may grant variance requests for FH zone provisions subject to the following provisions:~~

- ~~Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedure set forth in the remainder of this section, except for subsection 22-109(5) a. and d., and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.~~
- ~~In passing upon variance applications, the board of adjustment and city commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:~~
  - ~~The danger that materials may be swept onto other lands to the injury of others;~~
  - ~~The danger to life and property due to flooding or erosion damage;~~
  - ~~The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
  - ~~The importance of the services provided by the proposed facility to the community;~~
  - ~~The necessity of the facility to a waterfront location in the case of a functionally dependent facility;~~
  - ~~The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~
  - ~~The compatibility of the proposed use with existing and anticipated development;~~
  - ~~The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
  - ~~The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
  - ~~The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the affects of wave action, if applicable, expected at the site; and~~
  - ~~The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water~~

PROOFS

~~systems and streets and bridges.~~

~~(4) Upon consideration of the factors listed above and the purposes of this chapter, the board of adjustment and city commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.~~

~~(5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~

~~(6) Conditions for variances:~~

~~a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the buildings;~~

~~b. Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;~~

~~c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;~~

~~d. The planning director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.~~

~~(Code 1983, § 22-109; Ord. No. I-208, § 3, 3-2-1987; Ord. No. 19-043, § 4, 11-4-2019; Ord. No. 19-044, § 7, 11-4-2019)~~

**Sec. 125-101. Application for a variance.**

An application for a variance may be made by the property owner of the area involved or their designated representative by filing an application with the planning department. The application will specify the nature of the variance and the reasons for the variance. It will be in the form prescribed by the rules of this chapter. The application will also be accompanied by plans, containing information specified in section 125-36. The planning director, board of adjustment, and city commission may request other drawings or information necessary for an understanding of the request.

(Code 1983, § 22-110; Ord. No. H-186, § 30-110, 6-15-1981; Ord. No. 19-044, § 8, 11-4-2019)

**Sec. 125-102. Stay of proceedings.**

An appeal for a variance stays all proceedings in furtherance of the action appealed from, unless the planning director certifies to the board of adjustment after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would, in the director's opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment, on notice to the planning director, and on due cause shown.

(Code 1983, § 22-111; Ord. No. H-186, § 30-111, 6-15-1981; Ord. No. 19-043, § 5, 11-4-2019; Ord. No. 19-044, § 9, 11-4-2019)

**Sec. 125-103. Variance procedure.**

(a) The planning department will prepare a staff report which presents any inconsistencies found between the requested variance and zoning ordinance requirements and will submit it to the board of adjustment.

(b) Before the board of adjustment may act on an application for a variance or a special exception or an appeal from the decision of the planning director, it will hold a public hearing within 30 days of the filing of the application and in accordance with the provisions of section 125-38. The board of adjustment will review the request and staff report at the public hearing.

PROOFS

(c) Within 35 days of the public hearing, except the board of adjustment with good cause demonstrated may allow an extension of time, the board of adjustment will determine whether the evidence supports a finding that the requirements of the zoning ordinance and other city laws have been met. It will approve, approve with conditions or disapprove the application accordingly.

(d) The board of adjustment's decision will be sent by mail to the applicant within five working days of the action.

(Code 1983, § 22-112; Ord. No. H-186, § 30-112, 6-15-1981; Ord. No. I-98, §§ 1—3, 1-7-1985; Ord. No. 19-043, § 6, 11-4-2019; Ord. No. 19-044, § 10, 11-4-2019)

**Sec. 125-104. Compliance with conditions of approval.**

Compliance with conditions established for a variance and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this chapter. A change in tenancy, ownership or management of a use which remains otherwise unchanged will not affect the status of a variance nor be interpreted to permit a departure from the conditions of approval and the approved plans.

(Code 1983, § 22-113; Ord. No. H-186, § 30-113, 6-15-1981)

**Sec. 125-105. Time limit for variances.**

Authorization of a variance shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, when requested, the board of adjustment may extend authorization for an additional period not to exceed one year.

(Code 1983, § 22-114; Ord. No. H-186, § 30-114, 6-15-1981)

**Sec. 125-106. Limitations of refiling of application.**

Applications for which a substantially similar application has been disapproved will be heard by the board of adjustment only after a period of six months has elapsed from the date of the final decision.

(Code 1983, § 22-115; Ord. No. H-186, § 30-115, 6-15-1981; Ord. No. 19-044, § 11, 11-4-2019)

**Sec. 125-107. Vested interest in approved variances.**

A valid variance supersedes conflicting provisions of subsequent rezonings or amendments to this chapter unless specifically provided otherwise by the provisions of this section or the conditions of approval for the variance.

(Code 1983, § 22-116; Ord. No. H-186, § 30-116, 6-15-1981)

~~**Sec. 22-117. Notice requirement for certain structures in fh zones.**~~

~~When a variance is granted allowing a structure to be built or placed with the lowest floor elevation at or below the base flood elevation, the planning director shall give written notice to the owner of the structure that this is allowed and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.~~

~~(Code 1983, § 22-117; Ord. No. H-186, § 30-117, 6-15-1981; Ord. No. 19-043, § 7, 11-4-2019)~~

**Sec. 125-108. Appeals.**

Within 20 days of the written decision of the board, an aggrieved party may appeal the decision by filing a written notice of appeal and an appeal fee ~~of twenty-five dollars ($25.00)~~ in the amount established by resolution with the city clerk. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within 60 days of the filing of the appeal or the first regular city commission meeting which is scheduled, whichever is later in time, the city commission shall conduct a public hearing at which time they may affirm, modify, or reverse the board's decision. The decision of the city commission shall constitute final administrative review, and no petition for rehearing or reconsideration shall be considered by the city. Nothing contained herein shall preclude the city commission from seeking additional information prior to rendering a final decision. The decision of the city commission shall be in writing and a copy of the decision shall be forwarded to the board and the appealing party.

(Ord. No. 19-044, § 12, 11-4-2019)

PROOFS

**Secs. 125-109--125-129. Reserved.**

DIVISION 4. AMENDMENTS*

***State law reference**—Zoning amendments, F.S. § 166.041.

**Sec. 125-130. Purpose.**

Periodically, as local goals and opinions change and new information is obtained, the zoning ordinance should be updated. The purpose of the zoning amendment process is to provide a method for carefully evaluating potential changes to ensure that they are beneficial to the city.

(Code 1983, § 22-125; Ord. No. H-186, § 30-125, 6-15-1981)

**Sec. 125-131. Authorization to grant or deny an amendment.**

Whenever the public necessity, general welfare, good zoning practice and the comprehensive plan justify such action, and after consideration by the city planning board, the city commission may, by ordinance, change the regulations set forth in this chapter and may change the zoning districts as established on the district map.

(Code 1983, § 22-125; Ord. No. H-186, § 30-125, 6-15-1981)

**Sec. 125-132. Application for an amendment.**

A proposed change of district or text may be initiated by the city commission, the city planning board or by petition of one or more of the property owners or affected residents within the area proposed to be changed or affected by a change in the district map or text. Application shall be in writing, on forms provided therefor by the city, and shall specify the nature and extent of the change desired and reasons for seeking the change. It shall be filed in the ~~department of planning and development~~ planning department, and if a change in the zoning atlas is sought, there shall in addition be filed a legal description of the property.

(Code 1983, § 22-127; Ord. No. H-186, § 30-127, 6-15-1981)

**Sec. 125-133. Zoning atlas amendment procedures.**

The following procedure shall apply to amendment of the text of ~~the zoning ordinance or~~ the zoning atlas:

(1) The department of planning and development shall refer the application to the city planning board together with a staff report which notes any inconsistency between the proposed amendment and the comprehensive plan or this chapter.

(2) The city planning board will review the proposed amendment within 45 days of the filing except that it may provide for a reasonable extension of time within which to consider the amendment upon a showing of good cause.

(3) The city planning board will recommend approval, modified approval or disapproval of the proposed amendment, and its recommendations with the proposed amendment shall then be submitted to the city commission. Prior to acting on the proposed amendment, the city commission will hold a public hearing in accordance with the provisions of section 125-37.

(4) In the event the city planning board recommends disapproval, such amendment shall not become effective except by a four-fifths vote by the city commission.

(Code 1983, § 22-128; Ord. No. H-186, § 30-128, 6-15-1981; Ord. No. 20-006, § 3, 3-16-2020)

**Sec. 125-134. Record of amendments.**

The ~~director of the department of planning and development~~ planning director shall maintain records of amendments to the text of the zoning ordinance or the zoning atlas.

(Code 1983, § 22-129; Ord. No. H-186, § 30-129, 6-15-1981)

**Sec. 125-135. Limitations on refiling of application.**

No application of a property owner or representative for an amendment to the text of the zoning ordinance or the zoning atlas shall be considered by the city commission or city planning board within a period of six months

PROOFS

immediately following a previous denial of a substantially similar request.

(Code 1983, § 22-130; Ord. No. H-186, § 30-130, 6-15-1981)

**Sec. 125-136. Basic amendment standards.**

Before an amendment is approved, findings will be made that the following standards are satisfied:

(1) The amendment is consistent with the comprehensive plan;

(2) The amendment will not have an adverse effect on the ability of the city to:

a. Satisfy land and water use needs;

b. Meet transportation demands and provide community facilities and services.

(3) The amendment will promote and protect the public health, safety and general welfare.

(Code 1983, § 22-131; Ord. No. H-186, § 30-131, 6-15-1981)

**Secs. 125-137--125-155. Reserved.**

## ARTICLE III. ESTABLISHMENT OF ZONES

**Sec. 125-156. Designation of zoning districts.**

Basic zoning districts. All areas within the city are included within one of the following basic zoning districts, each of which is intended to appropriately regulate the use of property within the district in accordance with the comprehensive plan and the purposes of this chapter.

| Zone | Abbreviated Designation |
|---|---|
| Single-Family Estate Density | E-1 |
| Single-Family Low Density | R-1 |
| Single-Family Intermediate Density | R-2 |
| Single-Family Moderate Density | R-3 |
| Medium Density Residential | R-4 |
| Hutchinson Island Medium Density Residential | R-4A |
| Edgartown Settlement | ES |
| High Density Residential | R-5 |
| Office Commercial | C-1 |
| Neighborhood Commercial | ~~C-1~~C-2 |
| General Commercial | C-3 |
| Central Commercial | C-4 |
| Tourist Commercial | C-5 |
| Marine Commercial | C-6 |
| Light Industrial | I-1 |
| Marine Industrial | I-2 |
| Heavy Industrial | I-3 |
| Commercial Parkway | CP-1 |
| General and Recreational Open Space | OS-1 |
| Conservation Open Space | OS-2 |

PROOFS

| | |
|---|---|
| Aquatic Conservation | A-1 |
| Aquatic Development | A-2 |
| ~~Planned Unit Development~~ | ~~PUD~~ |
| Planned Development Zone | PD |
| Planned Unit Redevelopment | PUR |

~~*Overlay zoning districts.* Some areas are also hereby included in one of the Flood Hazard (FH) zones. These overlay zoning districts have special provisions that, along with the provisions of the basic zoning district and other ordinance regulations, govern the use of property.~~

(Code 1983, § 22-15; Ord. No. H-186, § 30-15, 6-15-1981; Ord. No. J-05, 2-15-1992)

**Sec. 125-157. Designation of overlay districts.**

The city's overlay zoning districts stipulate special provisions that, along with the provisions of the basic zoning district and other ordinance regulations, govern the use of property within the city limits.

(1) South Beach Overlay District.

a. *Applicability and purpose.* The purpose of the South Beach Overlay District is to promote good planning and site design that produces quality development that is functional, an asset to the community and in keeping with the general character of South Hutchinson Island. By way of this overlay district, the city seeks to preserve, protect and enhance the unique barrier island environment through regulation of development and redevelopment of lots within the district.

[GRAPHIC]

SOUTH BEACH OVERLAY DISTRICT

1. The standards allow for and promote design integration of the manmade improvements to the land with the natural elements of the land. All new development and changes to existing development in the district that require site plan or building permit approval are subject to the overlay district requirements in addition to other applicable regulations in this Code.

2. Due to ever-accumulating knowledge about the dynamics of a barrier island community, and new and better information about site design, the city's land development regulations will be monitored and reviewed on an ongoing basis in order to assess their reasonability and effectiveness in promoting these purposes.

b. *Delineation of the district.* The South Beach Overlay District includes all parcels designated in the shaded area as indicated in Figure 1. The boundary of the South Beach Overlay District shall be deemed to automatically adjust pursuant to any annexation approval on South Hutchinson Island.

c. *District regulations.*

1. *Density.*

(i) *Residential.* Residential density shall be based on the requirements of the underlying zoning district except that in no instance shall residential density in the South Beach Overlay District exceed eight units per acre.

(ii) *Non-residential.* Non-residential density shall be based on the requirements of the underlying zoning district.

(iii) *Mixed use.* The residential component of a mixed use development shall not exceed eight units per acre. The nonresidential component of a mixed use development shall be based on the requirements of the underlying zoning district while factoring the affect and impacts of the residential component on the site.

PROOFS

2. *Height.*

| | OS-1 | R-1 | R-2 | R-3 | R-4A | C-3 | C-5 |
|---|---|---|---|---|---|---|---|
| Maximum height | | | | | | | |
| - Single family | - | 28' | 28' | 28' | 45' | - | - |
| - Duplex | - | - | - | 28' | 45' | - | - |
| - Triplex | - | - | - | - | 45' | - | - |
| - Quadraplex | - | - | - | - | 45' | - | - |
| - Multifamily | - | - | - | - | 45' | 45' | 45' |
| - Other | 35' | 28' | 28' | 28' | 45' | 45' | 45' |
| 1. Maximum height may be extended up to 35' in the R-1, R-2 and R-3 zoning districts subject to conditional use approval. | | | | | | | |
| 2. No habitable space is permitted above the maximum height specified in the zoning district. | | | | | | | |
| Not to Exceed | | | | | | | |
| - Single family | - | - | - | - | - | - | - |
| - Duplex | - | - | - | - | - | - | - |
| - Triplex | - | - | - | - | - | - | - |
| - Quadraplex | - | - | - | - | - | - | - |
| - Multifamily | - | - | - | - | 4 stories | 4 stories | 4 stories |
| - Other | - | - | - | - | 4 stories | 4 stories | 4 stories |

3. *Calculation of height.*

(i) Maximum structure height shall be calculated from the established FEMA base flood elevation to the highest point of the roof excluding non-habitable architectural design elements of the structure.

[GRAPHIC]

MAXIMUM STRUCTURE HEIGHT

(ii) The height of fences shall be measured from preconstruction grade.

4. *Height in excess of maximum.*

(i) Equipment, including, but not limited to, satellite dishes and heating and air conditioning equipment may be installed on top of buildings provided that the equipment is screened from horizontal view.

(ii) Non-habitable architectural elements that contribute stylistically to the building, including, but not limited to, bulkheads, parapet walls, false fronts, cupolas, steeples, spires, and chimneys may exceed the maximum height requirement by 20 percent.

5. *Design standards.*

| | Standards |
|---|---|
| Single-family residential | None. |

PROOFS

| | |
|---|---|
| Multifamily and nonresidential | Architectural integrity and compatibility with nearby existing buildings both on- and off-site shall be demonstrated. Architectural considerations shall include building siting, massing, proportion, scale, materials, colors, details, facade treatments, fenestration, parapets, site features, lighting and signage. The openness of ground floor facades and view corridors which face pedestrian utilized roadways, circulation routes or waterways shall be maximized to promote pedestrian activity and increase visibility of activity from the interior of the buildings. |
| | The form of buildings and its architectural details should be designed to create visual interest at the street level using techniques such as incorporating porches, staggering the frontage of the buildings, recessing doors and windows, providing display windows, providing awnings and canopies for weather protection and scale, and visually extending interior spaces outside through paving and glazing. |
| | Site and architectural design features shall substantially advance design standards reflected in local precedents or regional buildings. These may include traditional Mediterranean, Key West, Mission, Prairie, Streamlined Art Deco or Mid-Century Modern architecture or other appropriate architectural design compatible with the Florida tropical climate. Materials and colors should be selected to unify the building appearance and fit into the pedestrian realm. |
| | Development along the city's waterfront shall maximize opportunities for public access to the water and facilitate connectivity with adjoining waterfront properties to establish an improved public promenade. |

6. *Nonconforming situations.* Nonconforming uses and structures that have been damaged or destroyed by natural disaster or other catastrophic event, i.e., fire or other calamity, may be replaced or reconstructed provided that:

   (i) The significance of the property owner's hardship is more compelling than, and reasonably overbalances, the public benefit resulting from not allowing the use or structure to be re-established;

   (ii) Replacement or reconstruction of the use or structure is compatible with the character of the neighborhood and will not jeopardize future development of the area in compliance with the provisions and intent of the city's land development regulations;

   (iii) The value of properties in the vicinity of the replacement or reconstruction will not be adversely affected;

   (iv) No expansion of gross floor area occurs;

   (v) The degree of nonconformity is not increased;

   (vi) The replacement structure is in compliance with the city's adopted building code, Coastal Construction Control Line and FEMA regulations; and

   (vii) A building permit is issued within 24 months after the date of destruction and the construction is diligently pursued to completion.

7. *Supplemental use regulations.*

   (i) Condominium hotels.

      A. *General requirements.*

         i. Condo-hotel facilities shall be created, sold and maintained under documentation, including condominium declaration, bylaws, sales brochures, and pre-construction agreements, with form and content approved by the city attorney, which adequately disclose and ensure that the condo-hotel facility will, in all respects, be permanently and exclusively operated as a transient

PROOFS

accommodations facility and will not be occupied as a multifamily dwelling.

ii. Condo-hotel facilities must be permanently dedicated in their entirety to the complete control and management of a single hotel or resort hotel operator for operation as a transient accommodations facility.

iii. Condo-hotel facilities shall contain no dwelling units. Only individual sleeping units that are permanently dedicated for rental to the general public for transient occupancy for periods of less than 28 days on a full-time basis by the hotel or resort hotel operator shall be permitted; provided, however, that an owner of an individual sleeping unit in a condo-hotel may be permitted to occupy the owned sleeping unit without rental charge for up to 28 days in any calendar year.

iv. Condo-hotel sleeping units shall not be used for homesteading purposes or home occupational licensing, time share or fractional interests.

v. Condo-hotel facilities shall be licensed by all applicable state and local agencies that license traditional motels, hotels and/or resort hotels prior to the issuance of any certificate of occupancy. All required licenses must be kept current.

vi. Rental of condo-hotel sleeping units shall be subject to all applicable state and local tourist tax collections.

vii. Condo-hotel facilities shall be served by singly metered utility services and with a central telephone system and central cable television system installed in all individual sleeping units.

viii. Individual sleeping units shall not contain any lockable storage closet or cabinet unless access to such closet or cabinet is automatically and uniformly provided to each member of the public who rents the sleeping unit.

ix. Condo-hotel facilities shall provide an internally-oriented lobby/front desk area.

x. Condo-hotel facilities shall utilize a uniform key entry system managed by the hotel or resort hotel operator to receive and disburse keys for each condo-hotel sleeping unit.

xi. All condo-hotel facilities shall offer daily maid service, concierge as well as other customary hospitality services.

xii. The city may require affidavits of compliance with the criteria from the developer, management entity, and/or each condo-hotel sleeping unit purchaser/owner concurrent with annual renewal of any required occupational license.

B. *Conditions of approval.* The city commission may impose limitations on condo-hotel facilities, including, but not limited to, the size and number of sleeping units and sleeping areas as well as the types of utility fixtures to ensure the viability of hospitality and transient accommodations and to limit impacts on local services including transportation, potable water, sanitary sewer and hurricane evacuation.

(2) Overlay District.

a. *Purpose.* The purpose of the Downtown Business and Entertainment Overlay District is to:

1. Recognize the unique urban character of the downtown;

2. Recognize the unique orientation to the waterfront;

3. Recognize its historic urban design typified by its pedestrian-oriented design and its human-

PROOFS

scale development; in order to

(i) Build on this unique character by encouraging redevelopment in keeping with these recognized values; and

(ii) Further the downtown's desirability as a place to work, play and live through encouraging a broad variety of urban-scale uses.

b. *Delineation of district.* The Downtown Business and Entertainment Overlay District includes all parcels in the shaded area as indicated in figure 1-2.

[GRAPHIC]

c. *District regulations.*

1. *Permitted uses.* The following uses are allowed within the boundaries of the overlay district in addition to the uses permitted by the underlying zoning districts, subject to compliance with any use standards identified herein:

(i) *Wine and/or cigar bars.* Use standards:

A. Less than 2,000 square feet of floor area.

B. No drive-through facilities.

C. Live music shall be unamplified acoustic only.

D. Shall be fitted with filtration system so as to not allow odors to leave the premises and infiltrate to surrounding or attached business or residences.

E. Sidewalk cafe permit may only be issued with a condition that smoking is prohibited in the sidewalk cafe area.

(ii) *Residences.* Use standards:

Residential uses shall be located within mixed use structures which shall offer commercial retail, service or office uses along the full frontage of the first floor abutting the pedestrian right-of-way. No portion of any residential use shall be permitted along any portion of the frontage of the first floor abutting the pedestrian right-of-way. A rear service alley is not considered a pedestrian right-of-way.

(iii) *Pedicabs.*

A. *Definition.* The term "pedicab" means any vehicle with three or more wheels propelled solely by human power which is used for transporting passengers for consideration.

B. Use standards.

(1) *Operation.*

(a) Operator shall embark/disembark passengers out of the flow of traffic;

(b) Operator shall not drive pedicab on sidewalk;

(c) Parking pedicab in any public on- or off-street parking is prohibited;

(d) Music is prohibited;

(e) Open containers of alcohol are prohibited in pedicab, including cab;

(f) Loud solicitation of service is prohibited;

(g) Signage is permitted on the pedicab, totaling no more than three square feet for all sides, and no more than 1 1/2 square feet on each side of the cab. Signage shall be simple in design, and may include the name of the company, phone number and website. Signage shall be professionally designed and shall be subject to the city's design review criteria for

PROOFS

signage.

(2) *Vehicle safety requirements.* Pedicabs shall not be operated within the city except in compliance with all laws of the state.

(a) Pedicabs shall be subject to F.S. ch. 316, as amended.

(b) Any law enforcement officer of the city shall have the right to inspect or cause to be inspected any pedicab operating on any street in the city as often as may be necessary for the purposes of ascertaining and causing to be corrected any unsafe or unsanitary considerations or any violations of this article.

(c) No pedicab driver may operate a pedicab on any street unless the pedicab meets the following equipment safety standards:

1. *Tires.* Tires shall be of a size appropriate for the pedicab with no mismatched tires. There shall be no cuts to the tire or localized worn spots that expose the ply. No tire is permitted to be used when the tire has tread wear indicators that are visible.

2. *Operational horn.* The pedicab shall be equipped with a fully operational horn or bell.

3. *Brakes.* Each pedicab shall be equipped with an operational brake or brakes which enable the pedicab driver to stop the pedicab within 15 feet from a speed of ten miles per hour on dry, level, clean pavement. The brake systems shall demonstrate a reasonable total braking force when tested, using the quick stop method.

4. *Headlights, tail lights, mirrors, turn signals, and other requirements.* Every pedicab shall be equipped with the following operational equipment set forth in the subsections below:

a. A headlight capable of projecting a beam of white light for a distance at a minimum of 500 feet, which shall be clearly visible during darkness and which must be illuminated at all times during operation;

b. A red tail light affixed to the rear of the passenger compartment, which shall be clearly visible during darkness from a distance of at least 600 feet to the rear of the pedicab which must be illuminated at all times during operation;

c. A side-mounted mirror affixed to the pedicab to reflect to the pedicab driver a view of the street for a distance of at least 200 feet from the rear of the pedicab;

d. A slow moving vehicle triangle on the rear of the pedicab or reflective tape which outlines the rear of the pedicab from edge to edge;

e. Turn signal lamps which indicators must be visible for a distance of at least 500 feet from the rear of the pedicab indicating right and left turns which must be utilized when turning;

f. The company or trade name, individual or fictitious name of the pedicab owner shall be displayed on the exterior of each pedicab. This will not be considered advertising;

g. No more than one trailer or sidecar may be attached to any

PROOFS

pedicab. Any such trailer or sidecar must be attached in a manner that meets the requirements of F.S. § 316.530(2), as amended.

(3) *Advertising.* Advertising may be permitted on pedicabs for an additional annual fee which shall compensate for the cost of reviewing and enforcing such advertising regulations.

(a) *Size.* No more than six square feet total on all sides of, and no more than three square feet on any one side of cab.

(b) *Content and design.* All advertising design and content shall be approved by the planning department. Advertising is prohibited for the following: tobacco, adult entertainment, arcades and alcohol. Advertising shall be professionally designed and shall be subject to the city's design review criteria for signage.

(iv) *Licensing; process and requirements.* No person shall operate, or permit the operation of, a pedicab without first securing from the city clerk a current license, which shall be laminated and affixed to the pedicab at all times.

A. (1) Application for pedicab license shall be made on a form available in the office of the city clerk, accompanied by the following:

(a) Valid driver's license.

(b) Manufacturer authorized specifications setting forth the characteristics of the pedicab, including its serial number, dimensions, weight, and passenger capacity.

(c) Color photographs of all four sides of pedicab.

(d) Advertising copy, size and rendering, if applying for a license which includes advertising.

(e) Certificate of safety, available from the city clerk, to be completed by a qualified bicycle mechanic indicating that the pedicab is in safe operating condition.

(f) Insurance and indemnification. Proof of insurance shall be submitted showing conformity to the following: the pedicab owner shall maintain a commercial general liability policy in place with limits of at least $300,000.00 per occurrence, $500,000.00 aggregate with respect to bodily injury, including death, and property damage liability affording coverage for premises and operations liability, personal and advertising injury liability, and contractual and contingent liability exposures. The certificate of insurance must also include coverage for statutory workers' compensation coverage, if applicable, and shall further list the city as an additional insured with respect to general liability, and include 30 days on the cancellation provision, except for ten days' notice for nonpayment of premium. Carriers providing this coverage must be authorized to transact business in the state and must possess a financial rating of at least (A-) with a financial strength of (V) or better in accordance to A.M. Best guidelines. Such certificate must be provided to the city risk management division/risk manager, or designee for approval prior to issuance or renewal of any decal. All certificates of insurance shall be kept in full force and effect at all times while any pedicab is operated within the city and must cover a period of not less than 12 months. Proof of this insurance (e.g. a declarations page or certificate of insurance) must be maintained with the pedicab at all times

PROOFS

it is operated within the city. The pedicab owner will indemnify, defend, and hold harmless the city, its officials, employees and agents (collectively referred to as indemnitees) and each of them from and against all losses, costs, claims, penalties, fines, expenses (including attorney fees), liabilities (collectively referred to as liabilities) by reason of any bodily injury to or death of any person or damage to or destruction or loss of any property arising out of, or resulting from, or in connection with this permit. The pedicab owner further agrees to indemnify, defend and hold harmless the indemnitees from and against liability which may be asserted by an employee or former employee of the pedicab owner, or any of its subcontractors, for which liability to such employee or former employee would otherwise be limited to payments under workers' compensation or similar laws.

(2) Fees; application and renewal. The city commission shall adopt and amend fees for this use via resolution. Fees shall include: application fee, annual renewal fee, optional advertising fee.

B. Violations.

(1) The city police department shall enforce these regulations.

(2) Repeated violations of traffic laws or this section shall result in the revocation of a licensee's permit, as determined by the city manager.

(v) *Overnight accommodations and bed and breakfast.*

A. *Overnight accommodations, bed and breakfast.* Overnight accommodations, serving breakfast, and located in an owner-occupied residential structure, offering up to eight guest rooms.

B. *Overnight accommodations, boutique hotel.* Overnight accommodations which include an amenity such as a restaurant or spa, offering up to 18 rooms and located within a structure of residential building typology.

C. *Overnight accommodations, vacation rental.* A detached dwelling or apartment within a building of residential building typology which is rented out for the purposes of providing accommodations for less than six months to tourists.

D. *Use standards*.

1. A separate entrance shall be provided for each unit to the exterior or to an interior, secure common area.

2. A business license shall be required for each vacation rental unit.

3. Such units shall be managed by either a state-licensed property management agent or the owner-occupant residing in another unit, and shall collect and pay all applicable taxes.

4. Current contact information for the management agency or owner-occupant shall be displayed in an accessible location outside the vacation rental.

2. *Prohibited uses*.

(i) Arcades (games of chance)

3. *Design and performance standards*.

(i) *Off-street parking.* All parcels within the district are exempt from off-street parking requirements, as referenced in section 125-315.

(ii) *Landscaping.* All parcels within the district are exempt from landscaping requirements, as referenced in section 123-37.

PROOFS

(iii) *Waiver of distance requirements for the consumption of alcoholic beverages.* All parcels within the district are exempt from waiver of distance requirements for establishments selling alcohol for consumption on or off premises, as referenced in section 4-6.

(Code 1983, § 22-16; Ord. No. K-441, § 1, 1-16-2007; Ord. No. L-215, § 1, 7-5-2011; Ord. No. L-291, § 1, 6-17-2013 )

**Sec. 125-158. Location of zoning districts.**

(a) *General.* ~~Except for the FH zones,~~ The boundaries for the zoning districts listed in this article are indicated in the city zoning atlas. The boundaries shall be modified in accordance with the zoning atlas amendments which shall be adopted by reference.

~~(b) *Flood Hazard zones.* The FH zones are the zones for areas of special flood hazard identified by the federal emergency management agency in a scientific and engineering report entitled, "Flood Insurance Study – Wave Height Analysis for the City of Fort Pierce," preliminarily dated May 28, 1982, with accompanying flood insurance rate maps (FIRM) dated July 31, 1981, and any revisions thereto. These materials are hereby adopted as a part of this chapter and shall be considered to be the official source indicating boundaries of FH zones. These materials are on file at the offices of the department of planning and development.~~

(b) *Aquatic zones.* The A-1 zone and the A-2 zone only include areas defined as aquatic areas in section 125-3. Therefore, when an A-1 or an A-2 zone abuts a nonaquatic area in another zone, the boundary is the mean high tide line in tidal areas and the ordinary high water line in nontidal areas.

(c) *Various specific boundaries.* Unless otherwise specified, zoning district boundaries indicated as approximately following the city limits, section lines, subdivision lines, lot lines, centerlines of street or alley rights-of-way, centerlines of railroad rights-of-way, centerlines of canals or such lines extended will be construed as following such lines.

(Code 1983, § 22-17; Ord. No. H-186, § 30-16, 6-15-1981; Ord. No. I-28, § 4, 8-15-1983; Ord. No. K-441, § 4, 1-16-2007)

**Sec. 125-159. Zoning atlas generally.**

(a) *General.* The city zoning atlas, each map of which is attested by the city clerk, is by this reference made a part of this chapter. This atlas shall be maintained on file at the offices of the ~~department of planning and development~~ planning department.

(b) *Updates.* Whenever sufficient authorized changes to maps in the zoning atlas have accumulated, the city commission shall have prepared a revised zoning atlas depicting all changes authorized since the previous atlas revision~~, except those involving FH zones~~.

(Code 1983, § 22-18; Ord. No. H-186, §§ 30-16, 30-17, 6-15-1981; Ord. No. K-441, § 4, 1-16-2007)

**Secs. 125-160--125-186. Reserved.**

## ARTICLE IV. BASIC ZONING DISTRICTS

**Sec. 125-187. Allowed uses.**

(a) *Uses listed.* Uses listed are allowed in each zoning district in accordance with the use table.

(b) *Permitted uses.* Uses identified with a "P" in the use table are permitted in the subject zoning district provided that the uses will not violate basic use standards specified in each zoning district, other applicable use standards, additional zoning ordinance provisions and other city laws.

(c) *Conditional uses.* Uses identified with a "C" in the use table are permitted in the subject zoning district, if the city commission, after a public hearing, determines that the location and development plans comply with applicable standards and will not violate basic use standards specified in each zoning district, other applicable use standards, additional zoning ordinance provisions and other city laws.

(d) *Prohibited uses.* Uses identified with a "-" in the use table are expressly prohibited.

(e) *Planned development zone (PD) and planned unit redevelopment zone (PUR).* Permitted and conditional uses are identified during the review for all proposed PD and PUR districts.

(f) *Edgartown Settlement (ES) zoning district.* Permitted, conditional, and accessory uses shall be allowed

PROOFS

in the ES district consistent with section 125-197.

(g) *Use table*.

| ZONING DISTRICT | E1 | E2 | E3 | R1 | R2 | R3 | R4 | R4A | R5 | C1 | C2 | C3 | C4 | C5 | C6 | CP | I1 | I2 | I3 | OS1 | OS2 | A1 | A2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *RESIDENTIAL* | | | | | | | | | | | | | | | | | | | | | | | |
| *Household Living* | | | | | | | | | | | | | | | | | | | | | | | |
| -Detached House | P | P | P | P | P | P | P | P | C | C | C | - | - | C | - | - | - | - | - | - | C | - | - |
| -Duplex | - | - | - | - | - | C | P | P | C | C | C | - | - | C | - | - | - | - | - | - | - | - | - |
| -Townhouse | - | - | - | - | - | C | P | P | P | C | C | - | - | C | - | - | - | - | - | - | - | - | - |
| -Multi-Dwelling Building | - | - | - | - | - | C | P | P | P | C | C | C | - | C | C | - | - | - | - | - | - | - | - |
| -Mobile or Manufactured Home | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| -Manufactured Home Park or Subdivision | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| -Mobile Home Park | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| -Vertical Mixed-Use Building | - | - | - | - | - | - | C | C | P | P | P | P | P | P | P | - | - | - | - | - | - | - | - |
| *Home Occupations* (per requirements of Section 125-318) | P | P | P | P | P | P | P | P | P | - | - | - | - | P | - | - | - | - | - | - | - | - | - |
| Group Living (except as noted below) | - | - | - | - | C | C | C | C | C | C | - | C | C | C | - | - | - | - | - | - | - | - | - |
| -Community Residential Home, Type 1 (1-6 residents) | P | P | P | P | P | P | P | P | P | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| -Community Residential Home, Type 2 (7-14 residents) | - | - | - | - | - | - | C | - | C | C | - | C | C | - | - | - | - | - | - | - | - | - | - |
| -Dormitories, Fraternity and Sorority Houses | - | - | - | - | - | C | C | C | C | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| *PUBLIC AND CIVIC* | | | | | | | | | | | | | | | | | | | | | | | |
| *Community/Cultural* (except as noted below) | - | - | - | - | C | C | C | C | C | C | C | P | P | C | C | C | - | - | - | C | - | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| -Community Center | - | - | - | - | C | C | C | C | C | - | C | P | P | C | - | C | - | - | - | C | - | - | - |
| -Fraternal Organization/Lodge | - | - | - | - | C | C | C | C | C | - | C | P | P | C | - | C | - | - | - | C | - | - | - |
| -Library or Cultural Exhibit | - | - | - | - | C | C | C | C | C | - | C | P | P | C | - | C | - | - | - | C | - | - | - |
| -Environmental Research and Education Facilities | - | - | - | - | - | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| *Day Care* | - | - | - | - | C | C | C | C | C | C | C | C | - | C | - | - | - | - | - | - | - | - | - |
| -Adult Day Care Center | - | - | - | - | C | C | C | C | C | C | C | C | - | C | - | - | - | - | - | - | - | - | - |
| -Day Care Center | - | - | - | - | C | C | C | C | C | C | C | C | - | C | - | - | - | - | - | - | - | - | - |
| -Child Care Facility | - | - | - | - | C | C | C | C | C | C | C | C | - | C | - | - | - | - | - | - | - | - | - |
| -Family Day Care Home | P | P | P | P | P | P | P | P | P | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| *Educational Facilities* | | | | | | | | | | | | | | | | | | | | | | | |
| -College or University | - | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | - | - | - | - |
| -Elementary, Middle or High School | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | - | - | - | - | - | - | - |
| -Marine Research/Education Facilities | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | | P | - | - | - | C | - |
| *Government Facilities* (except as noted below) | - | - | - | - | - | - | - | - | - | C | C | P | P | C | - | C | - | - | - | - | - | C | C |
| -Post Office | - | - | - | - | - | - | - | - | - | C | C | P | P | - | - | C | - | - | - | - | - | - | - |
| -Safety Service | C | C | C | C | C | C | C | C | C | P | P | P | P | P | P | P | P | P | P | - | - | C | C |
| *Medical Facilities* (except as noted below) | - | - | - | - | C | C | C | - | C | C | - | C | - | C | - | - | - | - | - | - | - | - | - |
| -Hospital | - | - | - | - | C | C | C | - | C | C | - | C | C | - | - | - | - | - | - | - | - | - | - |
| -Nursing Home | - | - | - | - | C | C | C | - | C | C | - | C | C | - | - | - | - | - | - | - | - | - | - |
| *Park and Open Space* (except as noted below) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | C | C | - |
| -Cemetery/Columb | C | C | C | C | C | C | - | - | C | C | C | C | - | - | - | - | - | - | - | C | - | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| arium/Mausoleum | | | | | | | | | | | | | | | | | | | | | | | |
| -Country Club/Golf Course | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | - | - | - | C | - | - | - |
| -Game and Wildlife Management Preserves | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - |
| -Water Dependent Recreation Facilities | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | - | C | C |
| *Passenger Terminal* | | | | | | | | | | | | | | | | | | | | | | | |
| -Airport/Heliport | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C | C | - | - | - | - |
| -Rail/Bus Terminal | - | - | - | - | - | - | - | - | - | C | C | C | C | - | C | C | C | C | C | - | - | - | - |
| -Bus Shelter | C | C | C | C | C | C | P | P | P | P | P | P | P | P | P | P | P | P | P | - | - | - | - |
| -Taxi Terminal | - | - | - | - | - | - | - | - | - | C | C | C | C | - | C | C | C | C | C | - | - | - | - |
| *Religious Institution* | C | C | C | C | C | C | C | C | C | C | C | P | P | C | - | C | - | - | - | - | - | - | - |
| *Social Service Institution* (except as noted below) | - | - | - | - | - | - | - | - | - | C | - | C | C | - | - | - | C | C | - | - | - | - | - |
| -Halfway Houses | - | - | - | - | - | C | C | C | C | C | - | C | C | - | - | - | C | - | - | - | - | - | - |
| *Utilities* | | | | | | | | | | | | | | | | | | | | | | | |
| -Minor, other | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | P | C | P | C | C | C | C |
| -Major | - | - | - | - | - | - | - | - | - | - | - | C | C | C | C | C | C | C | P | C | C | C | C |
| -Utility Cabinets, Above Ground | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | C | C | C | C |
| *COMMERCIAL* | | | | | | | | | | | | | | | | | | | | | | | |
| *Eating and Drinking Establishments* | | | | | | | | | | | | | | | | | | | | | | | |
| -Brew Pub | - | - | - | - | - | - | - | - | C | P | P | P | P | P | P | C | C | C | - | - | - | - | - |
| -Coffee Shop | - | - | - | - | - | - | C | - | C | P | P | P | P | P | P | C | C | C | - | - | - | - | - |
| -Neighborhood Bistro | - | - | - | - | - | - | - | - | C | P | P | P | P | P | P | C | C | C | - | - | - | - | - |
| -Neighborhood Cafe | - | - | - | - | - | - | - | - | C | P | P | P | P | P | P | C | C | C | - | - | - | - | - |
| -Restaurants, Fast Food | - | - | - | - | - | - | - | - | C | - | - | P | P | P | P | C | C | C | - | - | - | - | - |
| -Restaurant and Bar | - | - | - | - | - | - | - | - | C | C | C | P | P | P | P | C | C | C | - | C | - | - | C |
| -Wine/Cigar Bar | - | - | - | - | - | - | - | - | C | C | C | P | P | P | P | C | C | C | - | - | - | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Entertainment, Indoor* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | C | - | - | - |
| -Adult Establishment | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | - | - | - | - | - | - | - | - |
| -Arcade Amusement Center/Amusement Arcade | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - | - | - | - | - |
| -Bar or Nightclub | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - | - |
| -Theater | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - | - |
| *Entertainment, Outdoor* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | C | - | P | - | - | - | - | - | C | - | - | - |
| -Batting Cages, Driving Ranges | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - | - |
| -Stables or Equestrian Facilities | C | C | C | - | - | - | - | - | - | - | - | P | - | P | - | - | - | - | - | - | - | - | - |
| -Stadium or Arena | - | - | - | - | - | - | - | - | - | - | - | C | - | C | C | - | C | C | - | - | - | - | - |
| *Marine-Related Commercial* (except as noted below) | - | - | - | - | - | - | - | - | - | C | - | P | P | C | P | - | - | C | - | C | - | - | C |
| -Boat and Marine Equipment Sales | - | - | - | - | - | - | - | - | - | - | - | P | C | C | P | - | - | C | - | - | - | - | - |
| -Marina/Boat Livery | - | - | - | - | - | - | - | - | - | C | - | C | C | C | C | - | - | P | - | C | - | - | C |
| *Office* | | | | | | | | | | | | | | | | | | | | | | | |
| -Administrative, Professional, General, Medical Office | - | - | - | - | - | - | C | C | C | P | P | P | P | P | P | P | C | C | - | - | - | - | - |
| -Day Labor Employment Agency | - | - | - | - | - | - | - | - | - | P | C | P | P | - | - | P | - | - | - | - | - | - | - |
| -Medical and Dental Clinic | - | - | - | - | - | - | - | - | - | P | C | P | P | C | - | P | - | C | - | - | - | - | - |
| -Television and Radio Studios | - | - | - | - | - | - | - | - | - | P | P | P | P | P | P | P | - | C | - | - | - | - | - |
| *Overnight Accommodations* | | | | | | | | | | | | | | | | | | | | | | | |
| -Bed and Breakfast | - | - | - | - | - | - | C | C | C | C | P | P | P | P | - | - | - | - | - | - | - | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| -Dwelling Rental | - | C | C | C | C | C | C | C | C | - | - | - | P | P | - | - | - | - | - | - | - | - | - |
| -Hotel/Motel | - | - | - | - | - | - | - | - | - | - | - | P | P | P | P | C | - | - | - | - | - | - | - |
| -Recreational Vehicle Park | - | - | - | - | - | - | - | - | - | - | - | C | - | C | - | - | - | - | - | - | - | - | - |
| -Resort Hotel | - | - | - | - | - | - | - | - | - | - | - | P | P | P | P | - | - | - | - | - | - | - | - |
| *Parking, Commercial* | - | - | - | - | - | - | - | C | - | C | C | P | C | C | - | C | - | C | - | - | - | - | - |
| *Retail Sales and Service, Sales-Oriented* (except as noted below) | - | - | - | - | - | - | - | - | - | C | P | P | P | P | C | C | - | - | - | - | - | - | - |
| -Art Gallery | - | - | - | - | - | - | - | - | - | C | C | P | P | P | - | C | - | - | - | - | - | - | - |
| -Farmers Market or Farm Stand | P | - | - | - | - | - | - | - | - | C | C | P | P | P | - | C | P | - | - | - | - | - | - |
| *Flea Market* (no accessory uses permitted) | - | - | - | - | - | - | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - |
| -Grocery or Liquor Store | - | - | - | - | - | - | C | - | C | - | P | P | P | C | - | C | - | - | - | - | - | - | - |
| -Neighborhood Commercial Sale | - | - | - | - | C | C | P | P | P | - | P | P | P | C | - | C | - | - | - | - | - | - | - |
| -Office Supplies and Electronics | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - |
| -Pet Stores | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - |
| *Retail Sales and Service, Personal-Service Oriented* (except as noted below) | - | - | - | - | - | - | - | - | - | C | C | P | P | P | - | C | - | - | - | - | - | - | - |
| -Art Studio | - | - | - | - | - | - | - | - | - | P | P | P | P | P | - | C | - | - | - | - | - | - | - |
| -Animal Care Facilities & Service | - | - | - | - | - | - | - | - | - | - | P | P | - | P | - | C | - | - | - | - | - | - | - |
| -Animal Grooming Services | - | - | - | - | - | - | - | - | - | - | P | P | P | P | - | C | - | - | - | - | - | - | - |
| -Check Cashing/Loan Service | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | - | - | - | - | - | - | - | - |
| -Educational Service Establishments | - | - | - | - | - | - | - | - | C | C | P | P | P | C | P | P | P | C | C | - | - | - | - |
| -Laundry and Dry Cleaners Pick-Up | - | - | - | - | - | - | C | C | C | C | P | P | P | P | - | C | - | - | - | - | - | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| -Laundromat | - | - | - | - | - | - | C | C | C | C | P | P | P | C | - | C | - | - | - | - | - | - | - |
| -Mortuaries or Funeral Homes | - | - | - | - | - | - | - | - | - | - | - | P | P | - | - | C | - | - | - | - | - | - | - |
| -Neighborhood Commercial Services | - | - | - | - | C | C | P | P | P | P | P | P | P | P | - | C | - | - | - | - | - | - | - |
| -Pawn Shop | - | - | - | - | - | - | - | - | - | - | - | P | P | C | - | C | - | - | - | - | - | - | - |
| -Personal Improvement Service | - | - | - | - | - | - | C | C | C | P | P | P | P | P | - | C | - | - | - | - | - | - | - |
| -Veterinary (Without Outdoor Runs) | - | - | - | - | - | - | - | - | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - |
| *Retail Sales and Service, Repair-Oriented* | - | - | - | - | - | - | - | P | - | C | - | P | P | P | - | P | - | - | - | - | - | - | - |
| *Self-Service Storage* | - | - | - | - | - | - | - | - | - | - | - | C | - | C | C | - | P | - | P | - | - | - | - |
| *Vehicle Sales and Service* | | | | | | | | | | | | | | | | | | | | | | | |
| -Automobile Rentals | - | - | - | - | - | - | - | - | - | - | - | P | C | C | C | C | P | - | P | - | - | - | - |
| -Automobile Sales | - | - | - | - | - | - | - | - | - | - | - | P | C | C | C | C | P | - | P | - | - | - | - |
| -Boat Rentals | - | - | - | - | - | - | - | - | - | - | - | P | C | P | C | C | P | - | P | - | - | C | P |
| -Boat Sales | - | - | - | - | - | - | - | - | - | - | - | P | C | C | C | C | P | - | P | - | - | - | P |
| -Fueling Station | - | - | - | - | - | - | - | - | - | C | C | P | C | C | - | C | - | P | - | - | - | - | - |
| -Travel Plaza | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | C | - | - | - | - | - | - | - |
| -Truck Stop | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | C | - | - | - | - | - | - | - |
| -Vehicle Repair, General | - | - | - | - | - | - | - | - | - | - | C | P | C | - | - | C | P | - | - | - | - | - | - |
| -Vehicle Repair, Limited | - | - | - | - | - | - | - | - | - | - | C | P | C | - | - | P | P | - | - | - | - | - | - |
| -Marine-Related Repair | | | | | | | | | | | | P | | | P | | P | P | | | | | |
| -Vehicle Storage | - | - | - | - | - | - | - | - | - | - | - | C | - | - | C | - | P | C | P | - | - | - | - |
| *INDUSTRIAL* | | | | | | | | | | | | | | | | | | | | | | | |
| *Artisan* | - | - | - | - | - | - | - | - | - | - | C | P | C | - | - | P | P | - | P | - | - | - | - |
| -Cabinet Shops, Woodworking | - | - | - | - | - | - | - | - | - | - | - | P | C | - | C | P | P | - | P | - | - | - | - |
| *Light Industrial Service* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | P | P | - | P | - | - | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| -Catering Facility, Large-Scale | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | P | P | - | P | - | - | - | - |
| -Crematorium | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - | - | - | - | - |
| -Building Maintenance Facilities And Services | - | - | - | - | - | - | - | - | - | - | - | C | - | - | C | - | - | - | - | - | - | - | - |
| - Contractors/Others Performing Services Off-Site | - | - | - | - | - | - | - | - | - | - | C | P | - | - | - | P | P | - | P | - | - | - | - |
| -Microbrewery | - | - | - | - | - | - | - | - | - | C | C | C | C | C | C | C | - | - | - | - | - | - | - |
| -Research Service | - | - | - | - | - | - | - | - | - | - | - | P | - | - | P | P | P | P | P | - | - | - | - |
| *Marine-Related Industrial* | - | - | - | - | - | - | - | - | - | - | - | C | - | - | P | - | P | P | P | - | - | - | P |
| *Warehouse and Freight* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | P | P | C | P | - | - | - | - |
| -Parcel Service | - | - | - | - | - | - | - | - | - | - | - | P | P | - | - | P | P | C | P | - | - | - | - |
| *Waste-Related Use* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C | C | - | - | - | - |
| -Solid Waste Separation, Transfer Station | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C | C | - | - | - | - |
| -Recycling Center | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C | C | C | - | - | - | - |
| -Wrecking or Salvage Yard | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C | C | - | - | - | - |
| *Wholesale Trade* | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | P | P | P | P | - | - | - | - |
| *Heavy Industrial* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | P | - | - | - | - |
| -Heavy Equipment Sales and Rentals | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | P | P | P | - | - | - | - |
| -Service of Heavy Equipment | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | P | P | P | - | - | - | - |
| -Processing of Food and Related Products | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | - | P | P | P | - | - | - | - |
| *OTHER* | | | | | | | | | | | | | | | | | | | | | | | |
| *Aquaculture Facilities* | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | P | P | C | - | - | C | C |
| *Community Gardens* | P | P | P | P | P | P | P | P | P | C | C | C | C | C | C | C | C | C | C | C | C | - | - |

PROOFS

| | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Dock/Moorage Facility* (except as noted below) | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C |
| -Docks for Single Family Homes | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | P | P |
| -Docks for Single Family Homes on canals within Surfside or Jennings Cove | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | C |
| *Navigational Aids* | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | P | P |
| *Telecommunication Facility* | | | | | | | | | | | | | | | | | | | | | | | |
| -Antenna Support Structure | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| -Antenna (on existing structure) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |

(Code 1960, § 20-29; Code 1983, §§ 9-179, 22-22; Ord. No. I-120, § 2, 7-15-1985; Ord. No. L-295, § 1, 11-4-2013 ; Ord. No. 14-017, § 1, 7-21-2014 ; Ord. No. 15-009, § 1, 4-20-2015 ; Ord. No. 15-054, § 1, 11-16-2015 ; Ord. No. 16-013, § 1, 7-5-2016 ; Ord. No. 16-018 , § 1, 9-19-2016, eff. 11-4-13; Ord. No. 17-032 , § 1, 10-2-2017; Ord. No. 18-004 , § 1, 2-20-2018, eff. 9-19-16; Ord. No. 18-024 , § 1, 7-16-2018; Ord. No. 19-013 , § 1, 4-15-2019; Ord. No. 19-034, § 1, 9-23-2019)

**Sec. 125-188. Single-Family Estate Density Zone (E-1).**

(a) *Purpose.* This classification is intended to provide for areas of single-family dwellings with an average net density of approximately one unit per acre.

(b) *Basic use standards.* Uses in an E-1 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for single-family dwellings shall be 30,000 square feet.

b. The minimum lot width shall be 100 feet.

c. The minimum lot depth shall be 200 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 85 feet.

b. The minimum depth of the side yards shall be 15 feet, except on corner lots the minimum side yard depth on a street side will be 20 feet.

c. The minimum depth of the rear yard shall be 40 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 40 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be 14 feet, except on double-frontage and waterfront lots it shall be 40 feet.

(3) *Lot coverage.* Buildings will not cover more than 25 percent of the lot.

(4) *Building heights.* No building shall exceed a height of 35 feet above grade.

(c) *Other applicable use standards*.

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this

PROOFS

chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least seven feet from the rear lot line.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house, provided that the lot on which such guest house is located is 30,000 square feet or more in size.

(3) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet.

(4) Materials or objects which would detract from open space character of an uncovered and unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(d) *Nonconforming situations.* Nonconforming structures and characteristics of farmstand sales establishments that have been damaged or destroyed by natural disaster or other catastrophic event, i.e., fire or other calamity, may be replaced or reconstructed provided that:

(1) The significance of the property owner's hardship is more compelling than, and reasonably overbalances, the public benefit resulting from not allowing the use or structure to be re-established;

(2) Replacement or reconstruction of the use or structure is compatible with the character of the neighborhood and will not jeopardize future development of the area in compliance with the provisions and intent of the city's land development regulations;

(3) The value of properties in the vicinity of the replacement or reconstruction will not be adversely affected;

(4) No expansion of gross floor area occurs;

(5) The degree of nonconformity is not increased;

(6) The replacement structure is in compliance with the city's adopted building code, coastal construction control line, and FEMA regulations; and

(7) A building permit is issued within 24 months after the date of destruction and the construction is diligently pursued to completion.

(Code 1983, § 22-23; Ord. No. H-186, § 30-23, 6-15-1981; Ord. No. I-222, § 1, 6-1-1987; Ord. No. K-24, § 1, 8-21-2000; Ord. No. L-12, §§ 2, 3, 5-5-2008; Ord. No. L-295, § 2, 11-4-2013 )

**Sec. 125-189. E-2 Residential single-family—two units per acre.**

(a) *Purpose.* This classification is primarily intended to provide for areas of single-family dwellings with an average net density of less than two units per acre for conventional developments. Regulations for the district are designed to promote sound neighborhoods and accommodate compatible nonresidential uses. Water and sewer service should be available.

(b) *Basic use standards.* Uses in an E-2 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for single-family dwellings shall be 15,000 square feet.

b. The minimum lot width shall be 100 feet.

c. The minimum lot depth shall be 110 feet.

(2) *Yards*.

PROOFS

a. The minimum depth of the front yard will be 25 feet.

b. The minimum depth of the side yards shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 20 feet.

c. The minimum depth of the rear yard shall be 20 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 20 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be seven feet, except on double-frontage and waterfront lots it shall be 20 feet.

(3) *Lot coverage.* Buildings will not cover more than 25 percent of the lot.

(4) *Building heights.* No building shall exceed a height of 35 feet above grade.

(c) *Other applicable use standards*.

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least seven feet from the rear lot line.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house, provided that the lot on which such guest house is located is 30,000 square feet or more in size.

(3) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-23.1; Ord. No. K-517, § 1, 11-19-2007; Ord. No. L-295, § 3, 11-4-2013 )

**Sec. 125-190. E-3 Residential single-family—three units per acre.**

(a) *Purpose.* This classification is primarily intended to provide for areas of single-family dwellings with an average net density of less than three units per acre for conventional developments. Regulations for the district are designed to promote sound neighborhoods and accommodate compatible nonresidential uses. Water and sewer service should be available.

(b) *Basic use standards.* Uses in an E-3 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for single-family dwellings shall be 12,000 square feet.

b. The minimum lot width shall be 75 feet.

c. The minimum lot depth shall be 110 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum depth of the side yards shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 20 feet.

c. The minimum depth of the rear yard shall be 20 feet for a distance equal to 30 percent of the length

PROOFS

of a line which is parallel to the rear lot line, is 20 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be seven feet, except on double-frontage and waterfront lots it shall be 20 feet.

(3) *Lot coverage.* Buildings will not cover more than 25 percent of the lot.

(4) *Building heights.* No building shall exceed a height of 28 feet above grade, except that conditional uses with buildings that have a maximum height of 35 feet above grade may be approved.

(c) *Other applicable use standards*.

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least seven feet from the rear lot line.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house, provided that the lot on which such guest house is located is 30,000 square feet or more in size.

(3) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-23.2; Ord. No. K-517, § 1, 11-19-2007; Ord. No. L-295, § 4, 11-4-2013 )

**Sec. 125-191. Single-family low density zone (R-1).**

(a) *Purpose.* This classification is primarily intended to provide for areas of single-family dwellings with an average net density of less than four units per acre for conventional developments. Regulations for the district are designed to promote sound neighborhoods and accommodate compatible nonresidential uses. Water and sewer service should be available.

(b) *Basic use standards.* Uses in an R-1 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for single-family dwellings shall be 12,000 square feet.

b. The minimum lot width shall be 75 feet.

c. The minimum lot depth shall be 110 feet.

(2) *Yards.*

a. The minimum depth of the front yard will be 25 feet.

b. The minimum depth of the side yards shall be seven feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

c. The minimum depth of the rear yard shall be 20 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 20 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be seven feet, except on double-frontage and waterfront lots it shall be 20 feet.

(3) *Lot coverage.* Buildings will not cover more than 25 percent of the lot.

PROOFS

(4) *Building heights.* No building shall exceed a height of 28 feet above grade, except that conditional uses with buildings that have a maximum height of 35 feet above grade may be approved.

(c) *Other applicable use standards*.

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least seven feet from the rear lot line.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house, provided that the lot on which such guest house is located is 30,000 square feet or more in size.

(3) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-24; Ord. No. H-186, § 30-24, 6-15-1981; Ord. No. I-222, § 2, 6-1-1987; Ord. No. J-29, §§ 1, 2, 12-7-1992; Ord. No. K-24, § 2, 8-21-2000; Ord. No. K-114, § 1, 10-15-2001; Ord. No. L-295, § 5, 11-4-2013 )

**Sec. 125-192. Single-family intermediate density zone (R-2).**

(a) *Purpose.* This district is designed mainly for areas of single-family dwellings with an average net density of less than five units per acre for conventional developments. In addition to housing, various public facilities and other nonresidential uses are permitted under the conditions and safeguards referred to in this section. Areas in this classification should have public water and sewer service.

(b) *Basic use standards.* Uses in an R-2 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for single-family dwellings shall be 9,000 square feet.

b. The minimum lot width shall be 70 feet.

c. The minimum lot depth shall be 110 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum depth of the side yards shall be seven feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

c. The minimum depth of the rear yard shall be 15 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 15 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be seven feet, except on double-frontage and waterfront lots it shall be 15 feet.

(3) *Lot coverage.* Buildings will not cover more than 30 percent of the lot area.

(4) *Building heights.* No building shall exceed a height of 28 feet above grade, except that conditional uses with buildings that have a maximum height of 35 feet above grade may be approved.

(c) *Other applicable use standards*.

PROOFS

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least seven feet from the rear lot line.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house, provided that the lot on which such guest house is located is 30,000 square feet or more in size.

(3) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in section 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-25; Ord. No H-186, § 30-25, 6-15-1981; Ord. No. I-222, § 3, 6-1-1987; Ord. No. J-29, §§ 3, 4, 12-7-1992; Ord. No. K-24, § 3, 8-21-2000; Ord. No. K-114, § 1, 10-15-2001; Ord. No. L-295, § 6, 11-4-2013 )

**Sec. 125-193. Single-family moderate density zone (R-3).**

(a) *Purpose.* The major purpose of this zoning district is to provide for areas of single-family dwellings with an average net density in conventional developments of approximately six units per acre or less. Innovative residential developments, however, may have higher densities. Duplexes and certain nonresidential uses are allowed when appropriate conditions and safeguards indicated in this section are fulfilled. This classification can be effectively applied to areas serving as a transition between lower density single-family zones and residential districts with medium or high densities. Public water and sewer service should be available.

(b) *Basic use standards.* Uses in an R-3 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for a single-family dwelling shall be 7,200 square feet.

b. The minimum lot area for a duplex will be 12,000 square feet.

c. The minimum lot width shall be 75 feet for a duplex.

d. The minimum lot width for other uses will be 65 feet.

e. The minimum lot depth for a duplex will be 120 feet.

f. The minimum lot depth for other uses shall be 100 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum depth of the side yards shall be seven feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

c. The minimum depth of the rear yard shall be 15 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 15 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be six feet, except on double-frontage and waterfront lots it shall be 15 feet.

(3) *Lot coverage.* Buildings will not cover more than 35 percent of the lot.

(4) *Building heights.* No building shall exceed a height of 28 feet above grade, except that conditional uses

PROOFS

with buildings that have a maximum height of 35 feet above grade may be approved.

(c) *Other applicable use standards*.

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least six feet from the rear lot line.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house, provided that the lot on which such guest house is located is 30,000 square feet or more in size.

(3) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-26; Ord. No. H-186, § 30-26, 6-15-1981; Ord. No. I-222, § 4, 6-1-1987; Ord. No. J-29, §§ 5—8, 12-7-1992; Ord. No. K-24, § 4, 8-21-2000; Ord. No. K-148, § 1, 4-15-2002; Ord. No. L-82, § 2, 4-20-2009; Ord. No. L-295, § 7, 11-4-2013 )

**Sec. 125-194. Medium density residential zone (R-4).**

(a) *Purpose.* The medium density residential district is designed to accommodate a variety of housing types, including conventional single-family dwellings, duplexes and, where desirable, townhome dwellings, mobile homes or multifamily housing with three or more dwelling units. Maximum gross densities should generally not exceed ten units per acre for conventional developments and 12 units per acre for innovative residential developments. This intensity of residential use is envisioned for locations which have public water and sewer service and which have adequate access to arterial or collector streets. Certain nonresidential uses are permitted under the parameters and safeguards set forth in this section.

(b) *Basic use standards.* Uses in an R-4 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for a single-family dwelling shall be 5,000 square feet.

b. The minimum lot area for a duplex, triplex or a quadraplex shall be 4,000 square feet per unit.

c. The minimum lot area for a townhome dwelling shall be 1,500 square feet.

d. Multifamily housing developments will utilize a lot with a gross density that shall not exceed ten units per acre.

e. The minimum lot width for duplexes, triplexes, quadraplexes, and multifamily housing development shall be 75 feet.

f. The minimum lot width for townhome developments shall be 200 feet. Townhome developments shall be subdivided into a minimum lot width of 16 feet and maximum lot width of 24 feet.

g. The minimum lot width for other uses will be 60 feet.

h. The minimum lot depth for duplexes, triplexes, quadraplexes, townhomes and multifamily housing development shall be 90 feet.

PROOFS

i. The minimum lot depth for other uses will be 70 feet.

(2) *Yards.*

a. The minimum depth of the front yard for townhome developments will be ten feet. The minimum depth of the front yard for other uses shall be 25 feet.

b. The minimum depth of the side yards for triplexes, quadraplexes and multifamily developments shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

c. The minimum depth of the side yards on the periphery of the townhome developments shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 15 feet. The minimum depth of the side yard between individual townhome units or lots shall be zero feet.

d. The minimum depth of the side yards for other uses shall be six feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

e. The minimum depth of the rear yard shall be 20 feet for triplexes, quadraplexes and multifamily developments.

f. The minimum depth of the rear yard for townhome lots that abut an alley shall be zero feet. The minimum depth of the rear yard for townhome lots with all other conditions shall be 15 feet.

g. The minimum depth of the rear yard for other uses shall be 15 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 15 feet from the rear lot line and extends to the closest property lines. The minimum depth of the remainder of the rear yard will be five feet, except on double-frontage and waterfront lots it shall be 15 feet.

h. The minimum distance between residential buildings shall be 20 feet except that screen porches located on the ground floor may project into the minimum distance, and except that screen porches in owner occupied condominium projects that maintain a minimum building separation of 28 feet or more may be enclosed with glass. The maximum combined projection between two or more buildings shall be eight feet.

(3) *Lot coverage.*

a. Buildings in multifamily housing developments shall not cover more than 50 percent of the lot area.

b. Buildings for principal residence in townhome developments and townhome dwelling lots shall not cover more than 50 percent of the lot area. Accessory buildings may cover an additional 15 percent of the building site.

c. Buildings in other developments shall not cover more than 40 percent of the lot area.

(4) *Building heights.* No building shall exceed 45 feet above grade.

(5) *Additional requirements dwelling, townhome.*

a. *Ownership.* 100 percent of the total lot area shall be the minimum area conveyed to the lot owner, including the front yard, back yard and side yard. A homeowners maintenance shall be formed among the unit owners to ensure compliance with exterior area maintenance regulations as may be adopted by the association.

b. *Common area.* Any portion of the original lot not divided among and incorporated into the resulting individual townhome dwelling unit lots shall be held by either of the following or a combination of the following: each lot owner shall have an undivided interest in the common area, which shall be appurtenant to that lot. The individual interest in the common areas shall not be conveyed separately from the ownership of the said lot; or a property owners association (POA).

c. *Parking.* Two parking spaces per dwelling units shall be provided for townhome developments and shall be side-by-side parking and not in-line tandem parking. No off-street parking spaces shall be located between the front of the principal residence and the front property line.

d. *Access.* When townhome lots abut an alley, the site plan shall include provisions to utilize the alley as a service corridor for the townhome units. When townhome lots do not abut an alley, the site

PROOFS

plan shall include a 20-foot-wide, unobstructed service corridor along the rear of the properties which shall be dedicated to service use. Garages, surface parking and garbage pickup shall be accessed and accommodated by the service corridor.

e. *Yards.* Front yards of townhome units shall include a porch, stoop or covered entry. Rear yards shall be enclosed by a building wall or garden wall.

(c) *Other applicable use standards*.

(1) All multifamily housing developments shall be subject to site plan review procedures specified in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least five feet from the rear lot line.

(3) On any lot used for residential purposes, other than a multifamily housing development, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house.

(4) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet, or the minimum frontage for a single townhome lot shall be 16 feet.

(5) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(6) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(7) Conditional uses will meet the requirements in section 125-235 through 125-247.

(8) Signs will comply with standards referred to in section 125-310.

(9) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-27; Ord. No. H-186, § 30-27, 6-15-1981; Ord. No. I-114, § 2, 7-1-1985; Ord. No. I-202, § 2, 1-20-1987; Ord. No. I-222, § 5, 6-1-1987; Ord. No. I-461, § 2, 6-3-1991; Ord. No. J-29, § 9—11, 12-7-1992; Ord. No. K-24, § 5, 8-21-2000; Ord. No. K-148, § 2, 4-15-2002; Ord. No. K-464, § 2, 11-18-2006; Ord. No. L-82, § 3, 4-20-2009; Ord. No. L-284, §§ 1, 2, 11-19-2012 ; Ord. No. L-295, § 8, 11-4-2013 ; Ord. No. 19-016 , § 1, 5-20-2019)

**Sec. 125-195. Hutchinson Island Medium Density Residential Zone (R-4A).**

(a) *Purpose.* It is the purpose of this section to establish height and density regulations for lands located within the city which are situated east of the Indian River. The R-4A zone is compatible with the Medium Density Residential Hutchinson Island designation in the comprehensive plan. Permitted gross residential densities in this district may not generally exceed eight units per acre. Bonus density of up to one additional unit per acre is available as provided for in this section. This district is established because Hutchinson Island is a sensitive barrier island which presents development considerations which are either unique to the area or are of added concern, such as environmental fragility, beach erosion, and hurricane evacuation.

(b) *Basic use standards.* Uses in an R-4A zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for a single-family dwelling shall be 5,000 square feet.

b. The minimum lot area for a townhome dwelling lot shall be 1,500 square feet.

c. The minimum lot area for a duplex, triplex or a quadraplex shall be 5,000 square feet per unit.

d. Multifamily housing developments will utilize a lot with a gross density that shall not exceed eight units per acre.

e. The minimum lot width for duplexes, triplexes, quadraplexes and multifamily housing

PROOFS

developments shall be 75 feet.

f. The minimum lot width for townhome developments shall be 200 feet. Townhome developments shall be subdivided into a minimum lot width of 16 feet and maximum lot width of 24 feet.

g. The minimum lot width for other uses shall be 60 feet.

h. The minimum lot depth for duplexes, triplexes and multifamily housing developments shall be 90 feet.

i. The minimum lot depth for townhome development shall be 90 feet.

j. The minimum lot depth for other uses shall be 70 feet.

(2) *Yards*.

a. The minimum depth of the front yard for townhome developments will be ten feet. The minimum depth of the front yard for other uses shall be 25 feet.

b. The minimum depth of the side yards for triplexes, quadraplexes and multifamily developments shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

c. The minimum depth of the side yards on the periphery of the townhome developments shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 15 feet. The minimum depth of the side yard between individual townhome units or lots shall be zero feet.

d. The minimum depth of the side yards for other uses shall be six feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

e. The minimum depth of the rear yard shall be 20 feet for triplexes, quadraplexes and multifamily developments.

f. The minimum depth of the rear yard for townhome lots that abut an alley shall be zero feet. The minimum depth of the rear yard for townhome lots with all other conditions shall be 15 feet.

g. All other uses. The minimum depth of the rear yard shall be 15 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 15 feet from the rear lot line and extends to the closest property lines. The minimum depth of the rear yard for the remainder of the lot will be five feet, except on double-frontage and waterfront lots it shall be 15 feet.

h. The minimum distance between residential buildings shall be 20 feet except that screen porches located on the ground floor may project into the minimum distance, and except that screen porches in owner-occupied condominium projects that maintain a minimum building separation of 28 feet or more may be enclosed with glass. The maximum combined projection between two or more buildings shall be eight feet.

(3) *Lot coverage*.

a. Buildings in multifamily housing developments shall not cover more than 45 percent of the lot area.

b. Buildings for principal residence in townhome developments and townhome dwelling lots shall not cover more than 50 percent of the lot area. Accessory buildings may cover an additional 15 percent of the building site.

c. Buildings in other developments shall not cover more than 40 percent of the lot area.

(4) *Buildings heights.* No building shall exceed 45 feet above grade.

(5) *Density.* Unless otherwise provided, densities on land within the city situated east of the Indian River may not exceed eight units a gross acre, other provisions of this chapter notwithstanding. However, upon application in the manner provided for by section 125-313, the commission may allow one additional density bonus for landscaping, for a maximum allowable addition of one density bonus unit per acre upon consideration by the commission of their compatibility with the natural features of the area and surrounding development and the availability of supporting infrastructure. The application shall demonstrate compliance with each of the following criteria depending upon the categories for which

PROOFS

density bonuses are sought: Landscaping.

a. Landscape area requirements as specified in section 125-314 shall be increased by 20 percent;

b. Landscape tree planting requirements as specified in section 125-314 shall be increased by 20 percent;

c. Minimum height levels of required trees at time of planting, as specified in subsection 125-314(b)(3)b.1. shall be increased by 50 percent;

d. Landscape irrigation/sprinkler systems shall be installed;

e. All plant species must be salt tolerant and meet with the approval of the director of development. An approved species list may be obtained from the director of development.

(6) *Additional requirements dwelling, townhome.*

a. *Ownership.* 100 percent of the total lot area shall be the minimum area conveyed to the lot owner, including the front yard, back yard and side yard. A homeowners maintenance shall be formed among the unit owners to ensure compliance with exterior area maintenance regulations as may be adopted by the association.

b. *Common area.* Any portion of the original lot not divided among and incorporated into the resulting individual townhome dwelling unit lots shall be held by either of the following or a combination of the following. Each lot owner shall have an undivided interest in the common area, which shall be appurtenant to that lot. The individual interest in the common areas shall not be conveyed separately from the ownership of the said lot; or, a property owners association (POA).

c. *Parking.* Two parking spaces per dwelling units shall be provided for townhome developments and shall be side-by-side parking and not in-line tandem parking. No off-street parking spaces shall be located between the front of the principal residence and the front property line.

d. *Access.* When townhome lots abut an alley, the site plan shall include provisions to utilize the alley as a service corridor for the townhome units. When townhome lots do not abut an alley, the site plan shall include a 20-foot-wide, unobstructed service corridor along the rear of the properties which shall be dedicated to service use. Garages, surface parking and garbage pickup shall be accessed and accommodated by the service corridor.

e. *Yards.* Front yards of townhome units shall include a porch, stoop or covered entry. Rear yards shall be enclosed by a building wall or garden wall.

(c) *Other applicable use standards.*

(1) All multifamily housing developments shall be subject to site plan review procedures specified in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least five feet from the rear lot line.

(3) On any lot used for residential purposes, other than a multifamily housing development, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be allowed as a guest house.

(4) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet, or the minimum frontage for a townhome development shall be 16 feet.

(5) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(6) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(7) Conditional uses will meet the requirements in sections 125-235 through 125-247.

PROOFS

(8) Signs will comply with standards referred to in section 125-310.

(9) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-27; Ord. No. I-461, § 1, 6-3-1991; Ord. No. I-469, §§ 1—4, 7-15-1991; Ord. No. J-29, §§ 12-14, 12-7-1992; Ord. No. K-24, § 6, 8-21-2000; Ord. No. K-148, § 3, 4-15-2002; Ord. No. K-464, § 3, 11-18-2006; Ord. No. L-73, § 1, 1-5-2009; Ord. No. L-295, § 9, 11-4-2013 ; Ord. No. 19-016 , § 2, 5-20-2019)

**Sec. 125-196. High density residential zone (R-5).**

(a) *Purpose.* This residential category is intended to encourage the development of multifamily dwellings. Maximum gross densities should generally not exceed 15 units per acre for conventional developments and 18 units per acre for innovative residential developments. This zone provides for high density residential uses in locations which have suitable utilities and have good access to arterial or collector streets. Single-family homes, townhomes, duplexes, other residential uses, and various nonresidential uses are allowed when parameters and safeguards in this section are satisfied.

(b) *Basic use standards.* Uses in an R-5 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for a single-family dwelling shall be 5,000 square feet.

b. The minimum lot area for a townhome dwelling shall be 1,500 square feet.

c. The minimum lot area for a duplex shall be 7,000 square feet.

d. The minimum lot area for a triplex and quadraplex shall be 2,500 square feet per unit.

e. Multifamily housing developments will utilize a lot with a gross density that shall not exceed 15 units per acre.

f. The minimum lot width for duplexes, triplexes, quadraplexes and multifamily housing developments shall be 60 feet.

g. The minimum lot width for townhome developments shall be 200 feet. Townhome developments shall be subdivided into a minimum lot width of 16 feet and maximum lot width of 24 feet.

h. The minimum lot width for other uses will be 60 feet.

i. The minimum lot depth for duplexes, triplexes, quadraplexes and multifamily housing developments shall be 80 feet.

j. The minimum lot depth for other uses will be 70 feet.

k. The minimum lot depth for townhome development shall be 90 feet.

(2) *Yards.* The following yard requirements shall apply except when a lot has a building over 45 feet tall. In such cases, side and rear requirements and the minimum distance between residential buildings located on the same property will be increased by one foot for every foot the tallest building on the lot exceeds 45 feet in height.

a. The minimum depth of the front yard for townhome developments will be ten feet. The minimum depth of the front yard for other uses shall be 25 feet.

b. The minimum depth of the side yards for triplexes, quadraplexes and multifamily housing developments shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

c. The minimum depth of the side yards on the periphery of the townhome developments shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 15 feet. The minimum depth of the side yard between individual townhome units or lots shall be zero feet.

d. The minimum depth of the side yards for other uses shall be six feet, except on corner lots the minimum side yard depth on a street side will be 15 feet.

PROOFS

e. The minimum depth of the rear yard shall be 20 feet for triplexes, quadraplexes and multifamily housing developments.

f. The minimum depth of the rear yard for townhome lots that abut an alley shall be zero feet. The minimum depth of the rear yard for townhome lots with all other conditions shall be 15 feet.

g. The minimum depth of the rear yard for other uses shall be 15 feet for a distance equal to 30 percent of the length of a line which is parallel to the rear lot line, is 15 feet from the rear lot line and extends to the closest property lines. The minimum depth of the remainder of the rear yard will be five feet, except on double-frontage and waterfront lots it shall be 15 feet.

h. The minimum distance between residential buildings shall be 20 feet except that screen porches located on the ground floor may project into the minimum distance. The maximum combined projection between two or more buildings shall be eight feet.

(3) *Lot coverage.*

a. Buildings in multifamily housing developments shall not cover more than 50 percent of the lot area.

b. Buildings for principal residence in townhome developments and townhome dwelling lots shall not cover more than 50 percent of the lot area. Accessory buildings may cover an additional 15 percent of the building site.

c. Buildings in other developments shall not cover more than 45 percent of the lot area.

(4) *Building heights*. No building shall exceed 200 feet above grade.

(5) *Additional requirements dwelling, townhome.*

a. *Ownership.* 100 percent of the total lot area shall be the minimum area conveyed to the lot owner, including the front yard, back yard and side yard. A homeowners maintenance shall be formed among the unit owners to ensure compliance with exterior area maintenance regulations as may be adopted by the association.

b. *Common area.* Any portion of the original lot not divided among and incorporated into the resulting individual townhome dwelling unit lots shall be held by either of the following or a combination of the following: each lot owner shall have an undivided interest in the common area, which shall be appurtenant to that lot. The individual interest in the common areas shall not be conveyed separately from the ownership of the said lot; or, a property owners association (POA).

c. *Parking.* Two parking spaces per dwelling units shall be provided for townhome developments and shall be side-by-side parking and not in-line tandem parking. No off-street parking spaces shall be located between the front of the principal residence and the front property line.

d. *Access.* When townhome lots abut an alley, the site plan shall include provisions to utilize the alley as a service corridor for the townhome units. When townhome lots do not abut an alley, the site plan shall include a 20-foot-wide, unobstructed service corridor along the rear of the properties which shall be dedicated to service use. Garages, surface parking and garbage pickup shall be accessed and accommodated by the service corridor.

e. *Yards.* Front yards of townhome units shall include a porch, stoop or covered entry. Rear yards shall be enclosed by a building wall or garden wall.

(c) *Other applicable use standards*.

(1) All multifamily housing developments shall be subject to site plan review procedures specified in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter, except that buildings not on double-frontage lots may be in the rear yard if they are at least five feet from the rear lot line.

(3) On any lot used for residential purposes, other than a multifamily housing development, no more than one residential building will be allowed on the lot, except one building without kitchen facilities may be

PROOFS

allowed as a guest house.

(4) Every lot shall abut a street other than an alley for at least 25 feet, except the minimum frontage for a lot on a cul-de-sac shall be 15 feet, or the minimum frontage for a townhome development shall be 16 feet.

(5) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(6) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(7) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(8) Signs will comply with standards referred to in section 125-310.

(9) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-28; Ord. No. H-186, § 30-28, 6-15-1981; Ord. No. I-114, §§ 3, 4, 7-1-1985; Ord. No. I-222, § 6, 6-1-1987; Ord. No. I-461, §§ 3, 4, 6-3-1991; Ord. No. J-29, §§ 15—18, 12-7-1992; Ord. No. K-24, § 7, 8-21-2000; Ord. No. K-148, § 4, 4-15-2002; Ord. No. K-464, § 4, 11-18-2006; Ord. No. K-495, § 1, 6-18-2007; Ord. No. L-82, § 4, 4-20-2009; Ord. No. L-295, § 10, 11-4-2013 ; Ord. No. 19-016 , § 3, 5-20-2019)

**Sec. 125-197. Edgartown Settlement (ES) Zoning District.**

(a) *Purpose.* The Edgartown Settlement zoning district is intended to provide for a mix of uses integrating small scale, compatible commercial uses, public uses and accessory dwelling units into an existing urban residential neighborhood with access to multi-modal transit options and adjacency to a mixed use downtown area.

(b) *Density calculations.* Density is calculated based on the ES boundaries, as defined on Map 1-1, per future land use density caps of the subject properties. A total of 137 dwelling units are permitted within the map area, regardless of lot configuration and size. Maximum density is not calculated based on each lot as it is subdivided.

(c) *Delineation of district.* Edgartown Settlement District includes all parcels in the shaded area as indicated in Figure 1-1.

[GRAPHIC]

Edgartown Settlement Zoning District

(d) *Intensity and dimensional standards.*

(1) *Lot types*.

a. Standard lot: 45 feet to 50 feet wide lots reflective of the existing historic development pattern of the neighborhood. Standard lots are permitted fronting on any vehicular right-of-way and require rear alley access for new subdivision. Standard lots permit up to a 2 1/2 story primary structure as well as a detached garage with an accessory dwelling unit located above the garage. Up to three separate primary uses are permitted: two uses in the primary structure, and one in the accessory dwelling unit. Accessory uses are permitted in addition to the primary permitted uses.

b. Cottage lot: 35 feet to 40 feet wide lots which permit a small scale, tightly knit pedestrian court type of housing. Cottage lots are permitted fronting a pedestrian-only right-of-way in groups of at least three contiguous lots. Rear access alley access is required for new subdivision. Cottage lots permit a 1 1/2 story primary structure as well as a detached garage with an accessory dwelling unit located above the garage. Up to two separate primary uses are permitted: One use in the primary structure and one use in the accessory dwelling unit. Accessory uses are permitted in addition to the primary permitted uses.

c. Rowhouse lot: 20 feet wide lot in a group of at least three but no more than ten contiguous lots (rowhouse group), with separate dwelling units attached horizontally in a linear arrangement to one or more rowhouse units. Rowhouse groups are permitted along any vehicular right-of-way and require rear alley access for new subdivision. Each lot permits a two-story connected rowhouse and a detached garage. Accessory dwelling units are not permitted. One use is permitted on a rowhouse

PROOFS

lot in the primary structure. Accessory uses are permitted in addition to the primary use.

[GRAPHIC]

Edgartown Settlement (ES) Zoning District Lot Types

(2) *Dimensional standards.*

| | Standard | Cottage | Rowhouse |
|---|---|---|---|
| Lot area, minimum | 4,275 s.f. | 3,325 s.f. | 1,900 s.f. |
| Lot width, minimum | 45′ | 35′ | 20′ |
| Lot depth, minimum | 95′ | 95′ | 95′ |
| Lot coverage, maximum | 60 percent | 50 percent | 70 percent |
| Build-to, front, including porch | 6′ | 6′ | 6′ |
| Build-to, side corner | 8′ | 6′ | 6′ |
| Build-to, side corner including porch | 6′ | 6′ | 6′ |
| Setback, side, minimum | 5′ | 4′ | 0′ |
| Setback, rear, primary structure, minimum | 40′ | 40′ | 40′ |
| Build-to, rear, detached garage | 2′ | 2′ | 2′ |
| Building height, maximum | 2.5 stories | 1.5 stories | 2 stories |
| Accessory dwelling permitted | Yes | Yes | No |
| Uses allowed per lot (total) | 3 | 2 | 1 |
| Dwelling units per lot | 2 | 2 | 1 |
| Lot area per dwelling | 2137 | 1662 | 1900 |
| Fence/wall height, front yard | 4′ | 4′ | N/A |
| Fence/wall setback, front yard | 2′ | 2′ | N/A |
| Fence/wall height, rear yard | 6′ | 6′ | 6′ |

PROOFS

a. *Additional dimensional standards and definitions.*

1. *Alleys.* Functional public-access alleys which connect a property to a public right-of-way are required prior to any subdivision of land, and when constructing a rear-access garage/accessory dwelling unit. If an alley does not yet exist, the applicant shall work with the planning department to secure required land, plat and construct said alley portion to city standards.

2. *Building height.* Measured from base flood elevation (BFE) to top of eave. First story may measure up to 12 feet in height; subsequent stories may measure up to nine feet in height. Roofs and incorporated architectural features such as cupolas and widows walks are not included in building height unless habitable space is incorporated within, such as a half-story. Half stories shall be incorporated into a sloped roof line with dormers and gables, and may exceed nine feet at the peak of roof. All new construction shall follow historic construction patterns of building the first floor elevation at least 1 1/2 feet to two feet above grade on a stem wall or pillars even if BFE is lower. In such case, building height shall be measured from first floor elevation.

3. *Contextual build-to/setback.* When subject lot is adjacent to lots with existing structures, the

director of planning may permit a contextual setback/build-to based on an average of the requirement and the adjacent properties.

4. *Porches.* All new construction shall incorporate an open, covered, eight feet deep front porch. On corner lots, open, covered side porches are encouraged but not required.

5. *Parking.* No off-street parking is required for any use. Any proposed off-street parking shall be located to the rear of the property behind the primary structure, and served by an alley.

6. *Uses allowed per lot, total.* Indicates the total number of primary uses (does not include accessory uses) allowed on a specific lot type. For instance, a standard lot could have one commercial use, and two residential dwelling units, or two commercial uses and one residential dwelling unit. The combination of uses is limited only by dwelling units per lot, imposed by density constraints. Accessory uses, regulated by separate standards, are allowed in addition to primary uses.

7. *Variances.* The historic preservation board shall have the power to waive, with or without conditions, subdivision and general dimensional standards in the Edgartown Settlement zoning district of those properties designated by the city commission as historic sites, either individual sites or buildings within districts under the following standards for review. The proposed variance shall further the continued preservation of the historic site or historic district more appropriately than adherence to the subject regulation. The board shall only grant such variances when an application for a certificate of appropriateness has been issued to promote preservation, rehabilitation or restoration. In carrying out this responsibility, the historic preservation board must follow the same procedures specified for the board of adjustment in division 3 of article II of this chapter.

(e) *Uses allowed*.

(1) *Permitted uses.* Uses identified with a "P" in chart 1-1, use table are permitted as-of-right, subject to any listed use standards and all other applicable standards of this Code.

(2) *Conditional uses.* Uses identified with a "C" in chart 1-1, use table may be allowed if reviewed and approved in accordance with conditional use criteria and procedures of the land development regulations. Conditional uses are subject to compliance with any listed use standards and all other applicable standards of this Code.

(3) *Accessory uses.* Uses identified with an "A" in chart 1-1, use table are subordinate to a primary use of the property, shall not be located within any front facade bay, are subject to any listed use standards, and to all other applicable standards of this Code. All accessory uses shall be located either within the rear section of the primary structure, within the rear yard (subject to approval by the director of planning) or within an accessory structure at the rear of the property, accessible by an alley. Few customers, especially the general public, come to the site to access the use. All accessory uses in total may occupy no more than 20 percent of the parcel's total lot area.

| Chart 1-1 Uses Allowed | |
|---|---|
| Residential | Permitted/Conditional/Accessory |
| Detached dwelling | P |
| 2—4 Units | P |
| Rowhouse | P |
| Vertical mixed use | P |
| Accessory dwelling unit/detached garage | A |
| Public and Civic | Permitted/Conditional/Accessory |
| Cultural/Community | P |

PROOFS

| | |
|---|---|
| Community garden | P |
| Childcare | P |
| Park and open space | P |
| Commercial | Permitted/Conditional/Accessory |
| Adaptive re-use of historic structure | C |
| Artisan manufacturing | A |
| Catering | A |
| Eating and drinking establishments | Permitted/Conditional/Accessory |
| Brewpub | P |
| Neighborhood bistro | P |
| Wine/Cigar bar | P |
| Office | P |
| Overnight Accommodations | Permitted/Conditional/Accessory |
| Bed and breakfast | P |
| Boutique hotel | P |
| Vacation rental | P |
| Pedicabs | P |
| Retail sales | P |
| Retail service | P |
| Retail repair (light) | P |
| Urban food production | A |

PROOFS

(4) *Use definitions, classifications and standards.*

a. *Residential uses.*

1. *Detached dwelling.* A principal residential building containing one dwelling unit.

2. *Two-unit residential.* A structure used for two separate dwelling units, having the exterior appearance of a detached dwelling, each unit having private egress or a common stairwell egress.

3. *Rowhouse.* A single dwelling unit in a rowhouse group.

(i) Use standards.

A. *Rowhouse group.* A rowhouse group must be comprised of at least three and no more than ten contiguous rowhouses located on conforming rowhouse lots.

B. *Site design.* Each unit's entrance is located on its fully exposed front facade, within a covered porch, and has a fully exposed rear facade opening to a private, fenced or walled rear yard and detached garage with access to a functioning alley.

4. *Vertical mixed use.* A structure which contains a commercial or public use on the ground floor, with residential uses located above and/or to the rear of the commercial or public use on the ground floor.

5. *Accessory dwelling unit (ADU).* A second dwelling subordinate in size to the principal dwelling unit on the lot, located in an accessory structure with access to a rear-access alley.

Such structure shall be designed to respect the historic, small scale residential detached building typology in the Edgartown Settlement Preservation Area, as well as the architectural design of the primary structure on the site. Accessory dwelling units may or may not include a detached garage. A detached garage may be constructed without an incorporated accessory dwelling unit. Accessory dwelling units are encouraged in the ES zoning district to:

(i) Create new housing units while respecting the scale of the neighborhood;

(ii) Increase the housing stock in a manner that is less intense than alternatives;

(iii) Allow more efficient use of existing housing stock and infrastructure;

(iv) Provide a mix of housing that responds to changing family needs and smaller households;

(v) Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and

(vi) Provide a broader range of accessible and more affordable housing.

6. *Use standards*.

(i) Build-to line, rear: two feet.

(ii) Build-to, side corner: eight feet; or with porch: six feet.

(iii) Setback, side: five feet.

(iv) Building height. No greater than height of principal structure unless granted variance. Maximum height of proposed structure may not exceed the maximum height allowed on subject lot. The historic preservation board will act as the decision-making body for this variance.

(v) Massing. No greater than mass of principal structure unless granted variance. The historic preservation board will act as the decision-making body for this variance.

(vi) Parking. No additional parking is required for the ADU.

(vii) Architectural compatibility. Architectural style and building materials shall be compatible with the primary structure's architectural style. Architectural compatibility is not synonymous with an exact mimicking of the primary structure's design and materials.

(viii) Variance standards.

A. Only properties which contain contributing historic structures are eligible for building height or massing variances. Detached garages without ADUs incorporated may also be eligible for building height and massing variances if located on a site with a contributing historic structure.

B. Shall be sited, designed and landscaped in such a manner that size and/or height does not overwhelm the principal structure as viewed from the right-of-way.

b. *Public and civic uses*.

1. *Cultural/community*. Uses of a public, nonprofit, or charitable nature providing ongoing education, training, or counseling to the general public on a regular basis.

2. *Community garden*. Vacant land used for vegetable, fruit or flower gardening by individuals or groups in order to strengthen the community food system.

3. *Use standards*.

(i) *Compatibility*. No adverse impacts to adjacent properties such as persistent odor, light, vibration, visual blight or chemical drift.

PROOFS

(ii) *Xeriscape*. Water source shall be reclaimed on-site of off-site water, i.e., rain barrel, sub-grade or landscape-screened cistern, etc.

(iii) *Top soil retention*. Site shall be configured in such a way that no exposed soil shall be prone to stormwater runoff.

(iv) *Outdoor storage*. All equipment and materials shall be enclosed within a permitted structure. Compost shall be screened with landscaping.

(v) *Ownership*. Owner of site shall provide a written agreement allowing the site to be used as a community garden.

c. *Childcare.* Day care home or day care center (as licensed by the state) which provides regular shelter, care, activity and supervision for children. Academic instruction may or may not be included.

1. Use standards.

(i) *Arrival and departure.* Site design must provide for the safe arrival and departure of children.

A. *Traffic.* Drop off areas must be arranged so that an adult can remove a child from the pedestrian side of the vehicle and proceed directly to the front entrance on a sidewalk.

B. *Security.* The entrance must be readily identifiable and accessible to emergency personnel. The location must allow for all entrances and exits to be secured, with a secured play yard perimeter and controlled access.

(ii) *Exterior play yards.* The site shall provide an outdoor play yard and amenities. Play yards should provide for a variety of developmentally appropriate activities and amenities per the below standards:

A. *Sunlight and shade.* Play yards should have exposure to both shade and sunlight. Additional shade trees or tree pruning may be required to create a balance of shade and sun in the play yard.

B. *Amenities.* Select three or more amenities below for the outdoor play yard:

1. *Open or screened porch.* Porches are highly desirable play elements as they provide for outdoor play in inclement or hot weather. Porches are a significant architectural symbol of a nurturing environment and provide a transition to the natural elements.

2. *Circulation.* Dedicated, hard surface, connected pathways for wheeled toys of at least five feet in width, allowing two tricycles to pass, as well as provision of wheeled toys to ride, and a wheeled-toy parking area off the paths.

3. *Shaded seating.* Provide seating in a shaded area with views to other areas of the play yard. Such seating may include benches, tables and chairs, picnic table, and/or chair and easel.

4. *Sand and water play.* Sand and/or water tables at children's height with areas for sand and/or water, flat surface building area, storage areas for spoons, shovels, toy vehicles, buckets. Sand tray area must be fitted with removable cover to protect from rodent or small animal intrusion.

5. *Dramatic play area.* Stage and/or shaded play house structure with seating, including props for dramatic play. Play house area should be adjacent to circulation paths to incorporate paths and parking areas into make believe play.

PROOFS

6. *Large motor play area.* Options include superstructure playground equipment with climbing obstacles, climb-through tunnels and slides, berms that create small hills, large rocks for climbing, or open, grassy yard area for running and games.

7. *Infant play area.* Separate space consisting of soft exterior paving materials that protect crawling children and provide a comfortable surface for seating, exposed to the natural element but shaded from direct sun. Appropriate activities within the area include crawling spaces with slight inclines or undulations; low barriers to climb over, pull up bars, low platforms, and low slope slides. A place hard enough to use wheeled and push toys may also be included.

8. *Children's garden.* Garden area for planting, tending and harvesting of fruits, vegetables and flowers.

9. *Quiet space.* Quieter space set apart from active area such as a labyrinth walking path, shaded or sunny seating niches for reading, or easels for art.

C. *Alternative compliance.* When play yard areas cannot be provided in compliance with these criteria due to site constraints, the center may propose access to alternate play areas for large motor skill development. These may include public parks with appropriate play equipment within one-fourth mile of the childcare center, provided safe pedestrian routes with adequate sidewalks and crosswalks are identified.

D. *Fencing.* Play yards must be enclosed by fences to define and secure the play yard. Chainlink is not an acceptable material. The material chosen must have no sharp exposed connections. When play yards are located adjacent to a street, raised planters should be incorporated into fencing design to create a more secure barrier between an errant vehicle and children in the play yard.

d. *Park and open space.* A public or private area of land, with or without buildings, opens to the public for outdoor active or passive recreational uses.

e. *Commercial uses*.

1. Use standards, applicable to all commercial uses, in addition to use standards for specific primary uses.

(i) *Size:* 2,000 square feet, max per tenant.

(ii) *Hours of operation:* No business may operate between the hours of 11:00 p.m. and 7:00 a.m.

(iii) *Parking, off-street; not required.* When provided, parking shall be located to the rear of the primary structure and accessed by a rear access alley.

(iv) *Parking, on-street.* If on-street parking is not present on all adjacent rights-of-way, the applicant shall be required to install adopted streetscape improvements for deficient street, including on-street parking, street trees, lighting and sidewalks.

(v) *Compatibility.* No adverse impacts to adjacent properties such as persistent light, odor, vibration, noise or visual blight.

2. Adaptive re-use of a historic structure. Provides for a wider variety of allowed uses than those allowed in the existing zoning district for structures designated as contributing or individually designated historic structures on the city register of historic places. A proposed use not listed as permitted or conditional in the ES zoning district may be applied for through this adaptive re-use conditional use process. The historic preservation board will act as the decision-making body for this conditional use.

PROOFS

(i) Use standards.

A. *Architectural character*. The proposed use and any subject alterations shall maintain the architectural character of the historic property and modifications shall be governed by the Secretary of the Interior's Standards for the Treatment of Historic Properties.

B. *Historic character*. The proposed use shall promote the preservation of the historic character of the historic district or, if the structure is individually designated, shall benefit the character of the surrounding neighborhood.

C. *Comprehensive plan*. The proposed conditional use is consistent with the comprehensive plan.

D. *Concurrency*. The proposed conditional use will not cause the level of service of public facilities that are subject to concurrency requirements to drop below levels of service established by the comprehensive plan.

E. *Compatibility*. The proposed conditional use at the proposed location will not result in adverse impacts to adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may exist in the future.

Existing regulations are in place to mitigate potential adverse impacts of the proposed conditional use, or reasonable conditions can be imposed and enforced to mitigate potential adverse impacts.

3. Artisan manufacturing. On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 1,000 square feet of gross floor area.

(i) Use classifications (examples). Cabinetry; art fabrication; microbrewing without a retail or restaurant component; ceramics.

4. Catering. An establishment that supplies food to be consumed off-premises.

5. Eating and drinking establishment; brewpub. A restaurant or pub which also brews beer on-site.

(i) Use standards.

Table of Use Standards

| | |
|---|---|
| Size, Restaurant/Pub | 1,500 s.f. max interior; 800 s.f. max exterior |
| Size, Brewing facilities | 2,000 s.f. max; up to 4,000 s.f. with Conditional Use |
| Location, Restaurant/Pub | Front facade bay |
| Location, Brewing facilities | Accessory to restaurant/pub and located to the rear of restaurant/pub. May be integrated into design of restaurant/pub area. Brewing facilities may also be located in an accessory structure to the rear of the site. |
| Hours of Operation | No later than 11:00 p.m. |
| Live Entertainment | Outside: Acoustic only and permitted no later than 9:00 p.m. |
| | Inside: No music audible outside establishment after 9:00 p.m. |

6. *Eating and drinking establishment; neighborhood bistro.* An eating establishment that may serve wine, beer or other alcohol, but does not have a separate bar with seating.

PROOFS

(i) Use standards.

| | |
|---|---|
| Size: | 1,500 s.f. max interior; 800 s.f. max exterior |
| Hours of Operation: | 7:00 a.m. to 11:00 p.m. |
| Live Entertainment: | Acoustic only, permitted outside until 9:00 p.m., permitted inside until 11:00 p.m.; no music of any kind may be audible outside establishment after 9:00 p.m. |

7. *Eating and drinking establishment; wine and cigar bar.* A bar that serves only wine and beer, and may or may not serve food.

(i) Use standards.

| | |
|---|---|
| Size: | 1,500 s.f. max, interior; 800 s.f. max, exterior. |
| Hours of operation: | No later than 11:00 p.m. |
| Live entertainment: | Acoustic only, permitted outside until 9:00 p.m., permitted inside until 11:00 p.m.; no music of any kind may be audible outside establishment after 9:00 p.m. |
| Mixed Use: | If mixed use, premises shall be fitted with filtration system so as to not allow smoke odors to leave the premises and infiltrate surrounding or attached businesses or residences. Smoking is not permitted on outdoor areas if part of a mixed use site. |

8. *Office.* A location at which the affairs of a business, profession, service industry or government are conducted.
9. *Overnight accommodations, bed and breakfast.* Overnight accommodations, serving breakfast, and located in an owner-occupied residential structure, offering up to eight guest rooms.
10. *Overnight accommodations, boutique hotel.* Overnight accommodations which include an amenity such as a restaurant or spa, offering up to 18 rooms and located within a structure of residential building typology.
11. *Overnight accommodations, vacation rental.* A detached dwelling or apartment within a building of residential building typology which is rented out for the purposes of providing accommodations for less than six months to tourists.

(i) Use standards.

A. A separate entrance shall be provided for each unit to the exterior or to an interior, secure common area.

B. A business license shall be required for each vacation rental unit.

C. Such units shall be managed by either a state-licensed property management agent or the owner-occupant residing in another unit, and shall collect and pay all applicable taxes.

D. Current contact information for the management agency or owner-occupant shall be displayed in an accessible location outside the vacation rental.

12. *Pedicabs.* Any vehicle with three or more wheels propelled solely by human power, which is used for transporting passengers for consideration, subject to the use standards found in section 125-157(2)c.1.B.
13. *Retail sales.* Companies or individuals involved in the sale, lease or rental of new or used

PROOFS

products, or providing personal or repair services to the general public.

(i) Use classifications (examples):

A. *Sales oriented.* Examples of sales-oriented retail sales and service include stores selling, leasing or renting consumer, home and business goods including alcoholic beverages; antiques; small appliances; art; art supplies; baked goods; bicycles; books; cameras; carpet and floor coverings; crafts; clothing; computers; convenience goods; dry goods; electronic equipment; fabric; flowers; garden supplies; gifts; groceries; hardware; household products; jewelry; medical supplies; microbreweries with a retail off-premises sales component; musical instruments; neighborhood commercial sales; pet food and/or pets; pharmaceuticals; photo finishing; picture frames; plants; printed material; produce; sporting goods; seafood retailers and markets; stationery; tobacco and related products and videos.

B. *Personal service oriented.* Examples of personal service-oriented retail sales and service include animal grooming facilities; health clubs; business, driving, trade and other commercial schools; dance, art, fitness/wellness, gymnastic, yoga or music studios or classes; dry-cleaning and laundry drop-off establishments; hair, nail, tanning and personal care services; laundromats; massage therapy; funeral homes; neighborhood commercial services; photocopy, blueprint and quick-sign services; photographic studios; security services and small-scale catering.

C. *Repair oriented.* Examples of repair-oriented retail sales and service include locksmiths; small appliances and electronics, bicycles, canvas products, clocks, computers, jewelry, musical instruments, shoes, televisions and watches; and tailors, milliners and upholsterers.

D. *Uses not included.* Adult entertainment; large-scale catering; laundry and dry-cleaning plants; lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation; repair and service of motor vehicles, motorcycles, recreational vehicles, boats, light and medium trucks; sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; tattoo or piercing services; exterior freestanding vending machines.

14. *Urban food production.* The use of land for growing crops or raising small livestock for sale off premises to support the community food system.

(i) Use classifications (examples).

A. Gardens to produce food, feed or fiber; raising small animals of less than 20 pounds; apiculture of one hive; aquaculture.

B. Uses not included. Community gardens, gardens or fruit trees for any animal which causes excessive noise or odor, such as roosters or peacocks.

(ii) Use standards.

A. *Size.* No more than ten percent of the site may be dedicated to the use.

B. *Compatibility.* No adverse impacts to adjacent properties such as persistent odor, light, vibration visual blight or chemical drift.

C. *Xeriscape.* Irrigation source shall be reclaimed on-site or off-site water, i.e., rain barrel, sub-grade or landscape-screened cistern, etc.

D. *Top soil retention.* Site shall be configured in such a way that no exposed soil shall be prone to erosion.

PROOFS

E. *Buffer*. Use shall be buffered from view from any adjacent right-of-way or property by appropriate fencing and/or landscaping.

F. *Outdoor storage.* All equipment and materials shall be enclosed within a permitted structure. Compost shall be screened with vegetation or enclosed within a bin.

(f) *Ancillary definitions*.

*Accessory structure* means a structure located on the same lot with the main building, detached or attached, and is subordinate and incidental to the primary or accessory uses of the site.

*Apiculture* means beekeeping of one or more hives along with associated equipment for the extraction of honey.

*Aquaculture* means the farming of aquatic organisms such as fish, crustaceans, mollusks and aquatic plants. Aquaculture involves cultivating freshwater and saltwater populations under controlled conditions.

*Community food system* means a local or regional food system in which food production, processing, distribution and consumption are integrated to enhance the environmental, economic, social and nutritional health of a particular place. Four aspects distinguish community food systems from the globalized food systems: food security, proximity, self-reliance and sustainability.

(1) *Food security is a key goal of community food systems*. While food security traditionally focuses on individual and household food needs, community food security addresses food access within a community context, especially for low-income households. It has a simultaneous goal of developing local food systems.

(2) *Proximity refers to the distance between various components of the food system*. In community food systems such distances are generally shorter than those in the dominant or global food system. This proximity increases the likelihood that enduring relationships will form between different stakeholders in the food system; farmers, processors, retailers, restaurateurs, consumers, etc.

(3) *Self-reliance refers to the degree to which a community meets its own food needs*. While the aim of community food systems is not total self-sufficiency (where all food is produced, processed, marketed and consumed within a defined boundary), increasing the degree of self-reliance for food, to be determined by a community partnership, is an important aspect of a community food system.

(4) *Sustainability refers to following agricultural and food system practices that do not compromise the ability of future generations to meet their food needs*. Sustainability includes environmental protection, profitability, ethical treatment of food system workers, and community development. Sustainability of the food and agriculture system is increased when a diversified agriculture exists near strong and thriving markets, when non-renewable inputs required for every step in the food system are reduced, when farming systems rely less on agri-chemical fertilization and pest control, and when citizen participation in food system decision-making is enhanced.

*Detached garage* means an accessory structure detached from the primary structure onsite which is designed for the storage of vehicles, which has legal access to and is served by a rear-access alley.

*Habitable space* means insulated, finished living space.

*Microbrewery* means craft beer brewery with a production of less than 15,000 barrels per year, accessory to either a restaurant/pub (brewpub) or to a retail, off-premises sales establishment located on the front facade. Microbreweries may also be an accessory use to an alternate primary use if no retail or restaurant component is proposed, provided it meets the use standards of accessory use. Shall include a filtration system so as to not allow odors to leave the premises.

*Primary use* means a permitted or conditional use of a property as defined by the ES use table, classifications, definitions and standards.

(Code 1983, § 22-28.1; Ord. No. L-270, § 1, 10-1-2012)

PROOFS

**Sec. 125-198. Office Commercial Zone (C-1).**

(a) *Purpose.* This commercial classification is intended primarily for uses involving business and institutional uses which do not involve the direct sale or display of goods, the production of goods or the storage or shipment of bulk or large volume materials. Convenience commercial facilities, restaurants and certain other uses are allowed when appropriate conditions and safeguards indicated in this section are fulfilled. Uses in this district should have good access to arterial or collector streets. This district is sometimes suitable for use as a buffer separating other commercial zones from residential districts.

(b) *Basic use standards.* Uses in a C-1 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area shall be 10,000 square feet.

b. The minimum lot width shall be 70 feet.

c. The minimum lot depth shall be 90 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum yard depth (if not the front yard) for portions of the property abutting a public right-of-way or residential district shall be 15 feet.

(3) *Lot coverage.* Buildings shall not cover more than 60 percent of the lot area.

(4) *Building height.* No building shall exceed a height of 65 feet above grade.

(c) *Other applicable use standards*.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-29; Ord. No. H-186, § 30-29, 6-15-1981; Ord. No. H-207, § 1, 5-3-1982; Ord. No. I-147, § 3, 2-3-1986; Ord. No. I-148, § 1, 2-3-1986; Ord. No. I-308, § 1, 2-6-1989; Ord. No. K-24, § 8, 8-21-2000; Ord. No. K-122, § 1, 12-17-2001; Ord. No. L-295, § 11, 11-4-2013 ; Ord. No. 19-016 , § 4, 5-20-2019)

**Sec. 125-199. Neighborhood Commercial Zone (C-2).**

(a) *Purpose.* This district is intended to be a restricted commercial zone which is designed to meet some of the commercial needs of the immediate residential neighborhood. Uses allowed are primarily those which provide convenience goods or frequently used services. Large business operations and extensions of strip commercial areas are not desired. Areas zoned C-2 should be located near the intersections of major streets and generally close to an R-4 zone.

(b) *Basic use standards.* Uses in a C-2 zone, except multifamily housing developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

PROOFS

(1) *Lot size*.

a. The minimum lot area shall be 10,000 square feet.

b. The minimum lot width shall be 70 feet.

c. The minimum lot depth shall be 90 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum yard depth (if not the front yard) for portions of the property abutting a public right-of-way or residential district shall be 15 feet.

(3) *Lot coverage.* Buildings shall not cover more than 60 percent of the lot area.

(4) *Building height.* No building shall exceed a height of 45 feet above grade.

(c) Other applicable use standards.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage, and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-30; Ord. No. H-186, § 30-30, 6-15-1981; Ord. No. K-24, § 9, 8-21-2000; Ord. No. L-295, § 12, 11-4-2013 ; Ord. No. 19-016 , § 5, 5-20-2019)

**Sec. 125-200. General Commercial Zone (C-3).**

(a) *Purpose.* The district is intended to provide for a broad variety of business activities including shoppers' goods stores, convenience goods and service establishments, offices and tourist/entertainment facilities. Many public and semi-public uses are also appropriate. Compared to the C-4 zone, this district is more suitable for uses requiring a high degree of accessibility to vehicular traffic, low intensity uses on large tracts of land, most repair services and small warehousing and wholesaling operations. Although this zone should be located along or near arterial or collector streets, it is not the intent of this district to encourage the extension of strip commercial areas. Instead it should promote concentrations of commercial activities.

(b) *Basic use standards.* Uses in a C-3 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area shall be 10,000 square feet.

b. The minimum lot width shall be 70 feet.

c. The minimum lot depth shall be 90 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum yard depth (if not the front yard) for portions of the property abutting a public right-

PROOFS

of-way or residential district shall be 15 feet.

(3) *Lot coverage.* Buildings shall not cover more than 60 percent of the lot area.

(4) *Building height.* No building shall exceed a height of 65 feet above grade, except that multifamily developments in accordance with the requirements of the R-5 zone may be approved.

(c) Other applicable use standards.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(9) An adult establishment is not permitted in C-3 unless the adult establishment is at least:

a. One thousand feet from any other adult establishment:

b. Four hundred feet from any established church, public or private school, public playground or public park;

c. Four hundred feet from any areas zoned E-1, R-1, R-2, R-3, R-4, or R-5.

(10) For purposes of the distance limitations contained in subsection (c)(9) of this section, the measurement shall be made by extending a straight line from the main entrance of the building of the adult establishment to the:

a. Front door of the main building occupied by any other adult establishment or any established church; or

b. To the nearest property line of any residential district, playground, school or park.

(Code 1983, § 22-31; Ord. No. H-186, § 30-31, 6-15-1981; Ord. No. H-217, § I, 7-6-1982; Ord. No. I-10, §§ 14—16, 6-6-1983; Ord. No. I-120, § 3, 7-15-1985; Ord. No. I-147, § 4, 2-3-1986; Ord. No. I-148, § 2, 2-3-1986; Ord. No. J-420, § 2, 5, 4-20-1998; Ord. No. J-487, § 1, 1-19-1999; Ord. No. K-24, § 10, 8-21-2000; Ord. No. K-149, § 1, 4-15-2002; Ord. No. K-187, § 1, 2-18-2003; Ord. No. K-221, § 1, 6-16-2003; Ord. No. L-11, § 1, 4-21-2008; Ord. No. L-97, § 2, 11-16-2009; Ord. No. L-217, § 3, 12-5-2011; Ord. No. L-295, § 13, 11-4-2013 ; Ord. No. 19-016 , § 6, 5-20-2019)

**State law reference—**Prohibition of adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school, F.S. § 847.0134.

### Sec. 125-201. Central Commercial Zone (C-4).

(a) *Purpose.* This direct is intended to serve as a primary center of commercial and institutional activity and as a readily identifiable focal point of the community and surrounding area. It is intended to be an intensively used area catering primarily to the pedestrian. The district is not suitable for low intensity uses requiring a large tract of land, most types of repair services, warehouses and other uses which would detract from the character of the area.

(b) *Basic use standards.* Uses in a C-4 zone, except multifamily housing developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Yards.* The minimum yard depth for portions of the property abutting a residential district or across an existing street from a residential district will be 15 feet.

PROOFS

(c) *Other applicable use standards.*

(1) Uses identified as a permitted use within the use table are only permitted if they do not include drive-in purchase or service facilities which make it possible for a person to transact business from a vehicle. Uses identified as a permitted use within the use table that have drive-in purchase or service facilities which make it possible for a person to transact business from a vehicle shall be allowed as a conditional use.

(2) Site plan review shall be required as outlined in section 125-313.

(3) Indoor storage will not be the principal use of the ground floor of any building.

(4) Accessory buildings shall comply with yard, lot coverage and building height requirements of this chapter.

(5) Every lot shall abut a street other than an alley for at least 15 feet.

(6) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(7) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(8) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(9) Signs will comply with standards referred to in section 125-310.

(10) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-32; Ord. No. H-186, § 30-32, 6-15-1981; Ord. No. I-26, § I, 8-15-1983; Ord. No. I-120, § 4, 7-15-1985; Ord. No. J-199, § 1, 8-20-1996; Ord. No. J-517, § 5, 8-2-1999; Ord. No. K-24, § 11, 8-21-2000; Ord. No. K-258, § 1, 1-20-2004; Ord. No. L-97, § 3, 11-16-2009; Ord. No. L-295, § 14, 11-4-2013 ; Ord. No. 19-016 , § 7, 5-20-2019)

**Sec. 125-202. Tourist Commercial Zone (C-5).**

(a) *Purpose.* The intent of this district is primarily to provide suitable locations for tourist facilities and certain tourist related establishments. In part, this means that areas in the zone should be in close proximity to an arterial or collector street. It also means that the uses allowed should be much more limited than those permitted in a C-3 or C-4 zone. Regulations for the district are designed to enhance the attractiveness and convenience of the facilities for tourist use.

(b) *Basic use standards.* Uses in a C-5 zone, except multifamily housing developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size.*

a. The minimum lot area shall be 10,000 square feet.

b. The minimum lot width shall be 70 feet.

c. The minimum lot depth shall be 90 feet.

(2) *Yards.*

a. The minimum depth of the front yard will be 25 feet.

b. The minimum yard depth (if not the front yard) for portions of the property abutting a public right-of-way or residential district shall be 15 feet.

(3) *Lot coverage.* Buildings shall not cover more than 60 percent of the lot area.

(4) *Building height.* No building shall exceed a height of 45 feet above grade, except that multifamily housing developments in accordance with the requirements of the R-5 zone may be approved.

(c) *Other applicable use standards.*

(1) Site plan review shall be required as outlined in section 125-313.

PROOFS

(2) Accessory buildings shall comply with all yard, lot coverage and building requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-33; Ord. No. H-186, § 30-33, 6-15-1981; Ord. No. I-114, § 5, 7-1-1985; Ord. No. K-24, § 12, 8-21-2000; Ord. No. K-441, § 3, 1-16-2007; Ord. No. L-207, § 1, 1-18-2011; Ord. No. L-255, § 1, 5-7-2012; Ord. No. L-295, § 15, 11-4-2013 ; Ord. No. 19-016 , § 8, 5-20-2019)

**Sec. 125-203. Marine Commercial Zone (C-6).**

(a) *Purpose.* The intent of this district is primarily to provide suitable locations for compatible marine commercial and tourist-related facilities. In part, this means that areas in the zone should be in close proximity to an arterial or collector street and should also be located in close proximity to the waterfront. The requirements in this zone recognize that certain marine oriented commercial activities can be compatible with activities that are more tourist-related and when combined can create a special environment. The uses laid out in this zone are not meant to be as inclusive as those found in a general commercial zone, but rather should be reserved for uses that are dependent on or benefit from proximity to the water.

(b) *Basic use standards.* Uses in a C-6 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area shall be 10,000 square feet.

b. The minimum lot width shall be 70 feet.

c. The minimum lot depth shall be 90 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 25 feet.

b. The minimum yard depth (if not the front yard) for portions of the property abutting the public right-of-way or residential district shall be 15 feet.

(3) *Lot coverage*. Building shall not cover more than 60 percent of the lot area.

(4) *Building height.* No building shall exceed the height of 65 feet above grade, except that multifamily housing developments in accordance with the requirements of the R-5 zone may be approved.

(c) *Other applicable use standards*.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements of sections 125-235 through 125-248.

PROOFS

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-33.1; Ord. No. I-404, § 2, 12-3-1990; Ord. No. K-24, § 13, 8-21-2000; Ord. No. L-295, § 16, 11-4-2013 ; Ord. No. 19-016 , § 9, 5-20-2019)

**Sec. 125-204. Light Industrial Zone (I-1).**

(a) *Purpose.* The purpose of this district is to provide for industrial and related uses with limited objectionable external effects in areas that are suitable for such operations due to the desirability of site characteristics, adequacy of utilities, appropriateness of transportation facilities and other factors. Acceptable manufacturing, warehousing, heavy commercial and similar uses are encouraged. Uses in the district may perform a support role for uses in other industrial areas.

(b) *Basic use standards.* Uses in an I-1 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot width shall be 100 feet.

b. The minimum lot depth shall be 100 feet.

(2) *Yards.* The minimum yard depth for portions of the property abutting a public right-of-way or nonindustrial district will be 15 feet.

(c) *Other applicable use standards*.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-34; Ord. No. H-186, § 30-36, 6-15-1981; Ord. No. H-245, § 1, 12-20-1982; Ord. No. I-26, § 4, 8-15-1983; Ord. No. K-24, § 14, 8-21-2000; Ord. No. L-04, § 1, 3-3-2008; Ord. No. L-97, § 4, 11-16-2009; Ord. No. L-267, § 2, 11-5-2012; Ord. No. L-295, § 17, 11-4-2013 ; Ord. No. 19-016 , § 10, 5-20-2019)

**Sec. 125-205. Heavy Industrial Zone (I-3).**

(a) *Purpose.* The purpose of this district is to provide for heavy industrial and related uses with limited objectionable external effects in areas that are suitable for such operations due to the desirability of site characteristics, adequacy of utilities, appropriateness of transportation facilities and other factors. Acceptable manufacturing, warehousing, heavy commercial and similar uses are encouraged.

(b) *Basic use standards.* Uses in an I-3 zone must meet the requirements of this section. More-restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot width shall be 100 feet.

PROOFS

b. The minimum lot depth shall be 100 feet.

(2) *Yards.* The minimum yard depth for portions of the property abutting a public right-of-way or nonindustrial district will be 15 feet.

(c) *Other applicable use standards.*

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(5) Signs will comply with standards referred to in section 125-310.

(6) All other applicable ordinance requirements will also be satisfied.

(d) *Parking and loading standards.* The following are the off-street parking and loading standards for the I-3 zone:

(1) *Parking.*

a. Less than 100,000 square feet equals 2.0 spaces per 1,000 square feet of floor area.

b. More than 100,000 square feet equals 1.0 space per 1,000 square feet of floor area.

(2) *Loading.*

a. Zero to 24,999 square feet equals one loading space.

b. Twenty-five thousand to 59,999 square feet equals two loading spaces.

c. Sixty thousand to 119,999 square feet equals three loading spaces.

d. One hundred twenty thousand to 199,999 square feet equals four loading spaces.

e. Two hundred thousand to 299,999 square feet equals five loading spaces.

(e) *Annexed property assigned I-3 zoning.* This subsection shall apply to any annexed property that does not comply with subsection (d) of this section and this subsection (e) at the time of annexation. Any property annexed and assigned I-3 zoning shall be allowed to continue all uses occurring on the property at the time of annexation. No modifications to any part of the property shall be required by the city. In the event the annexed property is damaged or destroyed due to fire or natural disaster, then the property owner shall be permitted to reconstruct the property to the form, manner and condition the property was in prior to the damage or destruction notwithstanding any non-compliance with subsection (d) of this section and this subsection (e). Property annexed and assigned I-3 zoning is exempt from section 125-322.

(Code 1983, § 22-34.1; Ord. No. L-63, § 1, 12-1-2008; Ord. No. L-219, § 7, 9-19-2011; Ord. No. L-295, § 18, 11-4-2013 ; Ord. No. 19-016 , § 11, 5-20-2019)

**Sec. 125-206. Marine Industrial Zone (I-2).**

(a) *Purpose.* This zone is intended primarily to provide a location for port activities, marine industry and supporting uses. In addition, certain nonindustrial water-oriented uses and uses associated with them may be permitted. The district is designed to exclude uses which can be located equally well elsewhere and are inconsistent with the character of the district. Large areas with adequate waterfront, street and railroad access are appropriate for this type of zoning.

(b) *Basic use standards.* Uses in an I-2 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size.*

a. The minimum lot width shall be 100 feet.

PROOFS

b. The minimum lot depth shall be 100 feet.

(2) *Yards.* The minimum yard depth for portions of the property abutting a public right-of-way or nonindustrial district will be 15 feet.

(c) *Special conditional use criteria.* No conditional use will be allowed in an I-2 zone unless it meets one or more of the following criteria:

(1) The use is a water-dependent use, which means that it can only be carried out on, in or adjacent to water and the location or access is needed for:

a. Waterborne transportation (such as navigation; moorage, fueling and servicing of ships or boats; terminal and transfer facilities; fish or other resource and material receiving and shipping);

b. Recreation (active recreation such as swimming, boating or fishing; passive recreation such as viewing or walking);

c. A source of water (such as energy production, cooling of industrial equipment or wastewater or other industrial processes); or

d. Marine research or education (such as viewing, sampling, recording information, conducting experiments or teaching).

(2) The use is a water-related use, which means that:

a. It provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, using products of or offering commercial or personal services to water-dependent uses); or

b. If it were not located near the water, it would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality will include a subjective consideration of economic, social and environmental consequences of the use).

(3) The use which is not the primary use of the structure, shares an existing structure with a water-dependent use or water-related use and the combination results in a multiple use facility.

(4) The project provides significant public access or recreation uses through the provision of waterfront seating, walkways, piers, street furniture or similar facilities.

(5) The use is an accessory use important to the operations of the principal use.

(6) The use is a temporary use which meets the requirements of section 125-320.

(d) *Other applicable use standards*.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 and 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-35; Ord. No. H-186, § 30-35, 6-15-1981; Ord. No. H-228, § 1, 10-4-1982; Ord. No. 1-26, § 3, 8-15-1983; Ord. No. 1-377, § 2, 5-7-1990; Ord. No. K-24, § 15, 8-21-2000; Ord. No. L-295, § 19, 11-4-2013 ; Ord. No. 19-016 , § 12, 5-20-2019)

PROOFS

**Sec. 125-207. Commercial Parkway Zone (CP-1).**

(a) *Purpose.* The CP-l district is established for the purpose of providing space for large lot development along principal vehicular approaches into the city. This is a mixed use district which should provide for certain types of office, commercial, and industrial operations which are typically characterized by a business park setting. This district may function as a transition zone between commercial/light industrial activities and uses which may be sensitive to nuisance such as residential land uses.

(b) *Basic use standards.* Uses in a CP-1 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area shall be 20,000 square feet.

b. The minimum lot width shall be 100 feet.

c. The minimum lot depth shall be 100 feet.

(2) *Yards*.

a. The minimum depth of the front yard shall be 25 feet.

b. The minimum depth of the rear yard shall be 20 feet.

c. The minimum depth of the side yard shall be ten feet, except on corner lots the minimum side yard depth on a street side will be 20 feet.

(3) *Lot coverage.* Buildings will not cover more than 60 percent of the lot area.

(4) *Building heights.* No building shall exceed a height of 65 feet above grade.

(c) *Open space standards*.

(1) A minimum of 20 percent of the gross area of land to be devoted to a commercial parkway development must be reserved for use as parks, recreation areas, marinas, open space, planting, or other public purposes other than rights-of-way, utility easements, and parking areas. At the request of the developer and subject to the approval of the city commission, use of recreational facilities may be offered to the general public. Areas that are natural or manmade floodways, lakes, and stormwater retention areas may be also be used to satisfy the total open space requirement.

(2) All land dedicated for open space shall be under the legal control of the developer.

(d) *Other applicable use standards*.

(1) Site plan review shall be required as outlined in section 125-313.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 60 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-35.1; Ord. No. J-05, § 1, 2-18-1992; Ord. No. J-452, § 2, 9-21-1998; Ord. No. K-24, § 16, 8-21-2000; Ord. No. K-170, § 1, 12-2-2002; Ord. No. L-295, § 20, 11-4-2013 ; Ord. No. 19-016 , § 13, 5-20-2019)

PROOFS

**Sec. 125-208. General and Recreational Open Space Zone (OS-1).**

(a) *Purpose.* This zone is intended primarily for uses which, by their nature of development, contribute open space and visual relief, significant to the area's development pattern, in part, due to the scenic value or the buffering functions of the use. The zone is designed to achieve this by primarily allowing recreational uses.

(b) *Basic use standards.* Uses in an OS-1 zone must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses:

(1) *Lot size*.

a. The minimum lot width shall be 100 feet.

b. The minimum lot depth shall be 100 feet.

(2) *Yards.* The minimum yard depth for portions of the property abutting a public right-of-way or residential district will be 15 feet.

(3) *Lot coverage.* Buildings shall not cover more than 40 percent of the lot area.

(4) *Building height.* No building shall exceed a height of 35 feet above grade.

(c) *Other applicable use standards*.

(1) Site plan review shall be required for uses which have buildings with more than 4,000 square feet of floor area.

(2) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(3) Every lot shall abut a street other than an alley for at least 50 feet.

(4) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(5) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(6) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(7) Signs will comply with standards referred to in section 125-310.

(8) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-36; Ord. No. H-186, § 30-36, 6-15-1981; Ord. No. H-245, § 1, 12-20-1982; Ord. No. 1-26, § 4, 8-15-1983; Ord. No. K-24, § 17, 8-21-2000; Ord. No. L-295, § 21, 11-4-2013 )

**Sec. 125-209. Conservation Open Space Zone (OS-2).**

(a) *Purpose.* This district is for areas containing important natural environmental features which pose severe limitations on their suitability for development. It is the intent of the zone to retain to open character of the zone wherever possible by limiting the uses primarily to conservation, low intensity recreation and other compatible uses. Due to the sensitive environmental character of areas in the district, many users are allowed as conditional uses.

(b) *Basic use standards.* Uses in an OS-2 zone, except innovative residential developments, must meet the requirements of this section. More restrictive requirements, set forth in accordance with other provisions of this chapter, must be satisfied by some conditional uses.

(1) *Lot size*.

a. The minimum lot area for single-family dwelling shall be five acres.

b. The minimum lot width shall be 100 feet.

c. The minimum lot depth shall be 200 feet.

(2) *Yards*.

a. The minimum depth of the front yard will be 40 feet.

PROOFS

b. The minimum depth of the side yard will be 20 feet.

c. The minimum depth of the rear yard shall be 30 feet.

(3) *Lot coverage.* Buildings will not cover more than five percent of the lot.

(4) *Height of buildings.* No building shall exceed a height of 28 feet above grade, except fire control towers.

(c) *Other applicable use standards.*

(1) Accessory buildings shall comply with all yard, lot coverage and building height requirements of this chapter.

(2) On any lot used for residential purposes, no more than one residential building will be allowed on a lot, except one building without kitchen facilities may be allowed as a guest house.

(3) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(4) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(5) Signs will comply with standards referred to in section 125-310.

(6) All other applicable ordinance requirements will also be satisfied.

(Code 1983, § 22-37; Ord. No. H-186, § 30-37, 6-15-1981; Ord. No. I-26, § 5, 8-15-1983; Ord. No. K-24, § 18, 8-21-2000; Ord. No. L-295, § 22, 11-4-2013 )

**Sec. 125-210. Aquatic Conservation Zone (A-1).**

(a) *Purpose.* This district is intended to help ensure that aquatic areas having exceptional biological, aesthetic, educational or scientific value are appropriately protected for future generations. The regulations are designed to encourage management of these areas for low to moderate intensities of use, with emphasis on maintaining the flow of aquatic resources and recreational benefits. To the extend practical, damage to the ecosystems of the affected aquatic and shoreland areas and adverse impacts on the public's use of the water should be minimized.

(b) *Building heights.* No building will exceed a height of 25 feet above the mean high tide line in tidal areas and the ordinary high water line in nontidal areas.

(c) *Special conditional use criteria.* No conditional use will be allowed in an A-1 zone unless it meets one or more of the following criteria:

(1) The use is a water-dependent use, which means that it can only be carried out on, in or adjacent to water and the location or access is needed for:

a. Waterborne transportation (such as navigation; moorage, fueling and servicing of ships or boats; terminal and transfer facilities; fish or other resource and material receiving and shipping);

b. Recreation (active recreation such as swimming, boating or fishing; passive recreation such as viewing or walking);

c. A source of water (such as energy production, cooling of industrial equipment or wastewater or other industrial processes); or

d. Marine research or education (such as viewing, sampling, recording information, conducting experiments or teaching).

(2) The use is a water-related use, which means that:

a. It provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, or using products of or offering commercial or personal services to water-dependent uses); or

b. If it were not located near the water, it would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality will include a subjective consideration of economic, social and environmental consequences of the use).

PROOFS

(3) The use which is not the primary use of the structure, shares an existing structure with a water-dependent use or water-related use and the combination results in a multiple use facility.

(4) The project provides significant public access or recreation uses through the provision of waterfront seating, walkways, piers, street furniture or similar facilities.

(5) The use is an accessory use important to the operations of the principal use.

(6) The use is a temporary use which meets the requirements of section 125-320.

(d) *Other applicable use standards*.

(1) Accessory buildings shall comply with all building height requirements of this chapter.

(2) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(3) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(4) Conditional uses will meet the requirements in sections 125-235 and 125-247.

(5) Signs will comply with standards referred to in section 125-310.

(6) All other applicable ordinance requirements will also be satisfied.

(e) *Unregulated activities.* The provisions of this district will not be interpreted to prohibit or regulate the following activities, unless the prohibition or regulation is specifically stated as a condition of approval of a conditional use:

(1) Filling.

(2) Dredging.

(3) Dredged material disposal.

(4) Bankline/stream alteration.

(5) Construction and repair of shoreline stabilization structures, mosquito control structures and dikes.

(6) Installing types of navigational structures not previously listed in this subsection.

(Code 1983, § 22-38; Ord. No. H-186, § 30-38, 6-15-1981; Ord. No. K-24, § 19, 8-21-2000; Ord. No. L-206, §§ 1, 2, 1-18-2011; Ord. No. L-295, § 23, 11-4-2013 )

**Sec. 125-211. Aquatic Development Zone (A-2).**

(a) *Purpose.* This district is intended for aquatic areas which should be managed primarily for navigation and other water-oriented uses, consistent with the need to minimize damage to the ecosystem of the area. Water-dependent, water-related and other uses are allowed which are consistent with the character of nearby shoreland areas. Aquatic development areas may include areas suitable for navigation (including shipping and access channels and turning basins), areas adjacent to developed or developable shorelands which may need to be altered to provide navigational access or create new land for water-oriented uses and other appropriate areas.

(b) *Building heights.* No building will exceed a height of 45 feet above the mean high tide line in tidal areas and the ordinary high water line in nontidal areas.

(c) *Special conditional use criteria.* No conditional use will be allowed in an A-2 zone unless it meets one or more of the following criteria:

(1) The use is a water-dependent use, which means that it can only be carried out on, in or adjacent to water and the location or access is needed for:

a. Waterborne transportation (such as navigation; moorage, fueling and servicing of ships or boats; terminal and transfer facilities or fish or other resource and material receiving and shipping);

b. Recreation (active recreation such as swimming, boating or fishing; passive recreation such as viewing or walking);

PROOFS

c. A source of water (such as energy production, cooling of industrial equipment or wastewater or other industrial processes); or

d. Marine research or education (such as viewing, sampling, recording information, conducting experiments or teaching).

(2) The use is a water-related use, which means that:

a. It provides goods and/or services that are directly associated with water-dependent uses (supplying materials to, or using products of or offering commercial or personal services to water-dependent uses); or

b. If it were not located near the water, it would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality will include a subjective consideration of economic, social and environmental consequences of the use).

(3) The use which is not the primary use of the structure, shares an existing structure with a water-dependent use or water-related use and the combination results in a multiple use facility.

(4) The project provides significant public access or recreation uses through the provision of waterfront seating, walkways, piers, street furniture or similar facilities.

(5) The use is an accessory use important to the operations of the principal use.

(6) The use is a temporary use which meets the requirements of section 125-320.

(d) *Other applicable use standards.*

(1) Uses identified as a permitted use within the use table are only permitted if no dredging or filling is necessary and piers or similar facilities are not required in new locations. If dredging and/or filling or new piers or similar facilities are required, said uses shall be allowed as a conditional use.

(2) Uses identified as a permitted use within the use table are only permitted when access to the facilities are provided from a property in an I-2, C-3, C-4 or C-5 zone by piers or similar means.

(3) Commercial or industrial uses situated on floating structures shall be located so they will be protected from currents and wave action and so they will not rest on the bottom at low water.

(4) Accessory buildings shall comply with all building height requirements of this chapter.

(5) Materials or objects which would detract from the open space character of an uncovered or unenclosed area will not be permitted in such an area.

(6) All uses will comply with applicable access, parking and loading standards in sections 125-315 and 125-316.

(7) Conditional uses will meet the requirements in sections 125-235 through 125-247.

(8) Signs will comply with standards referred to in section 125-310.

(9) All other applicable ordinance requirements will also be satisfied.

(e) *Unregulated activities.* The provisions of this district will not be interpreted to prohibit or regulate the following activities, unless the prohibition or regulation is specifically stated as a condition of approval of a conditional use:

(1) Filling.

(2) Dredging.

(3) Dredged material disposal.

(4) Bankline/stream alteration.

(5) Construction and repair of shoreline stabilization structures, mosquito control structures and dikes.

(6) Installing types of navigational structures not previously listed in this subsection.

PROOFS

(Code 1983, § 22-39; Ord. No. H-186, § 30-39, 6-15-1981; Ord. No. K-24, § 20, 8-21-2000; Ord. No. L-295, § 24, 11-4-2013 )

**Sec. 125-212. Planned Development Zone (PD).**

(a) *Purpose.* The PD District is intended to provide a process for the evaluation of individually planned developments which are not otherwise permitted in the zoning districts established by this chapter. The PD District is to be a voluntary process commenced by an applicant for such zoning designation. The standards and procedures of this district are intended to promote flexibility of design and permit planned diversification and integration of uses and structures, while at the same time granting the city commission the absolute authority to establish such limitations and regulations as it deems necessary to protect the public health, safety and general welfare. In so doing, the PD district is designed to:

(1) Provide for the planning, review and approval of one or a combination of residential, commercial, public and industrial land uses not otherwise allowed under general zoning districts.

(2) Encourage structures which result in an organized, compatible development within and with surrounding land uses in density and intensity of use.

(3) Allow flexibility through a more efficient arrangement of structures, utilities, on-site circulation, and ingress and egress than is permitted under conventional zoning and subdivision regulations.

(4) Encourage the preservation of environmental assets and natural amenities as scenic and functional open-space areas.

(5) Encourage usable open space by permitting a more concentrated building area than is allowed under conventional zoning and subdivision regulations.

(6) Encourage innovative site planning and land development concepts in order to create an aesthetically pleasing and functionally desirable living environment while preserving onsite natural elements and cultural resources.

(7) Promote flexibility and efficiency in site design for more desirable living and working environments.

(8) Promote development that is adapted to natural features, including wetlands, trees and other vegetation and habitat, and which avoids the disruption of natural drainage patterns.

(9) Permit site specific requirements based on the unique characteristics of the individual site.

(10) Permit site specific limitations where necessary to protect public health, safety, or welfare, or for the protection or preservation of lands either internal or external to the planned development.

(11) The terms Planned Development (PD) and Planned Unit Development (PUD) are deemed synonymous and may be used interchangeably throughout this Code of Ordinances.

(b) *General standards for approval.* The Planned Development (PD) district is designed to allow an applicant to submit a proposal for consideration, for any use or any mixture of uses, The approval of planned development rezoning rests with the city commission. However, no rezoning or development plan may be approved unless the following conditions are met:

(1) *Comprehensive plan consistency.* Any residential, commercial, industrial, or public land uses and structures are permitted in this district, provided the proposed development is shown to be consistent with the goals, objectives and policies of the comprehensive plan, and consistent with the future land use element, and the standards and criteria contained in the following sections, unless a corresponding amendment to the comprehensive plan is also adopted.

a. *Density.* In no event shall the density granted exceed the maximum gross density permitted under the underlying land use in the comprehensive plan.

(2) *Perimeter setbacks.* Setbacks at the perimeter of the development shall be equal to those of the abutting zoning district, except where city commission finds that alternate perimeter setbacks would be appropriate. Conditions under which alternate perimeter setbacks may be considered include, but are not limited to, the following:

PROOFS

a. Property in the abutting zoning district is located across a major roadway from the PD, and therefore, a reduced setback would have little or no impact on the character of the adjacent property.

b. The minimum PD perimeter setback required by this section cannot be achieved due to an exceptional narrowness, shallowness, shape, topographic condition or physical or environmental feature uniquely affecting the subject property.

c. The perimeter setback may be reduced from the required distance by providing a landscape strip in lieu of the perimeter setback, except where driveways are located, meeting these requirements:

1. The strip shall be no less than five feet wide and include at least one tree for every 200 square feet of required landscaped strip and contain a hedge of landscape material which shall be installed and maintained so as to form a 48-inch or higher, continuous, unbroken, solid, visual screen within one-year (maximum) after installation, except in clear vision areas required in section 125-308. The remainder of the required landscaped strip shall be completely covered with groundcover or grass.

2. A wall, berm, or other durable, non-wood privacy fence may be included as part of the landscape strip, but not replace it.

d. The perimeter setback may be reduced from the required distance by no more than one half if the abutting property is similar in use, and intensity or density.

(3) *Open space.* In all planned developments at least 20 percent of the site shall be devoted to open space, regardless of project size or intended use; open space shall be land devoid of any aboveground structures or buildings, except pergolas, gazebos, pavilions or other open-air structures; or landscape structures such as terraces, planters, walls or retaining walls. Open space may include natural areas, buffer areas, upland habitats, including those areas of on-site preservation required by the other provisions of this Code; recreation areas, but not including swimming pools, tennis courts or other impervious activity areas; but may include parks, golf courses, sports fields; bicycle, pedestrian or equestrian paths and facilities; common open space, common landscaping or planting areas; stormwater detention and retention facilities providing that no more than 30 percent of the overall open space requirement shall be satisfied in this manner; water features, conservation areas or other areas intended for public purposes other than street or road rights-of-way, but shall exclude aquatic areas for conservation and development (A-1 and A-2 zoning).

(4) *Applicability to other code of ordinances not in conflict herein.* All building code, housing code, and other land use regulations of the city not directly in conflict herewith are applicable to the PD district.

(5) *Easements.* Easements necessary for the orderly extension and maintenance of public utilities and/or other special needs may be required as a condition of approval.

(6) *Phasing.* When provisions for phasing are included in the development plan, each phase of development must be so planned and so related to previous development, surrounding properties, and the available public facilities and services, that failure to proceed with subsequent phases will not adversely impact drainage, utilities, parking or the traffic flow of the completed phases.

(7) *Other standards.* All planned developments will comply with regulations affecting signs referred to in section 125-310 and applicable portions of the city's regulations governing subdivisions except that in case of conflict.

(8) *Additional requirements.* The city commission may also establish additional requirements which it considers necessary to ensure that a planned development conforms to the intent of this section.

(9) *Variances are not necessary.* The specific development standards of the PD district are contained in the approved development plan for each planned development which normally takes into account those matters which might otherwise be the subject of variance review by the board of adjustment.

(c) *Application requirements.* When an application is submitted to rezone property to a PD zoning district, the following items will be submitted in addition to other information submitted in accordance with section 125-132, the city's subdivision regulations or other city laws:

PROOFS

(1) *Written documents.*

a. *Project narrative; a statement describing the planned development.* This statement should include a description of the character of the proposed development as it relates to the development objectives of the city and the city's comprehensive plan as well as the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development, such as land areas and dwelling units.

b. *Unified control and property ownership.* All land intended to be included in the planned development shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations. Material which presents firm evidence of ownership may include a copy of the recorded deed, a title policy or an opinion of title. If necessary, material which presents firm evidence of unified control, such as unity of title, on a form approved by the city, shall be submitted with the application.

c. *Phasing.* A development phasing schedule indicating:

1. The approximate date when construction of the project can be expected to begin.

2. The number of phases in which the project will be built and the approximate date when construction of each phase can be expected to begin and completed.

3. A general description of the buildings and streetscapes including standards for height, building coverage, parking areas, and public improvements proposed for each phase of the development.

d. *Quantitative data for the following.* Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; residential gross densities; total amount of open space; and the total amount of nonresidential acreage (including a separate figure for commercial and industrial acreage).

e. A list of any exceptions from the standard zoning ordinance and land development code for any features of the proposed development plan.

f. Agreements, provisions and covenants which govern the use, maintenance and continued protection of the planned development and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.

(2) *Site plan.* A site plan with the following information must be submitted:

a. The existing site conditions, shorelines, flood plains, unique natural features and forest cover.

b. A landscape and irrigation plan per section 125-314.

c. Proposed lot lines and other divisions of land for management, use or allocation purposes.

d. The location, size and height of present and proposed buildings and structures.

e. The location and size of all areas proposed to be conveyed, dedicated or reserved for streets, parks, playgrounds, public and semi-public buildings and similar uses.

f. The existing and proposed vehicular circulation system, including off-street parking and loading areas.

g. The pedestrian circulation system, including its interrelationships with the vehicular circulation system, within the development to adjacent streets, showing all curb cuts and sidewalks.

h. The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric and gas lines.

i. Information on land areas adjacent to the proposed planned development, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.

PROOFS

j. The proposed buffering treatment of the perimeter of the planned development, refuse stations, storage areas, or loading areas, including materials and techniques used such as screens, fences and walls.

k. The location of existing wetlands, proposed preservation and conservation areas.

l. A statement describing any endangered or threatened species that may be located on the site and potential environmental impacts on flora and fauna.

(d) *Planned development review procedures.*

(1) *Pre-application conference.* The pre-application conference is an informal discussion between the applicant and the staff of any department that will be involved with the technical review of the proposed planned development. The applicant is encouraged to provide the following information related to the proposed development at the meeting.

a. Consistency with the adopted comprehensive plan.

b. Adequacy of utilities and other public facilities to serve the proposed development.

c. Relationship with the surrounding neighborhood.

d. Compliance concerns.

(2) *Site development plan.* Will include all information specified in this section. The procedure for reviewing the development plan is the procedure set forth in section 125-133, amendment procedures, and section 125-313, site plan review. If the proposed planned development also involves the subdividing of land which is regulated by the city, the preliminary plat should be reviewed concurrently with the development plan as specified in chapter 121. Approval of a development plan or approval of the plan with conditions shall occur concurrently with a change in zoning for the property.

(e) *Adherence to approved development plan.* Building permits for construction shall be issued only if consistent with an approved development plan. No building permit or certificate of occupancy shall be issued for a planned development except in conformity with all provisions of the approved final plan, as amended. All buildings and improvements in a particular phase need not be complete before the issuance of a certificate of occupancy for a completed building in that phase unless otherwise required by the final plan as approved.

(f) *Modification of an approved PD site plans.* Changes to approved PD site plans are either major modifications or minor modifications. A major modification shall require the approval of the city commission, while a minor modification may be done administratively by the planning ~~manager~~ director (or designee).

(1) *Modification review criteria.* Generally, additions, deletions, changes in the use, density, sequence of development or other specifications of an approved PD plan are to be viewed as a major modification. Once a determination has been made that a proposed modification constitutes a major modification, the applicant shall follow the same procedure as a new planned development request. An application for a major modification shall be filed in the planning department. Applications for a major modification of PD plans may require an updated, revised PD site development plan or portions thereof indicating the effect of the proposed change, a narrative description of the modification and reasons such a change is necessary, and additional information as required by the planning ~~manager~~ director (or designee) to adequately review the proposed modification. The following alterations shall be considered a major modification, and reapplication as a new development plan will be required:

a. Increase or decrease in intensity of use. A change of five percent or more of usable floor area, or a change of five percent or more in the number of dwelling units, or a change of five percent or more of outside land area devoted to sales, displays, or demonstrations. In no case shall the intensity or density be increased over the maximum allowed by the future land use element of the comprehensive plan.

b. Any change in the location of the parking area, or a change of ten percent or more in the number of spaces approved.

PROOFS

c. Structural alterations significantly affecting the basic size and form of the building as shown on the approved plan including increase in building height of more than one story or 12 feet.

d. Any reduction in the amount of open space by five percent or more, or a substantial change in the location or characteristics of open space uses.

e. Substantial changes in location or type of pedestrian or vehicular accesses or circulation.

f. Any change which would increase traffic generation by more than ten percent.

g. Any change in land use or an increase in density within 500 feet of the PD boundaries, or within 200 feet of any part of the planned development which has been constructed or sold to an owner or owners different from the applicant requesting the change.

h. Any deviation exceeding 12 inches from the setbacks, area, or dimensional standards approved as part of the site development plan.

i. A change to the buffering material that negatively impacts the surrounding neighborhood.

j. Any change in the design and/or location of the stormwater facility that negatively impacts the surrounding neighborhood.

k. Any addition or reduction to the area of a planned development.

l. Changes proposed to three or more of the criteria that do not meet the threshold individually to be considered a major modification.

m. Any change in a condition specifically required by the city commissioners as part of the planned development approval.

(2) *Minor modification.* Any modification to an approved PD plan which does not constitute a major modification shall be considered a minor modification. Generally, minor variations, extensions, alterations or modifications of proposed uses, buildings/structures or other improvements which are consistent with the purpose and intent of the approved PD plan are considered minor modifications. Upon determination that the proposed modification is a minor modification, the planning ~~manager~~ director (or designee) shall render a decision to the applicant within 15 working days after submission of a completed modification application. Applications for a modification shall include an updated, revised PD site development plan indicating the effect of the proposed change and a narrative description of the modification and the reasons why such a change is necessary.

(3) Prior to build-out of 50 percent of the land in a planned development, the property owner shall have the right to initiate any amendments to any developed or undeveloped portions of the planned development. After 50 percent or more of the land in the planned development has been built-out, the property owner may initiate any amendments to undeveloped portions of the planned development; however, amendments to developed portions of the planned development may only be initiated by:

a. The property owner, for an amendment to the planned development which is not applicable to all developed portions of the planned development;

b. Petition by the owners of more than 50 percent of the developed property in the PD district for an amendment to the planned development applicable to all of the developed portions of the planned development; or

c. City commission, where necessary to preserve the health, safety and welfare of the property owners in the planned development.

(g) *Status of previously approved PUD (Planned Unit Development zone) plans.* Any active or completed planned development project approved prior to the adoption of this section shall continue to be governed by the approved PUD plan and any agreements, terms and conditions to which the approval may be subject, as long as the project continues to be actively under development. Any time limitations to which the approved PUD plan may be subject shall also continue to apply. However, whenever any application is made to substantially modify (see major modification), the approved PUD plan or to undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the PD district.

PROOFS

(h) *Expiration of an approved PD plan.* Any planned development approval for a project which has failed to commence by securing a building permit for a vertical improvement in accordance with the approved PD plans within two years of final approval of the planned development, shall be considered expired. However, if the property owner obtains a building permit for a vertical improvement in accordance with the approved PD plans within two years after final approval of the planned development, the property owner's development rights under the PD approval shall be deemed vested and shall not expire. Extensions to the expiration date of the PD approval may be granted by the city commission in two-year increments. Any request for an extension to the expiration date of the PD approval must be submitted in writing to the planning ~~manager~~ director for review no later than the expiration date of the PD approval.

If the PD expires, the land will retain the PD zoning designation; however, the site development plan approved with the PD rezoning will be null and void. Either the previously approved or a new site development plan can be used to re-apply.

(Code 1983, § 22-40; Ord. No. 15-004, §§ 1, 2, 3-2-2015; Ord. No. 15-006, § 1, 6-15-2015 )

**Sec. 125-213. Planned Unit Redevelopment Zone (PUR).**

(a) *Purpose.* The Planned Unit Redevelopment (PUR) zone is intended to encourage comprehensive redevelopment within existing residential and commercial areas of the city. It is designed to achieve a desirable environment through application of flexible and diversified land development standards in an overall site plan. It is further intended to promote economics in land development, maintenance, street systems and utility networks, resulting in the provision of needed housing and the redevelopment of older, less economically viable areas.

(b) *General standards for approval.* Prior to including a tract of land in the PUR zone or approving a final redevelopment plan, the city commission shall determine that:

(1) The planned unit redevelopment is an effective and unified treatment of the development possibilities of the project site while remaining consistent with the comprehensive plan, avoiding environmental hazards and making appropriate provisions for the preservation of natural features such as shorelands and wooded cover.

(2) The planned unit redevelopment will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services in terms of their capacities, operational costs or maintenance costs: water, sewer, storm drainage, electrical services, fire protection, police protection and schools.

(3) A need exists for the planned unit redevelopment at the proposed location and the applicant has the capacity to ensure completion of the project.

(4) The planned unit redevelopment complies with standards referred to in this section, additional zoning ordinance provisions and other city laws.

(c) *Potential uses.* The following uses are allowed in a planned unit redevelopment if the city commission considers them appropriate for the particular redevelopment being proposed, compatible with nearby uses, and consistent with the comprehensive plan and if other applicable standards are satisfied:

(1) Duplexes, triplexes and quadraplexes.

(2) Multifamily housing developments.

(3) Retail sales establishments, except stores selling automobiles, other large motorized vehicles or mobile homes.

(4) Motels/hotels.

(5) Personal service establishments.

(6) Finance, insurance and real estate service establishments.

(7) Business service establishments.

(8) Communication service establishments.

(9) Professional service establishments.

PROOFS

(10) Educational service establishments.

(11) Indoor amusement, entertainment and/or recreation establishments.

(12) Public and semi-public uses including outdoor park and recreation facilities.

(13) Temporary uses meeting the requirements in section 125-320.

(14) Such other uses the city commission may consider appropriate.

(d) *Basic use standards.* Area, width, depth, yard and lot coverage requirements for lots in a planned unit redevelopment shall be determined by the city commission on the basis of relevant characteristics of the use, the rest of the planned unit redevelopment and the surrounding area, including those characteristics relating to use compatibility, physical feature constraints and utility and transportation capacities.

(e) *Open spaces*.

(1) In all planned unit redevelopments the area devoted to common open space, exclusive of aquatic areas, shall be increased ten percent beyond that which existed prior to the PUR.

(2) No area may be accepted as common open space within a planned unit redevelopment unless it meets the following requirements:

a. The location, shape, size and character of the common open space is suitable for the development.

b. The common open space is for amenity or recreational purposes and the uses authorized are appropriate for the scale and character of the redevelopment based on consideration of its size, density, expected population, topography and the number and type of dwellings provided.

c. The common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation should be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.

d. Waterfront access for the public, such as walkways, trails, waterfront seating or landscaped areas, will be provided, whenever possible, when consistent with the scale of the use, surrounding uses, security and proximity to the waterfront.

e. No parking facilities will be included in areas designated as common open space unless the parking facilities are intended to provide access to the common open space area and are not intended to meet the ordinance requirements for other uses. No streets will be designated as common open space.

f. The redevelopment schedule which is part of the redevelopment plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the building of residential dwellings in the planned unit redevelopment.

g. If buildings or structures are to be constructed in the common open space, the developer will provide a bond or other adequate assurances that the building and structures will be completed. The ~~director of the department of planning and development~~ planning director shall release the bond or other assurances when the buildings and structures have been completed according to the redevelopment plan.

(f) *Various environmental standards*.

(1) Uses having potential air-polluting sources such as stacks, burning facilities, concentrations of motor vehicles and dust-generating processes shall be located and designed to provide adequate separation of these sources from other development and especially residential neighborhoods, institutional uses and outdoor recreation areas. Any adverse air quality impacts of the use will be reduced to the extent practical.

(2) The redevelopment plan shall include provisions needed to control water and wind erosion during and after construction associated with the redevelopment. Runoff from impervious surfaces or other potential polluting sources in the redevelopment area shall be managed so as to reduce the adverse water quality

PROOFS

impacts to the extent possible.

(g) *Transportation.*

(1) A suitable site layout will be used for all street and on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths and other transportation facilities. Suitability, in part, shall be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

(2) Principal vehicular access points shall be designed to permit smooth traffic flow and to minimize hazards to vehicular and pedestrian traffic. Minor streets within a planned unit redevelopment shall not be connected to streets outside the redevelopment in such a way as to encourage their use by through traffic.

(3) Streets in a planned unit redevelopment may be dedicated to public use or may be retained in private ownership, except the city commission may require arterial and collector streets to be dedicated to the public. When considered appropriate by the city commission, city requirements concerning rights-of-way and street pavement widths may be reduced and those requiring curbs and gutters may be waived, notwithstanding provisions to the contrary in this Code of Ordinances.

(h) *Compatibility with adjacent development.* If topographical or other barriers near the perimeter of the planned unit redevelopment do not provide reasonable privacy for existing or potential uses adjacent to the redevelopment, the city commission shall require an attractively designed and maintained buffer in the form of vegetation, fencing, walls and/or berms.

(i) *Landscaping.* The planned unit redevelopment shall comply with the provisions of a landscape plane approved by the city commission. This plan must at a minimum be consistent with landscaping requirements in section 125-314.

(j) *Unified control.* All land intended to be included in the planned unit redevelopment shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations.

(k) *Maintenance of common areas.* Common open space, streets and any area or facility designated by the city commission as a shared area will comply with the following provisions:

(1) The property will be conveyed under one of the following options:

a. To a public agency which agrees to maintain the property and buildings or structures placed on it; or

b. To association of owners and/or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions that are acceptable to the city commission as providing for the continuing care of the property.

(2) The property may not be put to a use not specified in the final redevelopment plan unless the final redevelopment plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the property, and all rights to enforce these covenants against any use permitted are expressly reserved.

(3) If the property is not conveyed to a public agency, the covenants and restrictions that govern the association of owners and/or tenants will at least include the following provisions:

a. Membership must be mandatory for each home buyer or tenant and each successive buyer or tenant.

b. The association must be responsible for liability insurance, local taxes and the maintenance of property.

c. Owners and tenants must pay their pro rata share of the cost.

d. The association must be able to adjust assessments to meet changing needs.

e. The city must be authorized to enforce these and other provisions governing the use, improvement and maintenance of the property.

PROOFS

(4) If the property is not conveyed to a public agency then, in addition to those requirements set forth hereinabove, there shall be delivered to the building official at or before the time the first building permit is obtained an instrument in recordable form containing:

a. A legal description of the property upon which the dwelling units are to be constructed;

b. A statement of the total area contained within such description;

c. A statement of the number of existing or proposed units situated on the subject property;

d. A statement of the number of dwelling units for which the application is made;

e. A restriction prohibiting any further development or construction beyond what is set forth in the instrument.

The building official shall thereafter issue permits in accordance with what is set forth in the aforesaid instrument provided all other requirements of this chapter are met and thereafter no further permits shall be issued for any additional units on the tract described. The instrument shall be recorded to place all persons on notice of its contents and limitations upon further building.

(l) *Utility easements.* Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.

(m) *Other standards.* All planned unit developments will comply with regulations affecting signs referred to in section 125-310, and applicable with portions of the city's regulations governing subdivisions. In case of conflict the city commission shall determine the requirement for the PUR. The city commission may also establish additional requirements which it considers necessary to ensure that a planned unit redevelopment conforms to the intent of this section.

(n) *Special application requirements.* When an application is submitted to include property in a PUR zone, the following items will be submitted, in addition to other information submitted in accordance with section 125-132, the city's subdivision regulations or other city laws:

(1) *Written documents*.

a. A statement of planning objectives to be achieved by the planned unit redevelopment through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed redevelopment.

b. Material which presents firm evidence of unified control of the entire area within the proposed planned unit redevelopment, including a certificate of apparent ownership and encumbrance with the opinion of counsel representing the applicant establishing that the applicant has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.

c. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned unit redevelopment, such as land areas and dwelling units.

d. A redevelopment schedule indicating:

1. The approximate date when renovation or construction of the project can be expected to begin.

2. The stages in which the project will be built and the approximate date when each stage can be expected to begin.

3. The anticipated rate of redevelopment.

4. The approximate date when each stage in the redevelopment will be completed.

5. The area, location and degree of development of common open space that will be provided at each stage.

e. Quantitative data for the following. Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; approximate residential gross densities; total amount of open space (including separate figures for common open space and usable open spaces); and the

PROOFS

total amount of nonresidential acreage (including a separate figure for commercial and industrial acreage).

f. A statement indicating the justification for a gross density in excess of 18 units per acre if such a density is being proposed.

g. Agreements, provisions and covenants which govern the use, maintenance and continued protection of the planned unit redevelopment and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.

(2) *Site plan and supporting maps.* Maps with the following minimum information must be submitted:

a. The existing site conditions, shorelines, floodplains, unique natural features and forest cover.

b. A grading plan for the site showing future contours for locations where the existing grade is to be changed by more than two feet.

c. A general landscape plan for the planned unit redevelopment.

d. Proposed lot lines and other divisions of land for management, use or allocation purposes.

e. The approximate location of present and proposed buildings and structures.

f. The location and size of all areas proposed to be conveyed, dedicated or reserved for streets, parks, playgrounds, public and semi-public buildings and similar uses.

g. The existing and proposed vehicular circulation system, including off-street parking and loading areas.

h. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatments of points of conflict.

i. The existing and proposed utility systems, including sanitary sewers, storm sewers and water, electric and gas lines.

j. Enough information on land areas adjacent to the proposed planned unit redevelopment to indicate the relationship between the proposed redevelopment and adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of the landscape.

k. The proposed treatment of the perimeter of the planned unit redevelopment, including materials and techniques used such as screens, fences and walls.

(o) *Special planned unit redevelopment review procedures.*

(1) Planned unit redevelopments will be reviewed in at least three phases: A preapplication conference, a preliminary redevelopment plan phase and a final redevelopment plan phase. The preapplication conference will involve a minimum of one informal discussion between the applicant and staff of the ~~department of planning and development~~ planning department on the proposed planned unit redevelopment.

(2) At the request of the applicant, an optional phase, a concept plan phase, will take place. For this phase, a map showing the general layout of uses in the proposed planned unit redevelopment will be submitted along with written material mentioned in this section in subsections (n)(1)(a), (c), (d) and (e). A public hearing will be held by the city planning board on the proposal and it will approve, approve with conditions or disapprove the concept plan.

(3) The preliminary redevelopment plan will include information specified in subsection (p) of this section. The procedure for reviewing the preliminary redevelopment plan is the procedure set forth in section 125-133 for amending this chapter. If the proposed planned unit redevelopment involves the subdividing of land which is regulated by the city, the preliminary plat should be reviewed concurrently with the preliminary redevelopment plan. Approval of a preliminary redevelopment plan or approval of the plan with conditions shall occur concurrently with a change in zoning for the property. If the city planning

PROOFS

board approved the concept plan or approved it with conditions, the board will not change its earlier opinion unless it determines that it is appropriate due to new information or due to differences between the concept plan and preliminary redevelopment plan.

(4) Within a year of the date of approval of a preliminary redevelopment plan or approval of the plan with conditions, the applicant shall file with the ~~department of planning and development~~ planning department a final redevelopment plan containing in final form the information required in the preliminary plan. This plan may be for the entire development or, when submission in stages has been authorized, for the first stage of the redevelopment. If the planned unit redevelopment involves the subdividing of land which is regulated by the city, the final plat should be reviewed concurrently with the final redevelopment plan.

(5) The staff of the ~~department of planning and development~~ planning department shall have a maximum of 35 days from the submission of a complete final redevelopment plan to review the plan and prepare comments concerning the plan. Prior to acting on the final redevelopment plan, the city commission shall hold a public hearing in accordance with section 125-38. The city commission shall approve, approve with conditions or disapprove the final redevelopment plan within 20 days of the public hearing, except the city commission with good cause demonstrated may allow an extension of time.

(6) If the city commission finds evidence of a significant deviation from the preliminary redevelopment plan, the city commission shall advise the applicant to submit an application for an amendment to the preliminary redevelopment plan. An amendment shall be reviewed using the same procedure as was used for the preliminary redevelopment plan, except that this chapter will not need to be amended. If no significant deviation from the preliminary redevelopment plan is found, the city commission will approve the portions of the planned unit redevelopment in the final plan.

(7) If an amended preliminary redevelopment plan is not submitted within 75 days of the city commission decision to require such an amendment, or if the amended preliminary redevelopment plan is not approved or approved with conditions, the city commission shall initiate proceedings for rezoning all of the property in the planned unit redevelopment.

(p) *Adherence to approved final redevelopment plan.* Building permits for construction shall be issued only if consistent with an approved final redevelopment plan.

(1) Minor changes not altering the intent and purpose of the approved final redevelopment plan may be approved by the ~~director of planning and development~~ planning director after such departmental comment as he deems appropriate. The director shall also advise the city commission of his administrative determination at the earliest practicable opportunity and such determination shall become effective unless the city commission thereupon finds that the proposed change is substantial in nature and advises the applicant to apply for an amendment of the approved redevelopment plan.

(2) Substantial changes in requested uses, density, phasing or other specifications of the approved redevelopment plan must be approved by the city commission after it has held a public hearing and after review of the proposed changes by the city planning board.

(3) The amendment of an approved redevelopment shall be in the manner provided for adoption of the redevelopment plan.

(Code 1983, § 22-42; Ord. No. H-186, § 30-42, 6-15-1981; Ord. No. K-258, § 3, 1-20-2004; Ord. No. L-260, § 3, 6-18-2012)

**Secs. 125-214--125-234. Reserved.**

## ARTICLE V. CONDITIONAL USES

**Sec. 125-235. Purpose.**

The purpose of the conditional use process is to allow, when desirable, uses that would not be appropriate generally or without restriction throughout the particular zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would not adversely affect the public health, safety, comfort, good order, appearance, convenience and the general welfare.

(Code 1983, § 22-74; Ord. No. H-186, § 30-74, 6-15-1981)

PROOFS

**Sec. 125-236. Application for conditional use.**

Application for a conditional use shall be made by filing an application on a form prescribed by the city and by filing an application for site plan review in accordance with the requirements set forth in section 125-313. Conditional use applications where there is no new construction associated with the use or where such construction is limited to changes in the interior of an existing building shall be exempt from site plan review except that the procedures and standards of section 125-313 shall apply to the review and approval of the conditional use except as otherwise provided in section 125-237.

(Code 1983, § 22-75; Ord. No. H-186, § 30-75, 6-15-1981)

**Sec. 125-237. Procedure for the review and approval of conditional uses.**

The application for conditional use with the application for site plan review, when not exempt in accordance with the requirements of section 125-236, shall be reviewed as a unit in accordance with the requirements of section 125-313 except that:

(1) The city commission shall hold a public hearing in accordance with the provisions of section 125-37 prior to acting on the application for conditional use.

(2) In permitting a conditional use or the modification of an existing conditional use, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

(Code 1983, § 22-76; Ord. No. H-186, § 30-76, 6-15-1981; Ord. No. 20-006, § 2, 3-16-2020)

**Sec. 125-238. Performance bond.**

The city commission may require that the applicant for a conditional use furnish to the city a performance bond up to, and not to exceed, the value of the cost of the required improvements in order to ensure that the conditions imposed are completed in accordance with the plans and specifications as approved by the city commission and that the standards established in granting the conditional use are observed.

(Code 1983, § 22-77; Ord. No. H-186, § 30-77, 6-15-1981)

**Sec. 125-239. Existing conditional uses.**

In the case of a use existing prior to its present classification by this chapter as a conditional use, any change in use or in lot area or any alteration of a structure will conform with the requirements dealing with conditional uses. A use which is permitted as a conditional use in a district under the terms of this chapter shall not be deemed a nonconforming use in this district, but shall without further action be considered a conforming use.

(Code 1983, § 22-78; Ord. No. H-186, § 30-78, 6-15-1981)

**Sec. 125-240. Compliance with conditions of approval.**

Compliance with conditions established for a conditional use and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this chapter. A change in tenancy, ownership or management of a conditional use shall not affect the status of a conditional use which remains otherwise unchanged nor be interpreted to permit a departure from the conditions of approval and the approved plans.

(Code 1983, § 22-79; Ord. No. H-186, § 30-79, 6-15-1981)

**Sec. 125-241. Time limit for conditional uses.**

Authorization of a conditional use shall be void after one year or such time as the authorization may specify unless substantial construction has taken place. However, when required, the city commission may extend authorization for an additional period.

(Code 1983, § 22-80; Ord. No. H-186, § 30-80, 6-15-1981)

PROOFS

**Sec. 125-242. Limitations on refiling of application.**

Applications for which a substantially similar application has been denied will be heard by the city planning board only after a period of six months has elapsed from the date of the earlier decision.

(Code 1983, § 22-81; Ord. No. H-186, § 30-81, 6-15-1981)

**Sec. 125-243. Innovative residential developments.**

(a) *Purpose.* Innovative residential developments are developments which achieve a more creative and imaginative housing environment than normally occurs by use of the clustering technique, by employing various other methods to achieve distinctiveness and excellence in siting, design and/or landscaping. Density bonuses and reductions in various building restrictions are used to encourage these developments.

(b) *General standards for approval.* The city commission shall approve an innovative residential development only if the commission determines that the development fulfills the purpose of this section and complies with applicable standards referred to in this section and section 125-236, additional zoning ordinance provisions and other city laws.

(c) *Potential uses.* The following uses are allowed in an innovative residential development if the city commission considers them appropriate for the particular development being proposed and if other applicable standards are satisfied:

(1) Single-family dwellings, detached or attached, if each has its own separate lot.

(2) Duplexes, quadraplexes, triplexes and multifamily housing developments, when permitted in the zone as a semi-restricted use or a conditional use.

(3) Nonresidential uses permitted in the zone as a semi-restricted or conditional use when these uses are not an obstacle to providing a suitable living environment for residents of the innovative residential development.

(d) *Minimum site size.* Innovative residential developments shall be established on parcels of land which are suitable for the proposed development.

(e) *Residential densities.* Densities will not exceed the level which the city commission determines is appropriate due to natural features of the area, public facility and service needs and capacities, transportation needs and capacities and compatibility with nearby development. Unless it determines that density bonuses should be allowed in accordance with the following criteria, the maximum gross density allowed shall be five units per acre in an R-3 zone, ten units per acre in an R-4 zone and 15 units per acre in an R-5 zone. Density bonuses awarded for the following criteria are cumulative:

(1) *Landscaping.* The gross density may be increased up to one unit per acre for landscaping plans which provide for effective use of existing vegetation and/or for approved landscape plans for streetscapes, pedestrian ways, bicycle paths, areas near buildings, open spaces and/or recreation areas. This increased density may only be awarded if the landscaping of the innovative residential development will exceed the requirements in section 125-314 for landscaped area by ten percent, for amount of trees by ten percent and/or in terms of qualitative characteristics of the landscaping.

(2) *Siting.* The gross density may be increased (up to one-half unit per acre in R-3 and R-4 zones and one unit per acre in an R-5 zone) for creative placement of buildings and/or other facilities in terms of visual focal points, use of existing physical features such as topography, views, sun and wind orientation, the circulation pattern, variation in building setbacks and/or building and facility groupings.

(3) *Design.* The gross density may be increased (up to one-half unit per acre in R-3 and R-4 zones and one unit per acre in an R-5 zone) for imaginative design features including architectural styles, harmonious use of building materials, varied use of housing types and/or other design elements of the innovative residential development.

(f) *Basic use standards.*

(1) Area, width, depth, yard and lot coverage requirements for lots in an innovative residential development shall be determined by the city commission on the basis of relevant characteristics of the use, the rest of

PROOFS

the innovative residential development and the surrounding area, including those characteristics relating to use compatibility, physical feature constraints and utility and transportation capacities.

(2) No building within the innovative residential development shall be located closer than 15 feet to any street or street right-of-way. No building with residential dwellings shall be closer than 20 feet to any nonaccessory building, except single-family dwellings may be attached or less than 20 feet apart. Additional setback requirements may be imposed by the city commission to provide adequate light, ventilation, privacy and other appropriate features.

(3) The maximum building height shall not exceed those building heights presented in the applicable zoning district and the city commission may further limit heights.

(g) *Open spaces.* Innovative residential developments which receive density bonuses in accordance with subsection (e) of this section shall comply with the following provisions:

(1) In all such innovative residential developments at least 40 percent of the site, exclusive of aquatic areas, shall be devoted to open space. Of this required open space area, no more than 25 percent may be utilized privately by individual owners or users of the innovative residential development. At least 75 percent of the required open space area must be common open space.

(2) No area may be considered as common open space within an innovative residential development unless it meets the following requirements:

a. The location, shape, size and character of the common open space is suitable for the development.

b. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the development based on consideration of its size, density, expected population, topography and the number and type of dwellings provided.

c. The common open space will be suitably improved for its intended use, except that common space containing natural features worthy of preservation should be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.

d. No parking facilities will be included in areas designated as common open space unless the parking facilities are intended to provide access to the common open space area and are not intended to meet the ordinance requirements for other uses. No streets will be designated as common open space.

e. If buildings or structures are to be constructed in the common open space, the developer will provide a bond or other adequate assurances that the buildings and structures will be completed. The ~~director of the department of planning and development~~ planning director shall release the bond or other assurances when the buildings and structures have been completed according to the development plan.

(h) *Compatibility with adjacent development.* If topographical or other barriers near the perimeter of the innovative residential development do not provide reasonable privacy for existing or potential uses adjacent to the development, the city commission shall require buildings in the innovative residential development to be set back an adequate distance from the perimeter of the innovative residential development or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls and/or berms. In no case shall buildings in the innovative residential development be closer than 25 feet to an adjacent lot in an E-1, R-1, R-2, R-3, R-4 or R-5 zone.

(i) *Unified control.* All land intended to be included in the innovative residential development shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships and/or corporations.

(j) *Maintenance of common areas.* Common open space, streets and any area or facility designated by the city commission as a shared area will comply with the following provisions:

(1) The property will be conveyed under one of the following options:

PROOFS

a. To a public agency which agrees to maintain the property and buildings or structures placed on it; or

b. To an association of owners and/or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions that are acceptable to the city commission as providing for the continuing care of the property.

(2) The property may not be put to a use not specified in the development plans unless the development plans are first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of the property, and all rights to enforce these covenants against any use permitted are expressly reserved.

(3) If the property is not conveyed to a public agency, the covenants and restrictions that govern the association of owners and/or tenants will at least include the following provisions:

a. Membership must be mandatory for each home buyer or tenant and each successive buyer or tenant.

b. The association must be responsible for liability insurance, local taxes and the maintenance of property.

c. Owners and tenants must pay their pro rata share of the cost.

d. The association must be able to adjust assessments to meet changing needs.

e. The city must be authorized to enforce these and other provisions governing the use, improvement and maintenance of the property.

(4) If the property is not conveyed to a public agency then, in addition to those requirements set forth hereinabove, there shall be delivered to the building official at or before the time the first building permit is obtained an instrument in recordable form containing:

a. A legal description of the property upon which the dwelling units are to be constructed;

b. A statement of the total area contained within such description;

c. A statement of the number of existing or proposed units situate on the subject property;

d. A statement of the number of dwelling units for which the application is made;

e. A restriction prohibiting any further development or construction beyond what is set forth in the instrument.

The building official shall thereafter issue permits in accordance with what is set forth in the aforesaid instrument provided all other requirements of this chapter are met and thereafter no further permits shall be issued for any additional units on the tract described. The instrument shall be recorded to place all persons on notice of its contents and limitations upon further building.

(k) *Utility easements.* Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.

(l) *Other standards.* All innovative residential developments will comply with regulations affecting signs referred to in section 125-310, and applicable portions of the city's regulations governing subdivisions. The city commission may also establish additional requirements which it considers necessary to ensure that an innovative residential development conforms to the intent of this section.

(m) *Special application requirements.* When an application is submitted for conditional use approval of an innovative residential development, the following items will be submitted in addition to other information submitted in accordance with section 125-236, the city's subdivision regulations or other city laws:

(1) Statements describing in detail the character and intended use of the development.

(2) Material which presents firm evidence of unified control of the entire area within the proposed innovative residential development, including a certificate of apparent ownership and encumbrance with the opinion of counsel representing the applicant establishing that the applicant has the unrestricted right to impose

PROOFS

all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.

(3) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the innovative residential development, such as land areas and dwelling units.

(4) A statement indicating the justification for any desired density bonuses.

(5) Agreements, provisions and covenants which govern the use, maintenance and continued protection of the innovative residential development and any of its common open space or other shared areas. This material shall include material which binds successors in title to any commitments concerning completion of the project and its maintenance and operation.

(6) Additional information needed to demonstrate compliance with the standards in this section and those referred to in section 125-242.

(Code 1983, § 22-82; Ord. No. H-186, § 30-82, 6-15-1981)

**Sec. 125-244. Duplex subdivisions.**

Duplex subdivisions shall comply with the following provisions:

(1) Each duplex subdivision will have a buffer area which separates individual lots and any other areas within the subdivision from property outside the subdivision, except at entrance and exit points or where the subdivision adjoins another duplex subdivision. These buffer areas shall be at least 15 feet deep.

(2) Suitable sight-obscuring fences, walls, evergreen hedges and/or berms shall be located in all required buffer areas in order to visually separate the subdivision from adjoining property unless they are unnecessary because of topographical barriers.

(3) Lot size, yard, lot coverage, building height and other requirements specified in the applicable zoning district shall apply to duplex subdivisions.

(4) All duplex subdivisions shall comply with city subdivision regulation standards. The preliminary plat should be reviewed concurrently with the request for conditional use approval.

(Code 1983, § 22-83; Ord. No. H-186, § 30-83, 6-15-1981)

**Sec. 125-245. Mobile home subdivisions and conventional home/mobile home subdivisions.**

Mobile home subdivisions and conventional home/mobile home subdivisions will comply with the following provisions:

(1) Each mobile home subdivision or conventional home/mobile home subdivision will have a buffer area which separates individual lots and any other areas within the subdivision from property outside the subdivision, except at entrance and exit points or where the subdivision adjoins a mobile home or conventional home/mobile home subdivision. These buffer areas shall be at least 15 feet deep.

(2) Suitable sight-obscuring fences, walls, evergreen hedges and/or berms shall be located in all required buffer areas in order to visually separate the subdivision from adjoining property unless they are unnecessary because of topographical barriers.

(3) Mobile homes placed in a mobile home subdivision or conventional home/mobile home subdivision shall conform to provisions in section 125-319.

(4) Lot size, yard, lot coverage, building height and other requirements in this chapter that apply to subdivisions for only conventional single-family homes shall also apply to mobile home subdivisions and conventional home/mobile home subdivisions.

(5) All mobile home subdivisions and conventional home/mobile home subdivisions shall comply with city subdivision regulation standards. The preliminary plat should be reviewed concurrently with the request for conditional use approval.

~~With respect to mobile homes, manufactured homes, mobile home subdivisions and mobile home parks which are located in FH zones shall be governed by the provisions of section 22-41(c)(1); section 22-~~

PROOFS

~~41(e)(2)d. 3.; and section 22-41(e)(2)e. 12.~~

(Code 1983, § 22-84; Ord. No. H-186, § 30-84, 6-15-1981; Ord. No. I-28, § 16, 8-15-1983; Ord. No. I-208, § 5, 3-2-1987)

**Sec. 125-246. Mobile home parks.**

Mobile home parks shall be built to state standards in effect at the time of construction and comply with the following provisions:

(1) *Location, space and general layout standards.*

a. Mobile home parks shall be established on parcels of land which have an area of at least three acres.

b. Each mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply. Mobile home parks shall not incorporate within their boundaries marshes, swamps or other potential breeding places for insects or rodents.

c. Each space for a mobile home shall contain a minimum of 4,000 square feet in an R-4 zone and 3,000 square feet in an R-5 zone. This space shall be clearly defined and exclusive of space provided for the common use of tenants, such as roadways, general use walkways, centralized storage areas and general use recreation areas.

d. There shall be no more than one mobile home occupying each space.

e. Mobile homes shall be located within their designated spaces in such a way that there shall be a minimum of 20 feet between mobile homes, or between any mobile home and any building other than an approved carport or storage building.

f. Mobile homes shall be located at least 20 feet from all mobile home park property lines.

g. No mobile home shall be located so that any part of such mobile home will obstruct any drive or walkway.

h. No mobile home shall remain in a mobile home park unless it is anchored in an approved mobile home space or stored unoccupied within the centralized storage area.

i. Each mobile home space shall be improved with one patio of concrete or other suitable impervious material having a minimum area of 150 square feet and one crushed rock or better surfaced mobile home pad having a minimum area equal to that of any mobile home which will be located in the space.

~~Mobile home parks shall not be permitted in FH zones.~~

(2) *Transportation standards.*

a. Mobile home parks shall abut and have direct access to an arterial or other major street. Minor streets in a mobile home park shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

b. Each mobile home space shall have access to a street in the mobile home park. Streets in a mobile home park may be dedicated to public use or may be retained in private ownership, except the city commission may require major streets to be dedicated to the public. All streets will be at least 30 feet wide and constructed in accordance with city subdivision regulation standards.

c. Walkways, not less than four feet in width, shall be provided from each mobile space to service buildings and along at least one side of each street.

(3) *Service building standards.*

a. Each mobile home park shall be provided with at least one service building adequately equipped with flush-type toilet fixtures and other sanitary facilities. No service building shall contain less than one toilet for females, one toilet for males and one lavatory for each sex.

b. Service buildings shall:

1. Be located 20 feet or more from any mobile home space;

PROOFS

2. Be of a permanent construction, and be adequately lighted;
3. Be of a moisture-proof material to permit frequent washing and cleaning;
4. Have adequate heating facilities to maintain a temperature of at least 68 degrees Fahrenheit during cold weather, and to supply adequate hot water during time of peak demands;
5. Have all rooms well ventilated, with all openings effectively screened;
6. Provide separate compartments for each bathtub or shower and water closet, and sound resistant wall to separate male and female toilet facilities.

c. Laundry facilities shall be provided in the ratio of one clothes washer and one clothes dryer to every 20 mobile home spaces and shall be in a separate sound-proof room of a service building or in a separate service building.

(4) *Water supply standards*.

a. An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park, capable of furnishing a minimum of 150 gallons per day per mobile home space. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health department. When a municipal supply of water of such quality is available, connection shall be made thereto.

b. The water system of the mobile home park shall be connected by pipes to all buildings and all mobile home spaces.

c. All water piping shall be constructed and maintained in accordance with state and local law. The piping system shall not be connected with nonpotable or questionable water supplies and shall be protected against the hazards of backflow or back-siphonage.

d. Where drinking fountains are provided for public use, they shall be of a type and in locations approved by the county health department.

e. Individual water service connections which are provided for direct use by mobile homes shall be so constructed that they will not be damaged by the parking of such mobile homes. The mobile home park water system shall be adequate to provide 20 pounds per square inch of pressure at all mobile home connections.

f. Where an independent or nonpublic water system is used to serve the mobile home park with water obtained from wells, the wells shall have been approved by the county health department, and shall have been drilled or driven. Springs or other sources of supply shall not be used unless approved by the county health department.

g. Every well shall be located and constructed in such a manner that neither underground nor surface contamination will reach the water supply from any source. A minimum distance of 150 feet shall be maintained between the water supply and any septic tank. A minimum distance of 100 feet shall be maintained between the water supply and any other possible source of contamination, except that sewers or pipes through which sewage or pipes are specifically constructed to provide adequate safeguards, and when specifically authorized by the county health department, such sewers or pipes through which sewage may back up may be closer than 50 feet, but not less than 30 feet from a well.

(5) *Sewage disposal standards*.

a. All plumbing in the mobile home park shall comply with state and local plumbing laws and regulations.

b. Each mobile home space shall be provided with at least a three-inch sewer connection. The sewer connection shall be provided with suitable fittings, so that a water-tight connection can be made between the mobile home drain and the sewer connection. Such individual mobile home connections shall be so constructed that they can be closed when not linked to a mobile home and shall be capped so as to prevent any escape of odors.

PROOFS

c. Sewer lines shall be constructed in accordance with plans approved by the city engineer and in accordance with the recommendations of such city engineer. All sewer lines shall be adequately vented and shall be laid with sufficient earth cover to prevent breakage from traffic.

d. Where sewer lines of the mobile home park are not connected to a public sewer, a method of sewage disposal approved by the county health department shall be provided. The approval of the city engineer and director of the water and sewer department shall be obtained on the type of treatment proposed and on the design of the disposal plant prior to construction.

(6) *Refuse disposal standards.*

a. The storage, collection and disposal of refuse in the mobile home park shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident or fire hazards or air pollution.

b. Mobile home parks meeting in every respect the requirements of this chapter as to location, space and general layout and provided with individually billed electric or water meters may be provided with individual collection of garbage and trash. Garbage and trash collections may otherwise be provided at a community collection point, as provided in this section.

c. All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than 200 feet from any mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse and shall be so located as to be readily accessible to standard garbage and trash collecting equipment.

d. Racks or holders shall be provided for all refuse containers. Such containers, racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

(7) *Insect and rodent control standards.*

a. Insect and rodent control measures to safeguard public health as required by the county health department shall be applied in the mobile home park.

b. Accumulation of debris which may provide harborage for rodents shall not be permitted in the mobile home park.

c. When rats or other objectionable rodents are known to be in the mobile home park, the park operator shall take definite action, as directed by the county health department, to exterminate them.

d. Obnoxious weeds and grasses are to be controlled as required by this Code.

(8) *Electricity and exterior lighting standards.*

a. An electrical outlet supplying at least 240 volts shall be provided for each mobile home space. The installation shall comply with all applicable state and local electrical codes and ordinances. Such electrical outlets shall be grounded and weatherproof. No main power supply line shall be permitted to lie on the ground or to be suspended less than 18 feet minimum above the ground.

b. Streets, driveways and walkways shall be lighted at night with a minimum illumination of at least six-tenths footcandles.

c. All electrical installations shall be in compliance with applicable electrical requirements of this Code of Ordinances.

(9) *Fuel standards.* All piping from outside fuel storage tanks or cylinders to mobile homes shall be copper or other metallic tubing acceptable to the building inspector. The fuel tanks and cylinders shall be permanently installed and securely fastened in place and shall not be located inside or beneath the mobile home or less than five feet from any mobile home exit.

(10) *Fire protection standards.*

a. The mobile home park area shall be subject to the rules and regulations of the Fort Pierce/Saint Lucie County Fire District.

PROOFS

b. Mobile home park areas shall be kept free of litter, rubbish and other flammable materials.

c. Portable fire extinguishers of a type approved by the fire district shall be kept in service buildings and at all other locations designated by such fire district and shall be maintained in good operating condition.

d. Where a municipal water system with a water main of six inches or larger is available to the mobile home park, standard fire hydrants shall be located within 400 feet of each mobile home or building.

e. Where the water system does not provide at least a water main of six inches there shall be provided a two-inch protected water riser within 300 feet of each mobile home or building in accordance with the fire district.

f. Fires shall be made only in stoves and other equipment intended for such purposes.

g. Any person operating a mobile home park shall instruct his staff in the use of the mobile home park's fire equipment and their duties in the event of fire.

(11) *Additional standards*.

a. A centralized storage area for boats, campers, camping trailers and automobiles shall be provided in each mobile home park. Such storage areas shall contain a minimum of 160 square feet for each mobile home space and shall be enclosed by a sight-obscuring fence.

b. General use recreation areas will be provided which are suitable for recreational uses and which are adequately equipped and restricted to recreational uses. A minimum of 200 square feet of recreation area for each mobile home space shall be provided in one or more locations within the mobile park. The minimum size of each required recreation area shall be 5,000 square feet. Such areas shall be protected from streets, drives and parking areas by curbs, guardrails, plantings or other suitable devices.

c. Locations of utility facilities such as sewer, water, natural gas, electricity, telephone and cable television lines may be determined by the city planning board. Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.

d. Suitable sight-obscuring fences, walls, evergreen hedges and/or berms shall surround the mobile home park in order to visually separate the park from adjoining property, except at entrance and exit points and where such buffering techniques are unnecessary due to topographical features.

e. Every mobile home park owner or operator shall maintain a register containing a record of all mobile homes and occupants using the mobile home park. Such register shall be available to any authorized person inspecting the park, and shall be preserved for one year from the date of listing therein. Such register shall contain the names and addresses of all mobile home occupants stopping at the park and the make, model and license number of their motor vehicles and the mobile home.

f. Before a mobile home park is approved, evidence shall be required that demonstrates compliance with standards of the state department of health and rehabilitative services, division of health.

g. Every owner, operator, attendant or other person operating a mobile home park shall notify the county health department immediately of any suspected communicable or contagious disease within the mobile home park. In the case of diseases diagnosed by a physician as quarantinable, the departure of a mobile home or its occupants or the removal therefrom of clothing or other articles which have been exposed to infection, without approval of the county health department, is prohibited.

h. Permanent structures located within any mobile home space shall be used only as carports or for storage purposes.

i. Mobile homes placed in a mobile home park shall also conform to the provisions of section 125-319.

(12) *Special application requirements*. Applications for mobile home parks shall be accompanied by complete plans and specifications which will include the following information:

PROOFS

a. A site plan drawn to a scale of one inch equals 100 feet which shows:

1. The number, locations and size of all mobile home spaces;

2. The location and width of roadways and walkways; and

3. The location of water and sewer lines, electrical installations, gas lines and the drainage system.

b. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park.

(Code 1983, § 22-85; Ord. No. H-186, § 30-85, 6-15-1981; Ord. No. I-208, § 6, 3-2-1987)

**Sec. 125-247. Recreational vehicle parks.**

Recreational vehicle parks shall comply with the following provisions:

(1) *Location, space and general layout standards*.

a. Recreational vehicle parks shall be established on parcels of land which have an area of at least three acres.

b. The recreational vehicle park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply. Recreational vehicle parks shall not incorporate within their boundaries marshes, swamps or other potential breeding places for insects or rodents.

c. Each space for a recreational vehicle shall contain a minimum of 1,750 square feet. This space shall be clearly defined and shall be exclusive of any space used for common areas, such as roadways and general use walkways, storage areas or recreation areas.

d. There shall be no more than one recreational vehicle occupying each space.

e. Recreational vehicles shall be located within their designated space in such a way that there shall be a minimum of ten feet between recreational vehicles, or between any recreational vehicle and any building other than approved covered parking areas or storage buildings.

f. Recreational vehicles shall be located at least 20 feet from all recreational vehicle park property lines.

g. No recreational vehicle when parked shall be located so that any part of such recreational vehicle will obstruct any drive or walkway.

h. The recreational vehicle pad shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water.

(2) *Transportation standards*.

a. Recreational vehicle parks shall abut and have direct access to an arterial or other major street.

b. Access drives shall be provided to each rental space and shall be continuous unless provided with adequate turnaround area.

c. No access drive will be less than 30 feet wide if for two-way traffic or if parking is permitted on one or both margins of the drive. Other access drives shall not be less than 20 feet wide.

d. Access drives shall be surfaced with concrete, asphaltic cement or similar hard surfaced material which is resistant to dust or mud. Such surfacing shall be suitably sloped and drained and will be maintained in good condition at all times by the owner or owners of the recreational vehicle park.

(3) *Service building standards.* Recreational vehicle parks shall comply with the service building standards in section 125-246(3) except:

a. That there shall be one lavatory and one shower or bathtub for each sex for each five recreational vehicle parks or fraction thereof; one toilet for females for each five recreational vehicles or fraction thereof; and one toilet for males for each ten recreational vehicles or fraction thereof, not more than one-third of which shall be urinals.

PROOFS

b. No recreational vehicle space shall be more than 200 feet from a service building with a lavatory, toilet and a shower or bathtub for each sex.

c. That for the purposes of this section, the words recreational vehicle will be substituted for the words mobile home.

(4) *Sewage disposal standards.* Recreational vehicle parks shall comply with the sewage disposal standards in section 125-246(5) except:

a. The requirements in section 125-246(5)(a) will not apply.

b. That for the purposes of this section, the words recreational vehicle will be substituted for the words mobile home.

(5) *Additional standards.*

a. Recreational vehicle parks shall comply with the standards in section 125-246(4) and section 125-246(6) through (10) except that for the purposes of this section, the words recreational vehicle will be substituted for the words mobile home.

b. General use recreation areas will be provided which are suitable for recreational uses and which are adequately equipped and restricted to recreational uses. At least ten percent of the total recreational vehicle park shall be included in one or more such general use recreation areas. These areas shall be protected from streets, drives and parking areas by curbs, guardrails, plantings or other suitable devices.

c. The city commission may require that the recreational vehicle park have a centralized storage area for boats and other vehicles.

d. Locations of utility facilities such as sewer, water, natural gas, electricity, telephone and cable television lines may be determined by the city commission.

e. Suitable sight-obscuring fences, walls, evergreen hedges and/or berms shall surround the recreational vehicle park in order to visually separate the park from adjoining property, except at entrance and exit points and where such buffering techniques are unnecessary due to topographical features.

f. Every recreational vehicle park owner or operator shall maintain a register containing a record of all recreational vehicle occupants using the recreational vehicle park. Such register shall be available to any authorized person inspecting the park, and shall be preserved for one year from the date of listing herein. Such register shall contain the names and addresses of all recreational vehicle occupants stopping at the park and the make, model and license number of the motor vehicle and the recreational vehicle.

g. Before a recreational vehicle park is approved, evidence shall be required that demonstrates compliance with standards of the state department of health and rehabilitative services, division of health.

h. Every owner, operator, attendant or other person operating a recreational vehicle park shall notify the county health department immediately of any suspected communicable or contagious disease within the recreational vehicle park. In the case of diseases diagnosed by a physician as quarantinable, the departure of a recreational vehicle or its occupants or the removal therefrom of clothing or other articles which have been exposed to infection, without approval of the county health department, is prohibited.

i. No recreational vehicle shall remain in the park for more than 30 days in a 60-day period.

(6) *Special application requirements.* Applications for recreational vehicle parks shall be accompanied by complete plans and specifications which will include the following information:

a. A site plan drawn to a scale of one inch equals 100 feet which shows:

1. The number, locations and size of all recreational vehicle spaces.

PROOFS

2. The location and width of roadways and walkways.

3. The location of water and sewer lines, electrical installations, gas lines and the drainage system.

b. Plans and specifications of all buildings and other improvements constructed or to be constructed within the recreational vehicle park.

(Code 1983, § 22-86; Ord. No. H-186, § 30-86, 6-15-1981)

**Sec. 125-248. Adult congregate living facilities.**

(a) *Purpose.* Adult congregate living facilities (ACLFs) are intended to meet a need for facilities which provide housing and some personal services for persons who do not require nursing home or hospital care (see definition in section 125-3). Qualifying facilities shall be licensed and regulated by the state.

(b) *Procedure for review and approval of adult congregate living facilities.* An application for approval of an adult congregate living facility shall be reviewed in accordance with the procedure set forth in sections 125-236 through 125-242. The application must conform to all requirements set forth in this Code except to the extent permitted otherwise in this section.

(c) *Basic use standards.*

(1) Area, width, depth, yard and land coverage specifications shall meet the requirements of this Code for multifamily developments.

(2) Maximum residential densities shall not exceed the level that the city commission determines is consistent with the comprehensive plan. The commission shall consider the number and size of bedrooms, projected age of the residents, projected number of residents per dwelling unit, traffic impact, public facility and service needs and capacity, and compatibility with nearby development. In no case shall maximum densities exceed those set out in this section.

(3) No building shall be located closer than 20 feet to any street or street right-of-way. Additional setback requirements may be imposed by the city commission to provide adequate light, ventilation, privacy, and other appropriate standards.

(4) An adult congregate living facility in a commercial zoning district shall not be eligible for approval as an innovative residential development.

(5) Three-fourths parking spaces shall be provided for each dwelling unit.

(d) *Uses.* Within an adult congregate living facility the following uses are permitted providing that all such uses are located within the principal structure and the area of the individual businesses does not comprise more than five percent of the total floor area of the project.

(1) Personal service establishments such as a beauty parlor, barber shop, tailor, and other similar uses provided not more than three persons are employed in any one establishment.

(2) Retail sales establishments primarily for the use of the tenants, provided that any one establishment does not exceed 1,600 square feet.

(3) Doctors' offices and medical clinics primarily for the use of the tenants, provided that any one establishment does not exceed 1,200 square feet.

(Code 1983, § 22-87; Ord. No. I-147, § 2, 2-3-1986)

**Sec. 125-249. Combined mobile home and recreational vehicle parks.**

Combined mobile home and recreational vehicle parks shall comply with the following standards:

(1) *Establishment.*

a. Combined mobile home and recreational vehicle parks must be established in an existing mobile home park.

b. The mobile home park must continue to exist and abide by all ordinances not in conflict with this

PROOFS

section.

(2) *General layout standards*.

a. *Intent.* To the fullest extent possible, recreational vehicle sites should be collocated and clustered together in combined mobile home and recreational vehicle parks.

b. *Implementation.* Combined mobile home and recreational vehicle parks must comply with the following layout limitations which are intended to restrict the location of recreational vehicle sites to mitigate the impact of recreational vehicles on existing mobile home residents:

1. If no vegetative buffer or roadway exists between a recreational vehicle and an existing mobile home, the recreational vehicle must be located at least 20 feet from the nearest exterior wall of the nearest preexisting mobile home.

2. If a vegetative buffer of a minimum of one foot in width, four feet in height, and the length of the lot, or an improved roadway exists between a recreational vehicle and an existing mobile home, the recreational vehicle must be located ten feet from the nearest exterior wall of the nearest preexisting mobile home.

3. A recreational vehicle may be located next to a vacant mobile home with no minimum distance or buffer requirement.

4. A recreational vehicle may be located next to a preexisting mobile home that is occupied with no minimum distance or buffer requirement if the existing mobile home owner or resident provides the park owner their consent in writing.

(3) *Transportation standards*.

a. Recreational vehicles located in combined mobile home and recreational vehicle parks shall not be used for routine transportation.

b. Recreational vehicles located in combined mobile home and recreational vehicle parks shall be self-contained in nature, must be configured to utilize the electric, water, and sewer utilities of the park, and must be greater than 30 feet in length.

(4) *Additional standards*.

a. Permanent structures may not be constructed at recreational vehicle sites. A recreational vehicle may be located at a site with an already existing carport, storage room, or other permanent structure.

b. No recreational vehicle space lease may be for less than 30 consecutive days or more than 18 months in duration.

(Code 1983, § 22-88; Ord. No. L-284, § 3, 11-19-2012 )

**Secs. 125-250--125-276. Reserved.**

## ARTICLE VI. EXCEPTIONS

**Sec. 125-277. General exceptions to yard requirements.**

The following exceptions to yard requirements are authorized for a lot in any zone:

(1) If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

(2) If there is a building on one abutting lot which is within 100 feet of the lot, and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard depth.

(Code 1983, § 22-91; Ord. No. H-186, § 30-91, 6-15-1981)

PROOFS

**Sec. 125-278. Projections from buildings into yards.**

Cornices, roof eaves and fascia, balconies, gutters, canopies, screened enclosures, awnings, chimneys, flues and mechanical projections, such as window air conditioners and similar features, may project out to a maximum distance of 30 inches into a required yard except as provided for by sections 125-194(b)(2)f and 125-195(b)(2)f.

(Code 1983, § 22-92; Ord. No. H-186, § 30-92, 6-15-1981)

**Sec. 125-279. General exceptions to building height limitations.**

Vertical projections such as chimneys, spires, aerials, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this chapter.

(Code 1983, § 22-93; Ord. No. H-186, § 30-93, 6-15-1981)

**Secs. 125-280--125-306. Reserved.**

## ARTICLE VII. SUPPLEMENTARY REGULATIONS

### DIVISION 1. GENERALLY

**Sec. 125-307. Purpose.**

Regulations in this article are set forth in order to appropriately supplement the provisions in other parts of this chapter. These regulations generally affect more than one district and are intended to achieve compatibility among uses, protect the environment, meet transportation needs or carry out other local objectives.

(Code 1983, § 22-52; Ord. No. H-186, § 30-52, 6-15-1981)

**Sec. 125-308. Clear vision areas.**

(a) A clear vision area shall be maintained on the corner of all property adjacent to the intersection of two streets or of a street and a railroad, or a street and a driveway, except in a C-4 zone. A clear vision area shall contain no planting, fence or temporary or permanent obstruction exceeding 24 inches in height measured from the top of the curb or, where no curb exists, from the established centerline grade, except that the following may be permitted:

(1) Trees whose branches and foliage are removed to a height of eight feet above grade; and

(2) Necessary retaining walls.

(b) A clear vision area shall consist of a triangular area, two sides of which are right-of-way lines or, in the case of an intersection of a street with a driveway, the street right-of-way and the edge of the driveway. The third side is a line across the corner of the property which connects the ends of the other two sides. The size of the clear vision area is determined by the distance from the point of intersection of the two right-of-way lines to the third side or, in the case of an intersection of a street with a driveway, the distance from the point of intersection of the right-of-way line with the driveway edge to the third side, measured along the right-of-way line or driveway edge. This distance shall be 20 feet where a street intersects with another street or a railroad. The distance shall be ten feet where a street intersects with a driveway.

(c) A clear vision area shall not preclude the installation of a chainlink fence up to 48 inches in height, provided that no obstruction, such as slates or vegetation, be installed that would obstruct vision within the defined area.

(Code 1983, § 22-53; Ord. No. H-186, § 30-53, 6-15-1981; Ord. No. J-75, § 1, 1-18-1994)

**Sec. 125-309. Authorization for utility lines, railroad rights-of-way, streets, wells, drainage ways and related facilities.**

Even though utility lines, railroad rights-of-way, streets, wells, drainage ways and related facilities are not listed in zoning districts as semi-restricted uses or conditional uses, they will be permitted unless they:

(1) Are major utilities, land transportation facilities or water reservoirs and control structures located in a zoning district which classifies them as conditional uses and have not received approval as conditional uses; or

PROOFS

(2) Would violate other provisions in this chapter or in other city laws.

(Code 1983, § 22-54; Ord. No. H-186, § 30-54, 6-15-1981)

**Sec. 125-310. Signs.**

All signs shall comply with the provisions in chapter 117.

(Code 1983, § 22-55; Ord. No. H-186, § 30-55, 6-15-1981)

**Sec. 125-311. Environmental performance standards.**

(a) *Purpose.* The environmental performance standards set forth in this section are intended to help prevent nuisances due to a variety of causes, including noise, electromagnetic interference, smoke, humidity, heat, radiation, fire, explosives or toxic or noxious matter.

(b) *State and federal regulations.* All uses will comply with applicable state and federal regulations related to environmental protection, including those pertaining to air or water pollution and those pertaining to the state coastal construction setback line.

(c) *Noise.* No use shall exceed the applicable standards for noise ~~set forth in section 11-48~~.

(d) *Electromagnetic interference.* No use shall be conducted in a manner which produces electromagnetic interference with normal radio or television reception at any point at or beyond the lot line of the use.

(e) *Smoke*.

(1) *Method of measurement.* For the purpose of grading the density of emission of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The Ringelmann density reading shall be made at least once every minute during a period of at least one hour.

(2) *Standards for I-2 zones.* In the I-2 zone, the emission of smoke from any chimney, stack, vent, opening or combustion process shall not exceed a density of Ringelmann No. 2, except that smoke in excess of Ringelmann No. 2 but not exceeding No. 3 is permitted for a total of eight minutes during any one-hour period.

(3) *Standards for other zones.* In all zones, except the I-2 zone, the emission of smoke from any chimney, stack, vent, opening or combustion process shall not exceed a density of Ringelmann No. 1.

(f) *Humidity and heat*.

(1) *Standards for I-2 zones.* No use in an I-2 zone producing humidity in the form of steam or moist air or producing heat shall be carried on in such a manner that the steam, moist air or heat is perceptible to normal senses at any I-2 zone boundary line.

(2) *Standards for other zones.* No use, except in an I-2 zone, producing humidity in the form of steam or moist air or producing heat shall be carried on in such a manner that the steam, moist air or heat is perceptible to normal senses at any point at or beyond the lot line of the use.

(g) *Radiation, fire and explosive hazards.* No use shall violate applicable standards for radiation, fire or explosive hazards in chapter 18.

(h) *Toxic or noxious matter.* The emission of toxic or noxious matter beyond any lot line is prohibited.

(i) *Administration.* The environmental performance standards specified in this section shall be administered in accordance with section 125-33 ~~and section 22-145~~.

(Code 1983, § 22-56; Ord. No. H-186, § 30-56, 6-15-1981)

**Sec. 125-312. Protection of archeological sites.**

State and federal laws which restrict construction affecting known or newly discovered archeological sites will be complied with in every zoning district.

(Code 1983, § 22-57; Ord. No. H-186, § 30-57, 6-15-1981)

PROOFS

**Sec. 125-313. Major and minor site plan application.**

(a) *Major site plans.*

(1) *General.* A major site plan is one which is:

a. A residential project which exceeds 20 total dwelling units; or

b. A nonresidential or mixed-use development over 4,000 square feet in area.

(2) *Pre-application conference required.* Prior to filing for major site plan review, the developer and/or consultant shall meet with the city planning department, and any other relevant departments, to discuss the development review. No person may rely upon any comment concerning a proposed development, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

(3) *Submittal requirements.*

a. *Application.* Application forms for any site plan review shall be available from the city planning department. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation. The completed application form shall be accompanied by appropriate review fees, a vicinity map, a site plan, and by any other information required by the city planning department.

b. *Vicinity map.* The vicinity map shall indicate the general location of the site, abutting streets, existing utilities, complete legal description of the property in question, and all adjacent land uses.

c. *Site plan.* A site plan shall include, at minimum, the following items. The planning director shall have the discretion to request additional information, studies, or plans dependent on the nature of the development being proposed.

1. Name, location, owner, and designer/consultant of the proposed development.

2. Present zoning for subject site.

3. Location of the site in relation to surrounding properties, including the means of ingress and egress to such properties and any screening or buffers on such properties as well as access and traffic flow for both vehicular and pedestrian traffic.

4. Date, north arrow, and graphic scale not less than one inch equal to 50 feet.

5. Area, dimensions, and boundaries of the site.

6. Location of all property lines, existing right-of-way approaches, sidewalks, curbs, gutters, and streets.

7. Location of existing telephone and power poles and access to utilities and points of utility hookups.

8. Location and dimensions of all existing and proposed parking areas and loading areas, along with a lighting plan which shows illumination of all parking areas, as well as interior and immediately adjoining streets, at levels consistent with this Code.

9. Location, size, and design of proposed landscaped areas (including existing trees and required landscaped buffer areas).

10. Location and size of any lakes, ponds, canals, or other waters and waterways along with watercourses, easements, mean high tide lines, ordinary high water lines and section lines.

11. Structures and major features fully dimensioned including setbacks, distances between structures, floor area, width of driveways, parking spaces, property or lot lines, and percent of property covered by structures.

PROOFS

12. Location of dumpsters with details of any enclosures.
13. Locations, general dimensions, and uses of all buildings and structures, including overhangs, porches, balconies and building heights.
14. A storm drainage plan which indicates the techniques used to control drainage. The plan shall include:
    (i) Location and elevations of all existing and proposed drainage facilities within the site plan area and adjacent vicinity for 100 feet in all directions;
    (ii) Retention areas and exfiltration systems;
    (iii) Length, width, depth and direction of flow for all canals and ditches;
    (iv) Storm sewers and appurtenances;
    (v) Contour lines at one-foot intervals; and
    (vi) A note indicating that all storm drainage facilities shall conform to chapters 32 and 121 of this Code of Ordinances and the Standard Specifications adopted by the city commission on February 13, 1973, as amended.
15. A plan providing, where applicable, for the protection of the beach and dune system. The plan shall include these requirements:
    (i) Demonstration of compliance with the coastal construction control line established pursuant to F.S. ch. 161;
    (ii) All beach access points are to be provided as beach/dune walkovers in accordance with the requirements of the state department of natural resources;
    (iii) No construction which threatens the stability of the primary dune or beach itself shall be permitted;
    (iv) No rigid shore protection structures shall be permitted except when used as part of a comprehensive plan for beach restoration and when nonstructural alternatives are unavailable;
    (v) Demonstration of dune restoration measures conforming to the requirements of the state department of natural resources.
16. A design review plan which meets the requirements of section 125-314.
17. For residential, hotel, motel, bed and breakfast, mobile home park, or other comparable use site plans:
    (i) Tabulation of gross acreage.
    (ii) Tabulation of density.
    (iii) Number of dwelling units proposed.
    (iv) Location and percent of total open space and recreation areas.
    (v) Percent of lot covered by buildings.
    (vi) Floor area of dwelling units.
    (vii) Number of proposed parking spaces.
    (viii) Street layout.
    (ix) Layout of mobile home stands (for mobile home parks only).
    (x) Stormwater management plan.
    (xi) Recreation facility locations.

(4) *Technical review committee.* Once review has been completed, the city planning department shall then

PROOFS

route the application to each reviewing department and other agencies that are part of the technical review committee or are determined necessary for intergovernmental review. Each reviewer shall then submit written comments to the city planning department by the technical review committee's meeting date. The technical review committee shall be held on the third Thursday of each month where comments from reviewing departments and other agencies shall be used to determine whether the application complies with the requirements of this Code or if revisions or additional information is needed in order to proceed.

(5) *Planning board.* Once the city planning department has determined the application is ready to proceed, the department will prepare a staff report and recommendation for consideration by the city planning board. Notice of the public hearing shall be consistent with section 125-38.

(6) *City commission.* The city planning department will prepare a staff report and recommendation for consideration by the planning board. The planning board may choose to approve, with or without conditions, deny, or table the item. In no case, however, may a major site plan proceed to city commission without action from the planning board. Notice of the public hearing shall be consistent with section 125-38.

(7) *City commission public hearing.*

a. At the public hearing, the city commission shall hear from all interested parties regarding whether the major site plan application complies with the requirements of this Code. The city commission shall consider the application, the written comments of each responding department and agency, the compliance recommendation of the city planning department, and the comments presented to the planning board and city commission.

b. The city commission may choose to approve the major site plan, with or without conditions, deny the site plan, withdraw the site plan, or continue the public hearing.

c. During the public hearing, the city commission may decide that additional information is necessary to complete its review and may continue the public hearing for this purpose. A continuance shall be to a time certain and shall be announced at the public hearing. Not more than one continuance shall be granted for this purpose.

(b) *Minor site plan.*

(1) *General.* A minor site plan is one which is:

a. A single-family, duplex, triplex, townhouse, multi-dwelling building, manufactured home, or multifamily residential project of between two and 20 units, inclusive; or

b. A nonresidential or mixed-use development under 4,000 square feet in area.

(2) *Pre-application conference.* Prior to filing for minor site plan review, the developer and/or consultant shall meet with the city planning department, and any other relevant departments, to discuss the development review. No person may rely upon any comment concerning a proposed development, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form. The planning director may have the option to waive the pre-application conference for any minor site plan application.

(3) *Submittal requirements.* Application forms for a minor site plan review shall be available from the city planning department. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation. The completed application form shall be accompanied by appropriate review fees, a vicinity map, a site plan, and by any other information required by the city planning department. The vicinity map and site plan shall be submitted in compliance with subsection (a)(3) of this section.

(4) *Technical review committee.* Once review has been completed, the city planning department shall then route the application to each reviewing department and other agencies that are part of the technical review

PROOFS

committee or are determined necessary for intergovernmental review. The minor site plan application shall be reviewed consistent with subsection (a)(4) of this section.

(5) *Action on minor site plan.* The city planning department shall determine if the minor site plan is either in compliance or not in compliance with this Code and ready to proceed.

a. If in compliance, and there are no outstanding documents, actions, or information needed, the minor site plan shall be deemed approved.

b. If not in compliance, the planning director shall specify the reasons therefor, how the application may be brought into compliance, and convey this information to the applicant. Within 180 days of said conveyance the applicant may submit documents, actions, or information to comply with the requirements. In this event, the compliance review recommendation of the department shall be amended accordingly. If an application does not achieve compliance within the 180 days referenced above, the entire application shall be void.

(Code 1983, § 22-58; Ord. No. 19-016 , § 14, 5-20-2019)

**Sec. 125-314. Design review.**

(a) *Applicability.* All development requiring site plan approval, or development abutting arterial roads, which submits application for development subsequent to the enactment of the ordinance from which this section is derived, shall be subject to the city's design review process. In addition, all city-sponsored development projects not subject to site plan review shall require administrative review and approval according to the guidelines of this section. Such development proposals shall be reviewed for consistency with the city's design review guidelines outlined in this chapter. Until such time as a separate design review board is established, the city's planning board shall function as the design review board and shall be responsible for such design review, which shall be completed as part of the development review process. Applications for design review approval must satisfy the application submission requirements and shall be submitted to the planning department. Design review related to any changes to historic structures, or any new construction on an historic site or in an historic district shall be reviewed by the historic preservation board in lieu of the design review board in accordance with chapter 111. Use of obligatory verbs in this section such as "shall" and "must" are imperatives applicable as binding directives of the ordinance. Discretionary language such as "should," "may," "might," and "is encouraged" are applicable as general guidance for design choices. Design choices based on discretionary language will be subject to the assessment and recommendation of the planning director and the design review board.

(b) *Purpose.* Design review guidelines proposed in this section shall be considered as addenda to rather than replacement of existing code requirements of this chapter. The quality and compatibility of proposed development in the city is of critical public concern for all building and/or site improvements. The city's design review guidelines suggest approaches to design situations that will contribute to the existing and developing character of the city. The intent of the city's design review process is not to stifle innovative architecture but rather to ensure respect for and reduce incompatible and adverse impacts on the visual experience throughout the city. This shall be accomplished through respectful interpretation of vernacular building typologies and styles in proposed development. Proposed designs shall take cues from traditional proportioning systems and be synonymous with a chosen style. The city's exemplary wood and masonry vernacular buildings are characterized by a blend of Cracker, Classical Revival, Victorian, Mediterranean, including Mission and Spanish Eclectic, Streamlined Art Deco, Mid-Century Modern, Colonial, Prairie and Craftsman styles. Interpretation of this vernacular palette, influenced by the tropical climate and regional architectural patterns, is strongly encouraged. The guidelines serve to encourage quality site and architectural design and construction compatible with the scale and character of the city's mix of existing buildings and land uses. Consideration of quality and compatibility shall be based on the massing, form and articulation of building walls, and order, rhythm and proportion of doors and windows rather than gratuitous decoration and ornamentation. It is the further purpose of this section to provide procedures whereby exceptions to specific criteria may be made in appropriate situations to advance the stated purpose of this section.

(c) *Submission requirements.* Applications for design review approval shall be submitted on a supplemental application form as published by the planning department along with the appropriate fee as required by section 125-36. All presentation materials shall include a graphic scale and may include scale figures of pedestrians, vehicles and other common elements found in the public environment. The following materials must be submitted with an

PROOF

application, unless waived by city administrative staff as not necessary, before an application shall be considered complete and accepted for review:

(1) *Administrative approval*.

a. A survey (one inch equals 30 feet minimum scale) of property lines, existing topography and the location of trees meeting the tree protection regulations of section 123-66, location of bordering streets and, if applicable, wetlands and beaches.

b. A site analysis study to include a discussion of specimen trees and other natural vegetation, access, significant topography, wetlands, buffers, setbacks, views, orientation, the surrounding built environment and other site features that may influence design elements.

c. A draft written narrative describing the design intent of the project, its goals and objectives and how it reflects the site analysis study results.

d. Context photographs of neighboring uses and architectural styles.

e. Photographs and/or drawings of architectural buildings or objects that serve as a precedent for the proposed building design. Models should be taken from local exemplary buildings, either existing or demolished. Documentation of such buildings is available in the city's planning department.

f. Photographs of all existing structures located on the property. If existing structures on the property are more than 50 years of age, documentation of these structures with data from the Florida Master Site File form is also required.

g. Conceptual site plan (to scale) showing proposed location of all buildings, structures, parking areas, signs and landscaping.

h. Landscape plan, at the same scale as the site plan. The planning director or designee may request enlarged plans of detailed planting areas. Planting schedule with sizes of proposed plantings must be included.

i. Accurate color rendering of proposed signs showing dimensions, type of lettering, materials and actual color samples that demonstrates cohesiveness with the project design.

j. Exterior elevations showing architectural character, external architectural features and streetscape of the proposed development, including materials, colors, shadow lines and landscaping. The street elevation shall encompass the entire proposed project and generally identify the major elements of the adjacent two properties on either side of the site. If the adjacent properties are vacant or underutilized, a diagram shall be provided that identifies the mass and form that is allowable under current zoning. If the street elevation must be drawn at such a scale as to render architectural details of the building unreadable, drawings of individual buildings at a larger scale should be provided as well.

k. Design review concurrent with conceptual development plan procedure according to subsection 125-313(e) is also available.

(2) *Final approval*.

a. A written narrative describing how the project conforms to administrative approval and design review guidelines of this section.

b. A final site plan meeting the requirements of section 125-313.

c. A final site lighting plan that meets the requirements of subsection 125-313(d)(8).

d. A final landscape plan that meets the requirements of articles II and III of chapter 123.

e. Final floor plans and elevation drawings (1/8 inch equals one foot minimum scale), as detailed under administrative approval, showing exterior building materials and colors with architectural sections and details to adequately describe the project.

f. A color board (11 inch by 17 inch maximum) containing actual color samples of all exterior finishes, keyed to the elevations, and indicating the manufacturer's name and color designation.

PROOFS

(d) *Procedure for approval.* When site plan approval is required pursuant to section 125-313, the following procedure relating to design review shall take place at the same time:

(1) The application for design review approval shall be submitted to the ~~department of planning and development~~ planning department when application is made for site plan approval. The department shall review the application for design review approval to ensure that it conforms with requirements of this section. If there are no violations, the department shall forward the application for design review to the design review board with a written report on the application's conformity with the city's design review guidelines set out in this section. This submittal will be made at the same time that a site plan is submitted in accordance with subsection 125-313(f) to the planning board.

(2) The design review board shall review the application and make a recommendation to the commission for approval or disapproval. If the board recommends disapproval, the reasons shall be stated. The board shall consider the following standards:

a. The design, including landscape features, is architecturally compatible with surrounding structures so as to be reasonably harmonious in landscaping, style, and color;

b. If the property is located within a historic preservation district, the design features are reasonably consistent with the historic character of the predominant architectural style within the district;

c. The design features will enhance or preserve the quality of the surrounding area so as not to detract from existing property values or impact adversely on existing scenic, natural, or historic beauty;

d. The design avoids undue monotony in structural design features.

The board may condition recommendation for approval upon an applicant obtaining of a suitable variance pursuant to division 3 of article II of this chapter.

(3) The city commission shall hold a hearing on the application for design review approval at the same time it conducts a hearing on the site plan. It shall not approve the application for design review approval if:

a. The application does not meet all applicable provisions of this Code;

b. The health, safety, and general welfare of the public are not properly provided for.

(4) When development does not require site plan approval in accordance with section 125-313, but does involve property abutting an arterial road, design review approval shall be requested through a minor application. The department shall approve such minor application for design review approval if it meets the requirements of this section.

(5) Any change or modification in an approved application for design review shall be approved in the same manner as required for original approval except that the department may itself authorize a change or modification if such change or modification is minor and does not substantially alter the design characteristics or features previously approved. A proposed change or modification shall not be considered until a completed application form and filing fee are received by the department. If design review approval was originally necessary because the development requires site plan approval in accordance with section 125-313, and the department determines that a proposed change or modification is minor, the department shall advise the city commission of its intent to approve a minor change or modification and the change or modification shall then become effective unless the city commission finds that the proposed change or modification is substantial, not minor, whereupon the request for change or modification shall be reviewed by the same procedure required for original approval.

(e) *Expiration of approval*.

(1) Expiration of approval shall coincide with expiration of the associated site plan.

(2) Where site plan approval is not required, the applicant shall have one year to complete the approved activity.

(f) *Definitions.* Words and terms not defined in this section shall be interpreted in accordance with their normal dictionary meaning and customary usage. The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different

PROOFS

meaning:

*Appearance* means the outward aspect visible to the public.

*Appurtenances* means the functional objects accessory to and part of buildings.

*Architectural character* means the composite or aggregate of the characteristics, inferences or implications of structure, form, materials and function of a building, group of buildings, or other architectural composition.

*Architectural feature* means a prominent or significant part or element of a building, structure or site.

*Architectural style* means the characteristic form and detail, as of buildings of a particular historic period.

*Berm* means a raised form of earth to provide screening or to improve the aesthetic character.

*City* means the City of Fort Pierce, or the area within the Urban Services Boundary of St. Lucie County.

*Civic* means of or relating to a citizen, a city, a citizenship or civil affairs.

*Cohesiveness* means unity of composition and style between design elements of a building or group of buildings and their appurtenances, including site arrangement, landscape, signage and graphics.

*Development* means any building activity requiring a permit from the City of Fort Pierce.

*Encroachment* means the building of a structure within the yard area of the parcel or parcels on which an application for development is applied.

*Exterior building component* means an essential and visible part of the exterior of a building.

*External architectural feature* means the architectural style and general arrangements of such portion of a building or structure as is designated to be open to view from a public street, place or waterway, including the kind, color and texture of the building material of such portion and the type of window, doors, lights, attached or ground signs, and other fixtures appurtenant to such portion.

*Frontage line* means the line upon which the front wall of a building sits and is synonymous with its front yard line (setback). Frontage lines also exist for side walls facing a public right-of-way. Porches, stoops, balconies and bay windows may protrude beyond the frontage line as specified in this section.

*Landscaping* means all forms of planting and vegetation, ground forms, rock groupings, water patterns, walls, fences, driveways and pools and all other visible construction except buildings and utilitarian structures.

*Logic of design* means accepted principles and criteria of validity in the solution of the problem of design.

*Mechanical equipment* means equipment, devices and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning and similar purposes.

*Minor application* means applications for development which do not require site plan approval as defined in subsection 125-313(b).

*Miscellaneous structures* means structures, other than buildings, visible from public ways. Examples are: Memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences and walls, kennels, transformers, or drive-up facilities.

*Open space* means a spatially-defined public area bound by streets, structure or landscape so as to be differentiated from private outdoor areas in use and design. These areas shall follow logic of design within the site plan and generally be regular in shape.

*Plant materials* means trees, shrubs, vines, ground covers, grass perennials, annuals and bulbs.

*Preservation* means the protection and care which prevent destruction or deterioration of significant structures, buildings or natural resources.

*Proportion* means relationship of parts of a building, landscape, structures or buildings to each other and to the whole; balance.

*Scale* means harmonious relationships of the size of parts to one another and to the human figure.

PROOFS

*Screening* means a structure or planting which conceals from view from public ways the areas behind such structure or planting.

*Shrub* means a multi-stemmed woody plant other than a tree.

*Site break* means a structural or landscape device to interrupt long vistas and create visual interest in a site development.

*Street hardware* means objects other than buildings, structures and plantings located in streets and public ways and outside of buildings. Examples are lamp posts, utility poles, traffic lights, traffic signs, benches, litter containers, planting containers, letter boxes and fire hydrants.

*Streetscape* means the scene as may be observed along streets composed of natural and manmade components including buildings, paving, planting, street hardware and miscellaneous structures.

*Utilitarian structure* means a structure or enclosure relating to mechanical or electrical services to a building or development.

*Utility hardware* means devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants and buffalo boxes that are used for water, gas, oil, sewer and electrical services to a building or a project.

*Utility service* means any device, including wire, pipe and conduit, which carries gas, water, electricity, oil and communications into a building or development.

*Waterway* means any canal, lake, river, tributary, channel, lagoon or connecting water within or adjacent to the boundaries of the city.

(g) *Design review guidelines.*

(1) *Roofs.*

a. Principal pitched roofs of wood vernacular styles shall be a symmetrical hip with a slope of 6:12 to 10:12. Pitched roofs of designs reflecting Mediterranean, Mission, Spanish Eclectic, Craftsman and Prairie styles may have slopes of 3:12 to 6:12. A broken pitch roof (a roof which becomes shallower in slope at one-third of the distance from the eave to the peak) is encouraged. Also allowed are gabled hips, flared hips and, where appropriate to mark an architectural feature or civic gesture, gable ends.

b. Rooflines may be punctuated with dormers, windows or ventilation louvers that add detail and interest to the facade. Dormers shall light habitable spaces and have shed roofs with a minimum slope of 3:12 or pitched roofs with a slope to match the principal structure. Eyebrow dormers are also encouraged.

c. The use of deep (32 inches to 40 inches) overhangs and, where appropriate, detailed eave brackets, are strongly encouraged. Variation in roof heights or articulation of a flat roof overhang along the facade is encouraged to add visual interest to a streetscape and delineation of activity within a structure.

d. Ancillary roofs (attached to walls or roofs) may be sheds sloped no less than 3:12. Roofs on towers shall be flat or have a slope which matches the primary structure.

e. The finished roofing material for visible pitched roofs shall be one of the following:

1. Cedar shingles with factory treated class B finish;

2. Steel, copper, or factory painted aluminum standing seam, batten seam, or Bermuda roofing;

3. Galvanized steel 5-V crimp roofing panels or pre-finished steel;

4. Galvanized metal or copper shingles of Victorian or diamond shape or pattern;

5. Asphalt dimensional shingles for residential buildings only;

6. Built-up or membrane roof behind parapets;

PROOFS

7. Flat concrete tile;

8. Clay or cement barrel, s-shaped or mission tiles.

f. The fascias around the eaves shall have limited simple detail that complements the fenestration, porch overhangs or entrances.

g. Exposed rafters with simple detailed ends may be substituted for fascia type arrangements.

(2) *Entrances*.

a. Buildings shall have architectural features such as porches or roof overhangs that delineate or emphasize entrances. Covered entrances shall be proportioned to human scale and follow logic of design relative to the building. This entrance shall face the public right-of-way, be well-defined architecturally and readily visible to pedestrian and vehicular traffic.

b. To provide for consistent spatial order of streets, and to accommodate a human scale and pedestrian activity, the inside line of the front yard (setback) shall be considered a frontage line. Exceptions to this requirement may be granted for development in the following zoning districts: OS-1 (Open Space Recreation), OS-2 (Open Space Conservation), I-1 (Light Industrial), CP-1 (Commercial Parkway), C-6 (Marine Commercial), and C-3 (General Commercial) on properties backing onto a highway and fronting an internal access road.

c. Doors shall have detail appropriate to the architectural character of the proposed building and may be defined with sidelights, transoms or wooden or metal shutters.

d. Porches shall have a minimum depth of six feet and may encroach up to six feet into the front yard (setback), or into a side yard that abuts a public right-of-way or public space.

(3) *Windows*.

a. Windows shall have well-defined frames, transoms or sills, and should be accentuated with shutters or Bahamas awnings where appropriate. Material of frames, shutters and awnings shall be painted or stained wood, aluminum or vinyl-clad wood, steel or aluminum.

b. Reflective or mirrored glass is not permitted, however on side and rear elevations, translucent glass may be used. Minimal tinting to meet energy code requirements may be permitted. Glass block may be used where appropriate to the architectural style.

c. Storefront glass shall be clear and unobstructed from signs and the backs of counters, display racks and merchandise.

d. Windows must be placed on elevations that face the public right-of-way and must be in scale and compatible with the architectural style of the building. The bottom of the window (knee wall) shall not be lower than 24 inches in residential or office buildings, or higher than 48 inches from grade or sidewalk in retail buildings.

e. Large expanses of wall without windows or detail that face the public right-of-way are prohibited. Retail buildings shall have fenestration that reveals interior activity and encourages interest in the products or services provided.

(4) *Elevations*.

a. Building designs shall reflect traditional proportions and architectural vocabularies demonstrated in local precedents or regional building types and styles. Wood vernacular styles include Cracker, Classical Revival and Victorian. Masonry vernacular buildings demonstrate details of Mediterranean styles including Mission and Spanish Eclectic. Streamlined Art Deco and Mid-Century Modern buildings in masonry systems are also imbedded in local and regional vernacular. Elements borrowed and interpreted from Colonial, Prairie and Craftsman styles can be found in wood and masonry systems, or a combination of the two.

b. Elevations adjacent to a public right-of-way shall be considered as a building front and treated as such with appropriate entrances, fenestration or detailing.

PROOFS

c. Articulation in the facade should give visual relief and be of sufficient depth to provide shade and shadow on adjacent building surfaces. Colors of wall surfaces shall be chosen to complement this facade articulation and colors shall be in keeping with the chosen architectural style and character.

d. Materials for facades shall be of stucco, wood clapboard, wood shingles, cement siding in clapboard style boards, modular unit masonry, coral or keystone. Brick coursework should use traditional methods that enhance elevations and frame fenestration and door openings. Metal or vinyl siding, and simulated stonework on expanses of building walls shall not be permitted. Two-dimensional stucco details that mimic three-dimensional articulation or structure shall not be permitted.

e. Proportion and composition of fenestration on new construction shall be compatible with architectural style. Vertical proportions are generally encouraged in all wall openings, especially for traditional architectural vocabulary. Stylistically modern buildings may utilize horizontally proportioned openings where appropriate.

f. Storefronts and their entrances are to follow logic of design and be contained within structural bays of the building.

g. Infill storefront design shall be compatible with the existing architecture of the building and block. Details and architectural features should relate to the entire building and block.

h. Roll down gates, security shutters and bars that are visible from any public right-of-way should be avoided.

i. Storm shutters shall be deployed only upon the issuance of a storm warning from the governing agency authorized to issue such warning.

j. Exterior building components and all proposed elements of the streetscape shall be painted with a color compatible with the architectural character and style of the proposed development as well as the surrounding buildings.

k. Blank walls are discouraged. Walls shall be punctuated with windows, doors or architectural elements. New construction that includes long dimensions of continuous wall shall employ the use of site breaks to punctuate the streetscape.

l. To ensure compatible site design and elevations as seen from the water, development adjacent to or visible from waterways may be expected to meet specific requests from the design review board beyond what is outlined in this section.

(5) *Streetscape improvement guidelines.* Streetscape improvements include those architectural or functional facilities or structures which occur on site but are not part of the building and which contribute to the overall appearance of the development and encourage and facilitate human interaction with the environment. Examples include, but are not limited to, decorative light fixtures, fountains, sculpture and other civic art, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, bollards and fences. These improvements shall be designed to be consistent with all guidelines of this section, and shall be reviewed for aesthetic functionality and compatibility with the city's design expectations.

(6) *Lighting*.

a. Decorative, low-level intensity, non-concealed source lighting which defines vehicular and/or pedestrian ways may be acceptable if not used as general lighting for a development.

b. Exterior architectural, display and decorative lighting visible from all public rights-of-way shall be generated from concealed light source, low-level light fixtures. Color lamps shall not be used.

c. Site lighting shall conform to the provisions of subsection 125-313(d)(8).

(7) *Landscaping*.

a. All landscape designs and drawings shall conform to chapter 123, article I of this Code.

b. Landscaping for the proposed development shall provide visually harmonious and compatible

PROOFS

settings for structures on the same lot as well as adjoining or nearby lots and shall blend with the surrounding landscape. The scale of the proposed landscaping shall be in proportion to the building and to the human scale of the streetscape.

c. Screening shall be provided by appropriately designed walls and mature plant materials rather than the construction of berms.

(8) *Walls and fences.*

a. Walls and fences shall be considered as an integral part of the design proposal, and shall generally be constructed of the same material as the first floor of the primary building.

b. Concrete walls shall be faced with stuccoed or stone, or shall incorporate some perforated pattern cohesive with the design intent. Gates and fences shall be wood, an appropriate composition of iron, metal or aluminum, or masonry piers with wood pickets.

(9) *Signs.*

a. Signs will be reviewed for compliance with the guidelines of this section, section 117-6, and for compatibility with the city's developing character.

b. Signage shall be considered as an external architectural feature consistent with and in proportion to the overall design scheme for new construction and renovation.

(10) *Awnings.*

a. Awnings shall only be used where architecturally compatible with the building. The shape of the awning and related hardware should be consistent with the architecture of the building as well as proportionate with the scale of the facade and its surroundings regarding design, color, scale and fabric.

b. Where a single building has several storefronts and tenants, or within a single center, they should all have a consistent design, scale, color scheme, and fabric throughout.

c. Awning fabric shall be made of non-glossy material, such as treated cotton for durability, and ribbing (seams) should run vertically.

d. Awnings shall not be used as an attention-getting device, and should contain only minimal signage on the awning fabric. Awnings should not be backlit; simple down-lighting to illuminate the window, door or sidewalk should be used.

(11) *Renovations, alterations and/or additions.*

a. Renovations, alterations and/or additions to existing structures shall be reviewed as minor applications.

b. Such alterations shall be compatible with the city's existing and developing character regarding scale, massing, materials and architectural design referenced in the above sections. Primary elevations of the facade shall be reconstructed, as appropriate, according to the design review guidelines for new development.

c. Renovation projects shall encompass, where appropriate, the entire site.

(Code 1983, § 22-59; Ord. No. K-497, § 1, 7-16-2007; Ord. No. 19-043, §§ 2, 3, 11-4-2019; Ord. No. 19-044, § 3, 11-4-2019)

**Sec. 125-315. Off-street parking and loading.**

(a) *General provisions.* Off-street parking and loading spaces shall be provided in all districts in accordance with the following provisions and other requirements of this section at the time when a use, characteristic of a use, or building is changed in a way which creates a need for additional parking or loading spaces according to this section:

(1) Property owner's responsibility. The provisions and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No certificate of zoning compliance shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-

PROOFS

street parking and loading space required by this chapter.

(2) Elimination of spaces. If parking or loading space has been provided in connection with an existing use, or is added to an existing use, the parking or loading space shall not be eliminated if it would result in less parking space than is required by this chapter.

(3) Unlisted uses.

a. Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the planning director is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use or establish a minimum off-street parking requirement for the proposed use in accordance with this subsection.

b. Upon receipt of an application of a use for which no parking ratio is established, the planning director is authorized to apply the parking ration that applies to the most similar use or establish a different minimum parking requirement on the basis of parking data provided by the applicant and the planning department.

c. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations. Comparability will be determined by density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

(4) Exemptions and special area standards.

a. Small businesses. No off-street parking is required for nonresidential uses in commercial districts unless such uses exceed 1,200 square feet of gross floor area, in which case off-street parking must be provided for the nonresidential floor area in excess of 1,200 square feet. On lots or parcels occupied by two or more uses, this 1,200 square-foot exemption may only be applied once.

b. No off-street motor vehicle parking is required in the Downtown Business and Entertainment District.

c. In addition to the small business exemption provided in subsection a. of this section, off-street motor vehicle parking required in the Peacock Arts District is reduced as follows:

1. A 50 percent additional reduction in the required off-street parking requirements of section 125-315(d) is granted for the adaptive re-use, or expansion, of a structure existing on the effective date of the ordinance from which this section is derived.

2. A 25 percent additional reduction in the required off-street parking requirements of section 125-315(d) is provided for new development or construction of new buildings after the effective date of the ordinance from which this section is derived.

(5) Payments in-lieu.

a. Rather than providing required off-street parking spaces in accordance with motor vehicle parking requirements of subsection (4) of this section, property owners may meet all or a portion of the requirements by means of a payment to the city's multimodal fund. This option may not be used to satisfy off-street parking requirements for single-family homes or duplexes.

b. Payments must be based on an on-time fee per required parking space, as established from time to time by resolution of the city commission.

c. Any off-street parking requirements satisfied in this matter run with the land, and any subsequent change in use that requires more off-street parking requires subsequent action to satisfy any additional parking requirements. No refund may be made when there is a change of use to require less parking.

d. Payments must be made to the city in one lump sum within ten days of development order approval.

e. Payments to the parking fund do not guarantee the availability of parking for the fee-paying development. Funds derived from payments will be deposited by the city in a special fund and may

PROOFS

be used only for enhancing the transportation network.

(6) If several uses occupy a single structure or parcel of land, the total requirements for off-street parking and loading shall be the sum of the requirements of the separate uses computed separately except that, as to the churches and related structures on the same parcel of property, the parking shall be based upon the size of the largest assembly area plus 15 percent of such area.

(7) Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the city commission in the form of deeds, leases or contracts to establish the joint use.

(8) When square feet are specified in subsection (d) of this section, the area measured shall be the gross floor area of the building but shall exclude any space within a building devoted to off-street parking or loading.

(9) Fractional space requirements shall be counted as the next highest whole space.

(10) Required parking spaces shall be available for the parking of passenger automobiles or residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(11) At no time shall the vehicles involved in loading or unloading process be permitted to interfere with the normal operation of adjacent property, nor shall any loading or unloading operation unduly interfere with pedestrian or vehicular traffic movements.

(b) *Off-lot parking.* Off-street parking required in connection with a use may be provided off the lot if the following requirements are met and if the use is not a single-family dwelling or duplex:

(1) The off-lot spaces shall be provided on other property located within 300 feet of the main entrance of the principal structure.

(2) Such parking space shall be associated with the principal use and shall not be thereafter reduced or encroached upon by any other use.

(3) These distances shall be measured along routes generally available to the pedestrians involved.

(4) The parking lot shall not be located in an OS-1, OS-2, A-1 or A-2 zone and can only be located in an R-1, R-2, R-3 or R-4 zone for residential use or during religious services.

(5) The off-lot parking area shall be:

a. Held in the same ownership as the use requiring the off-street parking space; or

b. Under lease, rental or other form of agreement which the building inspector believes will ensure continuing availability for required off-street parking for the use.

(6) The area provided for parking for churches and other related structures on the same lot may be covered with grass, rather than pavement, in an amount not exceeding 50 percent of such area. But parking, when approved for church use in an off-the-lot location in E-1, R-1, R-2, R-3, R-4 or R-5 zones, shall consist entirely of stabilized turf (grass) and shall otherwise be landscaped in accordance with section 125-314.

(c) *Design standards.*

(1) *Off-street parking space size.* Each off-street parking space shall be at least 9 1/2 feet wide (except required spaces for ~~the handicapped~~ persons with a disability shall be at least 12 feet wide and 19 feet deep and have a minimum vertical clearance of at least nine feet). All parallel parking spaces shall also have a four-foot or larger maneuvering space for each two parking spaces. These areas are exclusive of the area required for aisles or driveways. Where a parking space abuts a landscaped area, a maximum of one foot of the landscaped area may be part of the required depth of the parking space if the bumper rail is properly placed and if the landscaping will not be damaged.

(2) *Off-street loading space size.* Each off-street loading space shall be at least 12 feet wide and 35 feet deep and have a minimum vertical clearance of at least 14 feet.

(3) *Amount and location of required spaces for ~~the handicapped~~ persons with a disability.* Required off-street parking spaces for ~~the handicapped~~ persons with a disability shall be located near the front entrance

PROOFS

of the main building for the use or if the use has no buildings, as close as practical to the center of the area where the principal activity associated with the use takes place. They shall also be located so that ~~the handicapped~~ persons with a disability shall have accessibility to a curb ramp or curb cut to allow direct access to the main building, if there are buildings, and so that the users will not be compelled to wheel behind parked vehicles. Each use, other than a single-family dwelling or duplex, shall have the following amount of off-street parking spaces set aside for ~~the handicapped people~~ persons with a disability:

Required Parking Spaces for Persons with Disability

| Number of Required Off-Street Parking Spaces for All People | Portion of All Required Spaces to be Set Aside for ~~the Handicapped~~ Persons with a Disability |
|---|---|
| Up to 25 | 1 |
| 25 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| Number of Required Off-Street Parking Spaces for All People | Portion of All Required Spaces to be Set Aside for ~~the Handicapped~~ Persons with a Disability |
| 201 to 300 | 7 |
| 301 to 400 | 8 |
| 401 to 500 | 9 |
| 501 to 1,000 | 2 percent of total |
| Over 1,000 | 20 plus 1 for each 100 over 1,000 |

(4) *Access.* Each parking or loading space shall be directly accessible from a street or alley or other public right-of-way or from an adequate access aisle or drive leading to or from a street or alley. Except for single-family dwellings and duplexes, all off-street parking and loading facilities shall be so arranged that no automobile shall have to back into any street.

(5) *Combined aisle and stall width.* All off-street parking areas shall be constructed with the following minimum dimensions based upon the angle of the parking stall:

Parking Dimensions

| | | | Parallel | 30° | 45° | 60° | 90° |
|---|---|---|---|---|---|---|---|
| a. | One-way traffic | | | | | | |
| | 1. | Stalls one side | 22 | 32 | 34 | 40 | 45 |
| | 2. | Stalls both sides | 32 | 46 | 52 | 58 | 64 |
| b. | Two-way traffic | | | | | | |
| | 1. | Stalls one side | 28 | 40 | 42 | 44 | 45 |
| | 2. | Stalls both sides | 38 | 54 | 60 | 62 | 64 |

PROOFS

When an aisle serves parking stalls at angles not indicated in the table, the width required for the next largest angle will be used.

(6) *Surface material*.

a. Required parking spaces, access drives, and loading areas must be paved and maintained with concrete, asphalt or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.

b. Alternative paving materials or parking surfaces (including pervious surfaces) may be approved by the city engineer if such materials or surfaces are demonstrated to exhibit equivalent wear resistance and load bearing characteristics as concrete or asphalt.

c. The following are not required to be paved:

1. Parking facilities used on an irregular basis for churches, fraternal organizations or other similar nonprofit organizations;

2. Parking areas for agricultural uses; and

3. Parking areas for tracked heavy construction equipment, skid-mounted equipment, and similar equipment, provided they are constructed with gravel or other comparable all-weather surface.

d. Access drives must be paved and maintained from the curbline to a point at least ten feet beyond the public right-of-way line for all parking and loading facilities, whether paved or unpaved.

(7) *Bumper rails.* All off-street parking and loading spaces, except those for single-family dwellings and duplexes, must be equipped with bumper rails located in such a manner as to prevent vehicles from striking landscaping, fences, buildings or walls or from overhanging their spaces in a manner which might obstruct driveways, aisles or bike paths. However, the bumper rails may be located such that the front of a vehicle may encroach a maximum of one foot upon the landscaped area if the landscaping will not be damaged. Where the parking area abuts a sidewalk the sidewalk may be used in lieu of the bumper rails provided that the sidewalk is at least six inches high.

(8) *Markings and signing.* All aisles and off-street parking and loading spaces, except those for single-family dwellings and duplexes, shall be clearly and permanently marked and defined through the use of bumper rails, fences, buildings, walls, painting or other appropriate markers. All painted lines used to mark aisles and off-street parking and loading spaces shall be at least four inches wide. Signs or painting on the pavement will be provided which clearly identifies any parking spaces set aside for ~~the handicapped~~ persons with a disability.

(d) *Number of required off-street parking spaces.* Off-street parking spaces shall be required in the following proportions, except that where alternative standards apply to a use, the greater requirement will be used:

Off-Street Parking Spaces

| | Type of Use | | Off-Street Parking Requirement |
|---|---|---|---|
| (1) | *Residential* | | |
| | a. | Single-family dwellings, including mobile homes, and duplexes | Two spaces for each dwelling unit |
| | b. | Triplexes, quadraplexes and multifamily housing developments | 1.5 spaces for each dwelling unit |
| | c. | Public housing for the elderly, notwithstanding other residential parking standards | 0.5 spaces for each dwelling unit |

PROOFS

| | | | | |
|---|---|---|---|---|
| | d. | Boarding houses | | One space for each bedroom |
| | e. | Mobile home parks | | Two spaces for each dwelling |
| (2) | Commercial | | | |
| | a. | Retail sales establishments | | |
| | | 1. | Furniture stores | One space for each 1,700 square feet of gross floor area |
| | | 2. | Restaurants and bars, except fast food restaurants | One space for each 100 square feet of gross floor area |
| | | 3. | Fast food restaurants | One space for each 75 square feet of gross floor space |
| | | 4. | Other retail establishments which do not exceed 50,000 square feet of gross floor area | One space for each 200 square feet of gross floor area |
| | | 5. | Other retail establishments which exceed 50,000 square feet of gross floor area | One space for each 250 square feet of gross floor area |
| | b. | Motels, hotels and resort hotels | | 1.1 parking spaces for each unit less than 500 square feet and 1.6 spaces for each unit 500 square feet or larger. If there are accessory uses provided therein, additional off-street parking shall be provided for those accessory uses at the rate of 50 percent of the requirements for such uses as provided in subsections thereof. |
| | c. | Personal service establishment | | One space for each 200 square feet of gross floor area |
| | d. | Repair service establishments | | One space for each 200 square feet of gross floor area |
| | e. | Finance, insurance and real estate service establishments | | One space for each 300 square feet of gross floor area |
| | f. | Business service establishments | | One space for each 300 square feet of gross floor area |
| | g. | Communication service establishments | | One space for each 400 square feet of gross floor area |
| | h. | Professional service establishments, except hospitals | | |
| | | 1. | Medical and dental offices | One space for each 200 square feet of gross floor area |
| | | 2. | Other | One space for each 300 square feet of gross floor area |
| | i. | Contract construction service establishments | | One space for each 300 square feet of gross floor area |
| | j. | Bus depots | | One space for each 200 square feet of gross floor area |
| | k. | Shopping centers which do not exceed 50,000 square feet of gross floor area | | One space for each 200 square feet of gross floor area |
| | l. | Shopping centers which exceed 50,000 square feet of gross floor area | | One space for each 250 square feet of gross floor area |

PROOFS

| | | | |
|---|---|---|---|
| (3) | Other | | |
| | a. | Manufacturing, wholesale trade and warehouse establishments | One space for each 600 square feet of gross floor area |
| | b. | Public and semipublic offices | One space for each 300 square feet of gross floor area |
| | c. | Indoor amusement, entertainment or recreation establishments | One space for each 200 square feet of gross floor area |
| | d. | Places of public assembly, including theaters | One space for each 20 square feet of gross floor area |
| | e. | Elementary schools, junior high schools and day-care centers | Two spaces per classroom |
| | f. | Other schools except colleges and universities | Eight spaces per classroom |
| | g. | Museums and libraries | One space for each 300 square feet of gross floor area |
| | h. | Hospitals | 1.5 spaces per bed |
| | i. | Sanitariums, rest homes, convalescent homes and adult congregate living facilities | One space per each three beds |
| | j. | Recreational vehicle parks | One space per recreational vehicle space plus one space for each 300 square feet of gross floor area devoted to offices |
| | k. | College dormitory | One space per 3.5 beds |
| | l. | Churches | One space for every 3 seats in fixed seating facility and one space per 40 square feet of actual assembly area for non-fixed seating facility |

(e) *Number of off-street loading spaces.* Off-street loading spaces shall be required in the following proportions, except that where alternative standards apply to a use, the greater requirement will be used:

| | | | | | |
|---|---|---|---|---|---|
| | | | | Square Feet of Gross Floor Area | |
| | Type of Use | | | For Which No Spaces Are Required | For Which Each Space Is Required |
| (1) | Residential | | | | |
| | a. | Single-family dwellings, (including mobile homes), duplexes, triplexes, quadraplexes and mobile home parks | | Any amount | N/A |
| | b. | Multifamily housing developments and boarding houses | | Under 25,000 | Each additional 75,000 |
| (2) | Commercial | | | | |
| | a. | Retail sales establishments | | | |
| | | 1. | Restaurants | Under 10,000 | Each additional 15,000 |
| | | 2. | Other which does not exceed | Under 10,000 | Each additional 10,000 |

PROOFS

| | | | | | |
|---|---|---|---|---|---|
| | | | 50,000 square feet of gross floor area | | |
| | | 3. | Other which exceeds 50,000 square feet of gross floor area | N/A | 4 spaces plus one for each additional 75,000 |
| | b. | Motels/hotels | | Under 10,000 | Each additional 30,000 |
| | c. | Personal service establishment | | Under 10,000 | Each additional 30,000 |
| | | 1. | Funeral homes | Under 10,000 | Each additional 90,000 |
| | | 2. | Other | Under 10,000 | Each additional 30,000 |
| | d. | Repair service establishments | | Under 10,000 | Each additional 30,000 |
| | e. | Finance, insurance and real estate service establishments | | Under 10,000 | Each additional 90,000 |
| | f. | Business service establishments | | Under 10,000 | Each additional 90,000 |
| | g. | Communication service establishments | | Under 10,000 | Each additional 90,000 |
| | h. | Professional service establishments, except hospitals | | Under 10,000 | Each additional 90,000 |
| | i. | Contract construction service establishments | | Under 10,000 | Each additional 90,000 |
| | j. | Bus depots | | >Under 5,000 | Each additional 30,000 |
| | k. | Shopping centers which do not exceed 50,000 square feet of gross floor area | | Under 10,000 | Each additional 10,000 |
| | l. | Shopping centers which exceed 50,000 square feet of gross floor area | | N/A | 4 spaces plus one for each additional 75,00 with any tenant unit less than 50,000 having access to at least one loading space |
| (3) | Other | | | | |
| | a. | Manufacturing and warehouse establishments | | Under 5,000 | Each additional 30,000 |
| | b. | Wholesale trade establishments | | Under 10,000 | Each additional 30,000 |
| | c. | Bulk storage yards | | Under 10,000 | Each additional 15,000 |
| | d. | Public and semipublic offices | | Under 10,000 | Each additional 90,000 |
| | e. | Indoor amusement, entertainment or recreation establishments | | Under 10,000 | Each additional 90,000 |
| | f. | Places of public assembly, including theaters | | Under 10,000 | Each additional 90,000 |
| | g. | Schools | | Under 10,000 | Each additional 90,000 |
| | h. | Hospitals | | Under 10,000 | Each additional 90,000 |
| | i. | Sanitariums, rest homes, convalescent homes and adult congregate living facilities | | Under 10,000 | Each additional 90,000 |
| | j. | Recreational vehicle parks | | Any amount | N/A |

PROOFS

(f) *Bicycle parking.* This section establishes requirements for short-term bicycle parking and incentives for

long-term bicycle parking and storage facilities.

(1) *Short-term bicycle parking.* Short-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for short time periods, including customers, clients, students and other short-term visitors.

a. *Spaces required.* Short-term bicycle parking is required in accordance with the following minimum ratios. These requirements apply regardless of any motor vehicle parking exemptions or reductions:

| Use | Short-term Bicycle Parking Spaces Required |
|---|---|
| Student Housing | 1 space per 2 sleeping rooms |
| Multi-dwelling Building | 1 space per 10 dwelling units; 2 spaces minimum |
| Commercial, Public and Civic | 1 per 10 motor vehicle spaces; 2 spaces minimum |
| Industrial | 1 per 20 motor vehicle spaces; 2 spaces minimum |

b. *Design.* Required short-term bicycle parking spaces must:

1. Consist of bike racks or lockers that are anchored so that they cannot be easily removed:
2. Be of solid construction, resistant to rust, corrosion, hammers, and saws;
3. Allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
4. Be designed so as not to cause damage to the bicycle;
5. Facilitate easy locking without interference from or to adjacent bicycles; and
6. Be in highly visible, active, well-illuminated areas that do not interfere with pedestrian movements.

c. *Location.* At least 50 percent of required bicycle parking spaces must be located within 50 feet of a customer entrance, and the remainder must be located within 100 feet of any entrance. If required short-term bicycle parking spaces are not visible from the abutting street or the main customer entrance, signs must be posted indicating their location.

d. *Size.* All required short-term bicycle parking spaces must have minimum dimensions of two feet in width by six feet in length, with a minimum overhead vertical clearance of seven feet.

(2) *Long-term bicycle parking.* Long-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for long time periods, including employees and residents.

a. *Incentive.* Off-street motor vehicle parking space requirements may be reduced by one space for every ten long-term bicycle parking spaces provided up to a total maximum reduction of five motor vehicle parking spaces.

b. *Design.* In order to receive credit, long-term bicycle parking spaces must:

1. Have minimum dimensions of two feet in width by six feet in length, with a minimum overhead vertical clearance of seven feet (bicycle lockers are exempt from overhead clearance requirements);
2. Be protected from weather and access by unauthorized persons;
3. Consist of bike racks or lockers anchored so that they cannot be easily removed;
4. Be of solid construction, resistant to rust, corrosion, hammers, and saws;
5. Allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
6. Be designed so as to not cause damage to the bicycle; and

PROOFS

7. Facilitate easy locking without interference from or to adjacent bicycles.

c. *Location.* In order to receive credit, long-term bicycle parking must be provided in at least one of the following locations:

1. In covered stationary racks or lockers that comply with the short-term bicycle parking location requirements of subsection (f)(1)c. of this section;

2. In a locked room;

3. In a covered, locked area that is enclosed by a fence or wall with a minimum height of seven feet;

4. In a private garage or private storage space serving an individual dwelling unit within a multi-dwelling (residential) building;

5. In a covered area within clear view of an attendant or security personnel;

6. In a covered area continuously monitored by security cameras; or

7. In a covered area that is visible from employee work areas.

(g) *Bicycle facility improvement program (BFIP).* New development or redevelopment projects that participate in the city's BFIP program and incorporate fix-it repair stations, covered bike parking stations, and or mobility commuter tracking stations can further reduce the number of off-street parking requirements by the following amounts:

(1) Fix-it repair station: two parking spaces;

(2) Covered bike station with racks: four parking spaces;

(3) Mobility commuter tracking station: four parking spaces.

(h) *Motorcycle parking.* For each four motorcycle parking spaces provided, the required number of automobile parking spaces may be reduced by one.

(1) *Design.* Each motorcycle space must have minimum dimensions of four feet by eight feet. This provision applies to existing and proposed parking lots.

(i) *Parking in residential neighborhoods.*

(1) Definitions.

*Commercial vehicle* means every vehicle designed, used or maintained primarily for the transportation of property, with a gross vehicle weight of 10,000 pounds or more. It shall also mean any bus, van, or truck with either a gross vehicle weight in excess of 10,000 pounds, or which is designed, used or maintained primarily for the transportation of unrelated persons for hire, or in connection with any commercial enterprise including transportation for employment and business related activities.

Industrial equipment means farm tractors, implements, bulldozers, draglines, cranes, derricks, heavy earthmoving equipment normally used in farming excavation and/or heavy construction activities.

Semitrailer means a semitrailer which is used or designed primarily for carrying commercial loads.

(2) Commercial vehicles and semitrailers prohibited or restricted in residential districts.

a. It shall be unlawful for any owner, agent, operator or person in charge of any commercial vehicle, or semitrailer, to park, stop, store or keep same on any public street, avenue, alley or other thoroughfare, or any right-of-way therewith, within any residential district in the city for a period exceeding one hour in any 24-hour period, each such period commencing at the time of the first stopping in the city.

b. It shall be unlawful for any owner or lessee of real property in any residential district in the city to park on, cause to be parked on, or allow to be parked on his residential property, any commercial vehicle or semitrailer for the period exceeding one hour in any 24-hour period, unless same is in an enclosed garage. Each such period shall commence at the time of first stopping or parking unless a

PROOFS

permit is first obtained from the police department of the city, and as may be otherwise provided in this section. This restriction shall also apply to the owner, agent, operator or person in charge of any such vehicle in the event said person is not the owner or lessee of said real property.

(3) Delivery and construction vehicles; emergency repairs.

a. The restrictions of subsection (f)(2) of this section shall not apply to the temporary parking of such vehicles on private property in residential districts whereon construction is underway, for which a current and valid building permit has been issued by the city, and said permit is properly displayed on the premises.

b. The restrictions of subsection (f)(2) of this section of one hour in residential districts shall not apply to routine deliveries by tradesmen, or the use of trucks in making service calls, provided that such time in excess of one hour is actually in the course of business deliveries or servicing as the case may be.

c. The restrictions of subsection (f)(2) of this section shall not apply to a situation where such vehicle becomes disabled, and as a result of such emergency is required to be parked within a residential district for longer than one hour. However, any such vehicle shall be removed from the residential district within 24 hours, by wrecker towing if necessary, regardless of the nature of the emergency.

(4) Industrial equipment prohibited or restricted in residential districts.

a. It shall be unlawful for any owner, agent, operator or person in charge of any industrial equipment to park, stop, store or keep such equipment on any public street, avenue, alley or other thoroughfare, or any right-of-way therewith, within any residential district in the city, any time, unless moving directly to or from, or actually located at, any excavation or construction site whereon construction, clearing, removal of debris or other building and/or excavation activities are either currently under way or will commence within the next 24 hours and for which a current and valid permit has been issued by the city, and said permit is properly displayed on the premises. Industrial equipment used in lot clearing, tree trimming or removal, lawncare and related services, is also included, although a specific building permit may not be required; and, nothing in this section is intended to require a building permit where not otherwise required.

b. It shall be unlawful for any owner of property in any residential district of the city to park on, cause to be parked on, or allow to be parked on his residential property any industrial equipment, as previously defined in this section, at any time unless such equipment is used on property wherein construction, clearing, removal of debris and/or industrial equipment is used on property wherein construction, clearing, removal of debris and/or other similar activities are currently under way or will commence within the next 24 hours and for which a current and valid permit has been issued by the city, and said permit is properly displayed on the premises. Heavy equipment used in lot clearing, tree trimming or removal, lawncare and related services is also included herein, although a specific building permit may not be required; and, nothing in this section is intended to require a building permit where not otherwise required. However, mowers, clippers, edgers, drills, saws, sanders and other normal tools and implements of home, lawn and garden maintenance and repair, whether motorized or not, are not considered to be industrial equipment.

c. Exempt from the foregoing provisions are items of industrial equipment in actual use or moving directly to or from the location of actual use:

1. Owned or leased by the city or the county for the accomplishment of a governmental purpose such as tree trimming, road repair or construction, water or sewerage system repair or construction, maintenance of street and traffic lights and/or similar activities;

2. Owned or leased by a contractor or subcontractor under agreement with the city or county to accomplish a municipal purpose as provided above;

3. Owned or leased by a recognized public utility operating within the city, or by a contractor or subcontractor under agreement with such public utility for the accomplishment of some installation, maintenance, adjustment and/or repair to such public utility.

PROOFS

(5) *Permits.* The chief of police of the city his duly authorized designee may issue upon proper application therefor by the owner or his authorized representative to the police department, a permit extending the parking time limits set forth in subsection (f)(2) of this section up to, but not exceeding, 24 hours, upon establishing that such permit is requested in good faith for a reasonable cause shown or demonstrated to the chief of police or his designee and not for the purpose of avoiding the intent or objectives of this section.

(6) *Application of superseding city ordinances and state laws.* This subsection is primarily for the purpose of protecting residential zoning. Therefore, any ordinances of this city or laws of this state providing for the regulation of motor vehicles are in addition to this subsection, and wherever any provision of some other ordinance or applicable statute, whether primarily for the regulation of motor vehicles or for the purposes of zoning, imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of this subsection, then more stringent requirements, regulations, restrictions or limitations shall apply.

(7) *Exceptions.* The provisions of this section shall not apply to recreational vehicles used exclusively for recreational purposes.

(8) *Nonconforming use.* The nonconforming use provisions of this chapter shall not apply to those sections.

(9) *Conformity with existing ordinances.* This section shall not be construed as authorizing trucks to utilize any street or other public thoroughfare of the city over which such vehicular traffic is now or hereafter prohibited by ordinance, or lawful order of the police department.

(j) *Lighting*.

(1) Off-street parking shall be proved with lighting as follows:

a. For commercial, industrial and governmental uses, a minimum average of two footcandles;

b. For multistructure residential complexes, educational facilities, churches or other uses other than as set forth in the other immediately preceding subsection, a minimum average of one footcandle;

c. In a multilevel parking structure a minimum average of five footcandles except that the top level, if open to the sky, shall be the same as for an open parking lot;

d. For a use involving on premises consumption of alcoholic beverages, as provided in section 4-6, a minimum of three footcandles.

(2) The uniformity ration for all lighting classifications is to have an average/minimum ratio of four to one.

(3) The lighting provided for by this section shall have a footcandle intensity as set forth above from dusk until 30 minutes after the termination of use of, or business at, the premises, but thereafter such lighting intensity may be reduced to 50 percent of the required minimum.

(4) Outdoor lighting required by this section shall be designed so that any over spill of lighting onto adjacent properties shall not exceed 0.5 footcandle illumination, vertically and horizontally.

(5) Outdoor lighting installations required by this section for any use involving site plan approval in accordance with section 125-313 shall not be placed in permanent use until there is furnished a letter of compliance from a registered engineer or architect, or duly authorized representative of such engineer or architect, stating that the installation has been field checked and meets the requirements as set forth above. This letter shall be subject to approval by the city engineer. Upon installation of the lighting, a certificate shall then be filed with the city engineer by a registered engineer or architect of design showing that such installation meets with requirements imposed by this section. Such letter and certification are not required for lighting involved with uses where site plan approval under section 125-313 is unnecessary through such lighting is otherwise subject to the requirements of this section.

(Code 1983, § 22-60; Ord. No. H-186, § 30-60, 6-15-1981; Ord. No. H-227, § 1, 10-4-1982; Ord. No. I-63, §§ 1—4, 5-7-1984; Ord. No. I-71, § 1, 7-2-1984; Ord. No. I-205, §§ 2—5, 2-17-1987; Ord. No. I-339, § 1, 8-7-1989; Ord No. I-347, § 1, 10-2-1989; Ord. No. I-457, § 1, 3-4-1991; Ord. No. J-24, § 1, 10-5-1992; Ord. No. J-127, § 1, 12-19-1994; Ord. No. K-441, § 3, 1-16-2007; Ord. No. L-02, §§ 1A, 1B, 2-19-2008; Ord. No. L-71, § 1B, 1-5-2009; Ord. No. L-215, § 2, 7-5-2011; Ord. No. L-230, §§ 1—6, 1-3-2012; Ord. No. 17-002, § 1, 2-21-2017)

PROOFS

**Sec. 125-316. Access control.**

(a) *General provisions.* Driveways in all districts for all uses, except single-family dwellings and duplexes, will comply with the provisions in this section in order to promote the safety of the motorist and pedestrian and to minimize traffic congestion.

(b) *Design standards.*

(1) *Number of access points.*

a. Not more than one two-way driveway or two one-way driveways will be permitted on any arterial street for the first 200 feet of street frontage under one ownership. Where such ownership includes over 200 feet of street frontage, additional driveways may be permitted if adequate justification is presented and approval is given by the city engineer.

b. Not more than one two-way driveway will be permitted on any collector street for the first 100 feet of frontage under one ownership. Where such ownership includes over 100 feet of street frontage, additional driveways may be permitted if adequate justification is presented and approval is given by the city engineer.

c. Driveways with design standards which ensure reasonable driveway design and construction for the protection of the user will be permitted on all local streets.

(2) *Location of access points.* The location of access points or driveways on streets of the various roadway classes will conform to the distance requirements measured from curbline to curbline (or edge of pavement where no curb exists) for corner clearance, driveway spacing and property clearance. Where these distance requirements described in the following paragraphs cannot be satisfied, consolidation of access for adjacent properties will be considered prior to issuance of any administrative variations based upon engineering judgment.

a. Distance to intersections (corner clearance). All driveways will conform to the following minimum distance requirements by roadway class for corner clearance as follows:

| Roadway Class | Minimum Corner Clearance (Feet) |
|---|---|
| Arterial street | 230 |
| Collector street | 115 |
| Local street | 50 |

b. Distance between driveways (driveway spacing). Two way driveways on the same side of the street will conform to the minimum distance requirements for driveway spacing by roadway class as follows:

| Minimum Driveway Spacing (Feet) | | |
|---|---|---|
| Arterial | Collector | Local |
| 150 | 100 | 50 |

Two one-way driveways on the same side of the street can have a spacing one-half the distances shown above, provided that any spacing which results in a distance of less than 40 feet is increased to 40 feet.

c. Distance to property lines (property clearance). Distance to property lines from driveways will be one-half the distances of two-way driveway spacing by roadway class included under subsection (2)b of this section.

(3) *Driveway widths.* The following driveway widths will be utilized on all roadway classes:

PROOFS

| Driveway | Minimum | Maximum |
|---|---|---|
| Residential | 12 | 26 |
| Other | | |
| One-way | 14 | 16 |
| Two-way | 24 | 36 |

Wider driveways may be required for mobile home parks and recreational vehicle parks and may otherwise be permitted (12 feet for each additional lane), if adequate justification is presented and approval is given by the city engineer.

(4) *Angle of intersection with streets.* The angle of intersection of a driveway with a street must be 90 degrees for two-way driveways.

(5) *Construction and maintenance.* Driveways shall be constructed in accordance with chapter 121 of this Code of Ordinances and will be maintained in good condition at all times by the owner or owners of the property being served by the driveway.

(Code 1983, § 22-61; Ord. No. H-186, § 30-61, 6-15-1981)

**Sec. 125-317. Sidewalks.**

[GRAPHIC]

(a) *Intent.* It is the intent that the standards and specifications herein shall apply to the development of public and private sidewalks constructed and reconstructed in the city.

[GRAPHIC]

(b) *Applicability.* In order to provide continual access for pedestrians, sidewalks and sidewalk linkages shall be required to be provided by the property owner or permit applicant when one of the following events occur:

(1) Whenever a permit is issued for the construction of a new duplex, multifamily, commercial, or office structure or use;

(2) When the valuation of a building permit for construction, additions, and renovations to structures or uses are more than $35,000.00;

(3) Any expansion of an existing structure or use which results in an expansion of that structure or use in excess of 25 percent of the existing square footage of structure area on a parcel;

(4) Plans submitted for site plan, conditional use, PUD/PUR, and subdivision review. Plans shall reflect all proposed sidewalk improvements.

(5) Any substantial change in use on the property.

(c) *Exemptions.* Sidewalk requirements shall not be required for the following:

(1) Single family homes (including conditional use reviews);

(2) Properties that abut a canal right-of-way.

(d) *Where required.* Sidewalks and sidewalk linkages shall be installed in the following areas:

(1) In the public or private right-of-way the full length of any and all streets abutting a parcel of property and parallel to the street.

[GRAPHIC]

Example of sidewalks along property boundaries

PROOFS

(2) Safe and efficient sidewalk linkages shall be provided between building entrances and parking areas, and adjacent portions of the development, and adjacent rights-of-way. At least one accessible route in accordance with the state accessibility code shall connect buildings to parking areas and adjacent rights-of-way.

| [GRAPHIC] | [GRAPHIC] | [GRAPHIC] |
|---|---|---|
| Example of connectivity to parking lot | Example of connectivity to the street | Example of connectivity between buildings |

(3) In addition to the requirements of subsection (d)(2) of this section, internal sidewalk interconnection between adjacent properties shall be provided for properties that front on arterial roads.

[GRAPHIC]

Example of internal sidewalk connecting from property A to property B

(4) New developments adjacent to school properties shall be required to provide a right-of-way and a direct safe access path for pedestrian travel to existing and planned school sites and public parks, and shall connect to the neighborhood's existing pedestrian network.

(e) *Design.* The minimum width for sidewalks shall be five feet. Sidewalks shall be constructed of poured concrete unless other material is approved by the city engineer. Where a sidewalk crosses a driveway or internal access road, the crosswalk area shall be marked with paint and shall be provided with stop signs for vehicular traffic at the discretion of the director of planning.

(f) *Payment in lieu.* If a sidewalk is required under subsection 125-322(b), but the construction of the sidewalk is determined to be not practical (as determined pursuant to subsection (g) of this section), then the property owner or permit applicant shall make a contribution to the applicable city sidewalk fund in lieu of constructing the required sidewalk.

(g) The decision of whether the construction of a sidewalk on a parcel is not practical shall be made by the planning director based on the following criteria:

(1) The location of the sidewalk would likely create a significant safety hazard;

(2) Construction of the sidewalk has already been scheduled by its inclusion in the approved transportation improvement plan, the approved capital improvement plan, a state- or federally-funded project, or a development agreement executed pursuant to the Florida Local Government Development Agreement Act (F.S. § 163.3220 et seq.);

(3) The construction of sidewalks is not warranted at the time of development due the presence of safety hazard or environmental limitations off-site that would likely preclude the extension of sidewalks to the affected development site;

(4) Whether there is no existing sidewalk to which the proposed sidewalk can connect and it is unlikely that there will be additional development nearby which will require the construction of additional sidewalk (if the parcel terminates at a street intersection and a sidewalk is located across the street, then a sidewalk will be required to connect with the sidewalk located across the street);

(5) Whether a sidewalk cannot be constructed without removing a protected tree;

(6) Whether a stormwater drainage ditch or similar public utility facility prevents the construction of a sidewalk and neither the facility nor the proposed sidewalk can be reasonably relocated or altered to accommodate both the facility and the sidewalk; or

(7) Whether or not other unique or peculiar circumstances exist on a given parcel or development.

(h) *Formula for payment in lieu.* The amount of the contribution shall be determined by multiplying the linear feet of that parcel's street frontage (minus the width of any paved driveway and/or driveway apron) times the

PROOFS

per linear foot contribution fee established by resolution by the city commission.

(i) *City sidewalk fund.* The city shall create a separate interest bearing account. This account shall be known as the city sidewalk fund.

(j) *Expenditure of funds.* Expenditures from the city sidewalk fund account shall only be utilized for the construction of new sidewalks, to expand the existing sidewalk network, or to upgrade and improve existing sidewalks to current design/construction standards (including ADA upgrades). These funds shall not be utilized for routine maintenance.

(1) Prior to funds being expended, the planning board shall consider the list of priority sidewalk improvements listed on the capital improvement schedule and make a recommendation to the city commission on which projects should be funded.

(2) The city commission shall consider the request to use payment in lieu of funds after the planning board has provided its recommendation on the use of said funds.

(k) *Payment into the city sidewalk fund.* Payment into the city sidewalk fund shall constitute the agreement by the developer/property owner that the expenditure of the sidewalk funds to expand and improve the existing city sidewalk system provides a direct benefit to the city and the subject property. Payment into this fund shall satisfy the sidewalk construction requirements for the subject property or properties.

(l) *Variance.* The board of adjustment is authorized to consider a variance request from the strict compliance of the sidewalk regulations if said regulations would create an undue and unnecessary hardship on the subject property owner.

(Code 1983, § 22-62; Ord. No. H-186, § 30-62, 6-15-1981; Ord. No. I-243, § 1, 10-19-1987; Ord. No. L-260, § 1, 6-18-2012)

**Sec. 125-318. Home occupations.**

(a) *Purpose.* This section attempts to recognize the need for people to conduct appropriate small-scale business activities at home. Provisions for home occupations in the section are also intended to achieve compatibility with other permitted uses and the residential character of the neighborhood and ensure that the home occupation is only an accessory use of the property.

(b) *Standards.* All home occupations shall comply with the following standards and shall be evaluated in the issuance of occupational licenses:

(1) No person other than a person who resides in the dwelling unit shall be engaged in the home occupation.

(2) The home occupation shall be an accessory use conducted only within the enclosed living area of the dwelling unit or the garage.

(3) The exterior appearance of the residential dwelling in which the home occupation is located shall not be altered in a manner which would cause the premises to differ from their residential character by the use of colors, materials, construction or lighting.

(4) The home occupation premises shall not be advertised by the use of any signs on the lot on which the occupation takes place which are readily visible from the street.

(5) There shall be no outside storage of any kind related to the home occupation.

(6) The home occupation shall not generate traffic (vehicular or pedestrian), noise, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in the applicable zoning district.

(7) The home occupation will not involve the use of commercial vehicles for delivery of materials to or from the premises except for normal home delivery services.

(8) Parking generated by the conduct of a home occupation shall occur off the street and somewhere other than in a required front yard.

(9) No home occupation shall cause an increase in the use of water, sewer or garbage services so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.

PROOFS

(10) The home occupation shall not use raw materials for the manufacture of a finished product by special tools and devices that would not normally be found in a home and considered as purely a domestic implement.

(11) No home occupation shall display stock for trade on the premises and no article may be sold or offered for sale except as may be produced on the premises or utilized in conjunction with the home occupation, the main purpose of which is to provide a service.

(c) *Compliance.* Home occupations existing at the time this section is adopted will comply substantially with the standards of this section on or before January 1, 1982.

(Code 1983, § 22-63; Ord. No. H-186, § 30-63, 6-15-1981; Ord. No. K-154, § 1, 7-1-2002)

**Sec. 125-319. Mobile home standards.**

When a mobile home is installed it shall comply with state installation standards. A mobile home shall comply with the following additional provisions:

(1) Mobile homes shall be tied down with devices that meet state standards for tie-down devices.

(2) The mobile home shall have continuous skirting which shall be maintained so as not to provide a harborage for rodents or create a fire hazard.

(3) Except for a structure which conforms to the definition of a mobile home accessory structure, no extension shall be attached to a mobile home.

(4) A storage building of at least 75 square feet shall be provided, unless a similar amount of space is provided in a common storage facility. This building shall be located on the back two-thirds of the lot or mobile home space. The building shall be completed within 30 days of placement of the mobile home.

(5) No roof shall be constructed over a mobile home independent of the structure. Cabanas or awnings are permissible.

(6) If the mobile home is not located in a mobile home park the owner of the lot shall agree that if the mobile home is removed from its foundation, the owner shall within 30 days either replace the mobile home with another approved mobile home or remove the foundation and mobile home accessory structure. If the owner fails to perform the work, the city may remove the structures and bill the owner for the cost of the work performed.

~~Mobile homes and manufactured homes shall be prohibited in FH zones as provided in section 22-41(e)(1); section 22-41(e)(2)d. 3.; and section 22-41(e)(2)e.12.~~

(Code 1983, § 22-64; Ord. No. H-186, § 30-64, 6-15-1981; Ord. No. I-28, § 15, 8-15-1983; Ord. No. I-208, § 4, 3-2-1987)

**Sec. 125-320. Temporary uses.**

(a) *Generally.* This section provides for the orderly and effective management of temporary uses which may or may not be specifically allowed in a zoning district. Temporary uses are often found to be necessary and desirable for limited periods of time, although they might not be in keeping with the intent and purpose of the zoning district if allowed on a long-term basis. This section provides for a thorough administrative review of these special types of land uses while minimizing adverse impact upon the public health and welfare as well as adverse impacts to public facilities. Conditions may be placed on the approval of a temporary use permit to ensure adverse impacts to neighboring land uses and public facilities are mitigated.

(b) *Types of temporary uses.* A temporary use activity may include, but is not limited to, the following:

(1) A temporary building or yard for construction offices, material or equipment, provided such use is on or adjacent to the construction site and is adequately equipped with sanitary facilities.

(2) A real estate sales office used for the sale of lots or housing units in a development, provided such office is in or adjacent to the development and is adequately equipped with sanitary facilities.

(3) Temporary housing, including mobile homes, for households displaced from their residences due to fires, floods or other disasters, provided the temporary housing is adequately equipped with sanitary facilities.

PROOFS

(4) Tents erected of a size larger than 12 feet by 12 feet under which people gather for a common purpose. Such a use may be for a seasonal commercial use or other use, such as church-related, carnival or special event on private property.

a. *Standards for review.* The impact on surrounding land uses and on public facilities determines the review and approval process. Application shall be approved when all standards for review are met, per Table 1, and when all other applicable requirements of the section are satisfied. The director of planning may impose conditions on the approval to mitigate adverse impacts to public health and welfare, to neighboring land uses, and to public facilities when any standard is not met under the proposal. The application shall be denied when conditions cannot be imposed to mitigate adverse impacts.

| Table 1—Standards for Tents | |
|---|---|
| Length of Time | Seasonal Commercial: 30 days or less; |
| | Other: 7 days or less |
| Noise | No amplification |
| Traffic | Driveway access to a collector or arterial road |
| Adjacent zoning | No Residential Zoning |
| Tent size | 1,600 sq. ft. or less, cumulative |
| Dimensional standards | Proposed tent shall meet all setback and clear vision area requirements of the subject zoning district. |

(c) *Compatibility standards.* No temporary use will be allowed unless:

(1) Any nuisance or hazardous features of the use are suitably separated from adjacent uses;

(2) The use will not generate excessive traffic congestion on nearby streets; and

(3) A vehicular parking problem will not be created.

(d) *Period allowed.* Unless otherwise specified in this section, temporary use permits shall expire after one year.

(e) *Security.* Security for performance of the applicant's obligations, including removal of any structures, equipment and materials, shall be posted when determined necessary by the director of planning. The security may be a performance bond, cash, time certificate of deposit payable to the city and/or other negotiable instrument, including title.

(f) *Application for a temporary use.* A property owner or his designated representative may initiate a request for a temporary use by filing an application with the director of planning using forms prescribed by the city. The application will also be accompanied by plans, with information specified in section 125-36. The director of the department of development may request other drawings or information necessary for an understanding of the request.

(Code 1983, § 22-65; Ord. No. H-186, § 30-65, 6-15-1981; Ord. No. H-218, § 2, 8-2-1982; Ord. No. K-11, § 1, 5-15-2000; Ord. No. L-269, § 1, 10-1-2012)

**Sec. 125-321. Coastal construction control line.**

No construction is permitted on the seaward side of the coastal construction control line in any zoning district except for navigational structures, private and semi-public water-dependent recreational uses and water-dependent public uses. Any other construction shall be approved in the form and manner provided for by article V of this chapter and otherwise shall conform with all other applicable ordinance requirements. The coastal construction control line is that certain line designated by the department of ~~natural resources~~ environmental protection or its successor agency in accordance with F.S. § 161.053.

PROOFS

(Code 1983, § 22-66; Ord. No. H-186, § 30-66, 6-15-1981)

**Sec. 125-322. Fences, walls and hedges; installation, replacement and maintenance.**

(a) *Purpose.* It is the purpose and intent of this section to establish the requirements for the installation, replacement, and maintenance of fences, walls and hedges, in order to protect and preserve the health, safety, welfare, appearance and general wellbeing of the citizens of the city.

(b) *General requirements.* The following requirements apply to all fences, walls and hedges in any zoning district, except as herein specified:

(1) *Placement.* All permitted fences, walls, and hedges shall be located on the property of the applicant and not within any public right-of-way. No fence, wall or hedge shall be permitted to be located within, or so as to enclose, a drainage easement, except upon the written authorization of the city engineer. Fences, walls and hedges may be permitted within utility easements, subject to the right of the city, utilities authority, or franchised utility company to remove, without cost or obligation to replace or restore, any such fence or wall and landscaping as may be necessary to maintain the utilities located in a utility easement. A suitable gate to provide access will be provided when utility meters are located within a fenced enclosure.

(2) *Clear vision areas.* All fences, walls and hedges shall conform to the clear vision provisions of section 125-308.

(3) *Finish.* All fences and walls shall be constructed so that the side of the fence or wall facing or viewable from the public rights-of-way or an adjoining property shall be the finished side of the fence or wall, in terms of materials and their treatment. Fences shall have all support posts and stringers placed facing inward toward the applicant's property. All exterior faces of block walls shall be finished and of professional quality, such as stucco, prefinished block, stacked block with struck joints, shadow blocks, painted or similar, installed in a workmanlike manner.

(4) *Construction.* All ~~fences and~~ walls shall be erected in accordance with the requirements of the ~~Standard~~ state building code, as adopted or amended by the city, ~~and will be maintained in good condition at all times.~~

(5) *Permit.* All fences and walls shall require a construction permit issued by the ~~department of~~ building ~~and code enforcement~~ in accordance with the requirements ~~of the state building code, as adopted or amended by the city~~. The application for permit shall accurately establish the location of the fence or wall on the property, and the applicant shall be responsible therefor.

(6) *Conditional uses.* The maximum height for walls, fences, and hedges of a conditional use shall not exceed the maximum allowed in the zoning district, unless a greater height is approved in accordance with the requirements of section 125-313.

(7) *Trellises, arbors, pergolas, etc.* Trellises, arbors, pergolas and similar garden structures, if erected along the property line or within the required yard, shall conform to the height requirements of this section; if they are not erected within the required yard, then this section is inapplicable.

(c) *Requirements by zoning districts.* The following maximum fence, wall and hedge heights are allowed by zoning district, as follows:

(1) *Single-Family Zoning Districts (E-1, R-1, R-2, R-3).* Fences or walls may be erected or maintained along property lines or within the required yards, to a maximum height of six feet above finished grade of the abutting parcel, except as follows:

a. *Front yards.* The maximum height for fences, walls or hedges in the required front yard shall be four feet.

b. *Waterfront lots.* The maximum height for fences, walls or hedges in the required building setback distance from the water shall be four feet.

c. *Double frontage lots.* The maximum height for walls, fences or hedges in the required rear yard, as defined by the basic use standards, shall be four feet.

PROOFS

(2) *Medium and High Density Residential Zoning Districts and Office, Neighborhood and Tourist Commercial Zoning Districts (R-4, R-4A, R-5, C-1, C-2, C-5).* Fences or walls may be maintained along property lines or within the required yards, to a maximum height of six feet above finished grade of the abutting parcel, except the maximum height for walls, fences and hedges in the required setback distance from the yard shall be four feet and providing, further, that the maximum height for fences, walls or hedges in the front yards of single-family or duplex residences located in R-4, R-4A or R-5 districts shall be four feet.

(3) *General and Central Commercial, Industrial and Open Space Zoning Districts (C-3, C-4, I-1, I-2, OS-1, OS-2).* Fences and walls in the C-3, C-4, OS-1, and OS-2 Zoning Districts may be maintained along property lines or within the required yard, to a maximum height of eight feet above finished grade of the abutting parcel, except vehicular access suitable for emergency vehicles shall be provided. Fences and walls in the I-1 and I-2 zoning districts may be maintained along property lines or within the required yard, to the maximum heights specified in subsection (e)(5) of this section finished grade of the abutting parcel, except vehicular access suitable for emergency vehicles shall be provided.

(4) *Planned Unit Development and Redevelopment Zoning Districts (PUD and PUR).* Fences or walls may be maintained along property lines or within the required yards, to a maximum height of six feet above finished grade of the abutting parcel, when consistent with the purpose and intent of the approved development or redevelopment plan.

(d) *Special requirements.* In addition to the general requirements of section 125-322(b) and specific height requirements by zoning district of section 125-322(c), the following requirements are applicable as indicated:

(1) *Landscaping.* All fences and walls constructed generally parallel to the public right-of-way and having a length of 100 feet or more shall be landscaped along not less than 50 percent of the linear distance. This landscaping shall consist of shrubs and not less than one tree for each 50 feet of fence or wall so landscaped. All landscaping shall conform to the standards of section 125-314(b). Fences and walls enclosing single-family or duplex uses are exempt from the landscape requirement.

(2) *Security fences.* Security fences designed to preclude entry into hazardous locations or facilities or to protect the exterior storage of materials or equipment from vandalism or theft may not be erected, except that upon application to the director of planning a security fence may be permitted upon determination that such fence is necessary in the interest of public safety or the protection of public or private property and does not have a negative impact on the general appearance of the area. If permitted, such a fence shall not provide more than three strands of barbed wire above a fence not exceeding six feet in height. Barbed wire fences, otherwise allowed under this section, are not permitted in residential neighborhoods, downtown or in areas of the city which have been targeted for redevelopment.

(3) *Retaining walls.* Retaining walls shall be approved by the city engineer.

(4) *Construction fences.* Temporary fences may be permitted by the director of building and code enforcement to enclose construction sites as necessary in the interest of public safety or the protection of public or private property. Such fences shall not exceed eight feet in height.

(5) *Chain link fences.* On lots fronting Delaware Avenue, Orange Avenue, Avenue D and U.S. 1, or on lots determined by the director of planning to be in the downtown area or in an area targeted for redevelopment, chainlink fences are permitted only if located no closer than 25 feet to any public right-of-way, are painted or coated, and screened from the public right-of-way with shrubs and no less than one tree for each 50 linear feet.

(e) *Required fences, walls, or hedges.*

(1) *Junkyards.* Junkyards shall comply with the requirements of section 22-327(d)~~ or 16-67(e)~~.

(2) *Swimming pools.* Swimming pools shall comply with ~~the~~ all applicable requirements of ~~sections 5-281 through 5-288~~ the state building code.

(3) *Parking lots.* Parking lots shall comply with the requirements of section 125-315.

(4) *Residential buffers.* Buffers between residential or open space areas and commercial or industrial areas

PROOFS

shall conform with the requirements of section 125-314(c)(4).

(5) *Commercial and industrial buffers.* Outside storage of materials for commercial and industrial uses shall be screened with a sight-obscuring fence or wall which is not less than six feet to a height equal to the height of the material being stored, whichever is greater, except the storage of materials may not exceed a height of 15 feet. Outside storage of cargo containers shall be screened with site-obscuring fence or wall at least eight feet in height or with a landscape strip at least ten feet in width. The top of the highest stored or stacked cargo container may not exceed a height of 30 feet. Such limitation on the storage or stacking of cargo containers is effective as of October 16, 2007, notwithstanding any other provision in the Code of Ordinances, whether any such contrary provision relates to nonconformity or not. For all fences and walls constructed generally parallel to the public right-of-way or parallel to a lot that is not zoned I-1 or I-2, there shall be a hedge planted along the outside of such barrier to form a 36-inch or higher continuous, unbroken solid screen and one tree planted for an average of every 20 feet along the outside of such barrier. Such fence, wall, landscape strip, and/or landscaping required by this section also shall meet the requirements of article I of chapter 123 and subsections 125-314(g)(7) and (8) of this Code.

(f) *Prohibited fences, walls, hedges, or characteristics of fences, walls or hedges.*

(1) *Electric fences.* Electric fences shall not be permitted.

(2) *Concertina wire.* Barbed wire fences using concertina-type wire shall not be permitted, except within the interior of a prison or jail compound area.

(g) *Exceptions.*

(1) Fences and walls located on publicly-owned property shall be exempt from the requirements of section 125-322(c), pertaining to height, and section 125-322(4)(b), pertaining to security fences.

(2) Height of hedges or other vegetative screening shall be limited only by health and safety factors, unless specifically limited herein.

(3) Fences and walls used for recreational purposes such as around a tennis court are exempt from the maximum height requirements of section 125-322(c).

(Code 1983, § 22-67; Ord. No. I-04, § 1, 4-4-1983; Ord. No. I-241, § 1, 9-22-1987; Ord. No. J-83, § 1, 3-7-1994; Ord. No. J-180, § 1, 2-20-1996; Ord. No. J-305, § 1, 4-21-1997; Ord. No. J-306, § 1, 4-21-1997; Ord. No. K-516, §§ 1A, 1B, 10-15-2007; Ord. No. L-72, § 1, 1-5-2009)

**Sec. 125-323. Satellite signal receiving and transmitting devices; installation, placement and maintenance.**

(a) *Purpose.* It is the purpose and intent of this section to establish the requirements for the installation, placement and maintenance of satellite signal receiving and transmitting devices, in order to protect and preserve the health, safety and welfare of the citizens of the city.

(b) *General requirements.* The following requirements apply to all satellite signal receiving and transmitting devices in any zoning district:

(1) *Placement.* All permitted satellite signal receiving and transmitting devices shall be located on the property of the applicant and not within any public right-of-way.

(2) *Construction.* All satellite signal receiving and transmitting devices shall be erected in accordance with the requirements of the state building code, as adopted and amended by the city.

(3) *Permit.* All satellite signal receiving and transmitting devices shall require a construction permit issued by the department of building and code enforcement.

(c) *Requirements by development type.* Satellite signal receiving and transmitting devices are allowed as follows:

(1) *Single-family and duplex development.* When constructed on the same property as single-family or duplex residential development, such device:

a. May be constructed with the base of such device being a minimum of four feet from a required

PROOFS

yard.

b. Shall not be constructed in a front yard.

c. Shall not exceed 12 feet in diameter.

d. Shall not exceed 15 feet in height as measured from the lowest point of the base.

(2) *Multifamily development.* When constructed on the same property as multifamily residential development, such device:

a. May project out to a maximum of 30 inches into a required yard.

b. When constructed in a side or front yard, shall be screened by a fence or hedge of a minimum of two feet in height.

(3) *Nonresidential development.* When constructed on the same property as nonresidential development, such device:

a. May project out to a maximum of 30 inches into any required yard.

b. When constructed in a side or front yard, shall be screened by a fence or hedge of a minimum two feet in height unless used as a sign, in which case the structure must comply with chapter 117 of this Code.

(4) *Temporary uses*.

a. A temporary satellite signal receiving and transmitting device may be allowed by the ~~director of the department of planning and development~~ planning director if he determines that the provisions of this section have been satisfied.

b. Period allowed. The period for which a temporary satellite signal receiving and transmitting device will be allowed will be specified by the ~~director of the department of planning and development~~ planning director.

(Code 1983, § 22-69; Ord. No. I-149, § 1, 2-3-1986)

**Sec. 125-324. Backflow restrictors.**

(a) *Purpose.* It is the purpose and intent of this section to establish requirements for siting and landscaping of backflow restrictors in order to protect and preserve the health, safety, welfare, appearance and general welfare of the citizens of the city.

(b) *Responsibility.* It shall be the responsibility of the developer to landscape and screen backflow restrictors.

(c) *Siting.* Backflow restrictors shall be placed on private property.

(d) *Screening.* Backflow restrictors shall be fenced at least as high as the mechanism itself and such fence shall be separated from it by a distance of not less than two feet in all directions around the restrictor. Additionally, a landscaped hedge shall be planted against the outside of the fence. Shrubs used to meet the requirements of this section shall be a minimum of two feet in height when planted. The hedge shall be planted and maintained so as to form a two-foot or higher continuous, unbroken, solid, visual screen within a maximum of one year after the time of planting.

(Code 1983, § 22-70; Ord. No. I-159, § 1, 4-7-1986)

**Sec. 125-325. Amusement arcades and arcade amusement centers.**

Amusement arcades and arcade amusement centers shall comply with the following regulations:

(1) *General operating standards*.

a. No amusement arcade or arcade amusement centers shall operate after the hour of 12:00 midnight and before the hour of 8:00 a.m. on weekdays, and between 2:00 a.m. and 8:00 a.m. on weekends.

b. No game shall be played by persons who are under 18 years of age.

c. No arcade amusement center shall be located within 1,250 feet of another arcade amusement center.

PROOFS

Such distance shall be measured from closest property line to closest property line.

d. No amusement arcade or arcade amusement centers shall be permitted within the Downtown Business and Entertainment Overlay District.

e. No amusement arcade or arcade amusement centers shall be located within 250 feet of the Downtown Business and Entertainment Overlay District boundaries.

f. Alcohol sales or consumption shall be prohibited in amusement arcades and arcade amusement centers.

g. Amusement arcades or arcade amusement centers shall not exceed 9,000 square feet.

h. Amusement arcades or arcade amusement centers shall operate in full compliance with all state and federal law.

(2) *Design standards*.

a. No sign, display, or merchandise, shall be placed on or adjacent to any window if such placement would interfere with the clear and unobstructed view of the entire interior of the establishment from ground level through exterior windows.

b. Placement of game machines along front windows are prohibited.

c. Window tinting, mirrored windows, or other obscuring elements are prohibited.

d. All entrances shall be adequately lighted.

e. All amusement arcades or arcade amusement centers must post at least two conspicuous signs within the premises, and one conspicuous sign at the entrance, stating the following:

1. Minimum age requirements as described above.
2. School hours use restrictions as described above.
3. No smoking.
4. No drugs.
5. No alcohol.

f. Amusement arcades or arcade amusement centers shall provide bicycle racks within enough stalls to accommodate one bicycle for each five game machines located within the premises. Bicycle racks shall be located as close as practical to the entrance of the facility and shall not be located in a manner that obstructs any entrances, exits, sidewalks, driveways, or parking areas.

g. All amusement arcades or arcade amusement centers must provide public restrooms in accordance with applicable country health department requirements.

h. Lighting for parking lots must satisfy lighting requirements of section 125-315(g)(1) of this Code prior to the issuance of a business tax receipt.

i. Landscaping must comply with requirements of the city's landscaping ordinance prior to the issuance of a business tax receipt.

j. Sidewalks shall be installed along all public rights-of-way for properties that have arcade uses and shall be installed prior to the issuance of a business tax receipt. No location shall be exempt from sidewalk provisions contained in section 125-317.

k. Any proposed exterior change to a building used for arcade uses will be subject to city design review guidelines pursuant to section 125-314. This shall not apply to buildings located in historic districts or buildings that are individually designated.

l. Parking shall be provided at a rate of three-fourths parking spaces per machine (or three spaces for every four machines).

(3) *Permitting requirements*.

PROOFS

a. All amusement arcades or arcade amusement centers shall pay a fee per machine annually in conjunction with the business tax receipt. The fee shall be established by resolution by the city commission. The fee shall apply to all operating and nonoperating machines located on premises.

b. All amusement arcades or arcade amusement centers shall pay a fee per machine annually in connection with the business tax receipt. The fee shall be established by resolution by the city commission. The fee shall apply to all operating and non-operating machines located on premises.

c. An applicant for a permit to operate an amusement arcade or arcade amusement center shall submit the following information to the police department:

1. All applications shall include a list of all current owners and employees of the arcade.

2. If the city determines that any applicant lacks good moral character, it shall deny the license application. For purposes of this section, an applicant will be deemed to have good moral character if the applicant, its owners, and its employees meet the level two standards of screening set forth in F.S. § 435.04.

3. The applicant shall pay a fee established by resolution by the city commission to cover the cost of police department background checks.

4. Whenever an amusement arcade or arcade amusement center hires a new employee or changes its ownership composition, the police department shall inspect the new employee's or owner's background to ensure that the employee or owner has not been convicted of any of the crimes described in subsection (b)(2) of this section. Any failure by an amusement arcade to provide the police department with the information necessary for the officer to conduct such an inspection shall constitute a willful violation of this chapter.

5. The city may deny an application for a permit to operate an amusement arcade or arcade amusement center or may revoke a permit issued pursuant to this chapter if the applicant fails to meet any of the requirements of this section. If the city denies an application, the city shall provide reasons for the denial in writing within five days of receipt of the completed application. If the city revokes a permit issued pursuant to this chapter, the city shall provide reasons for the revocation in writing.

d. Provide an operating plan consisting of an interior layout plan drawn to scale showing the location of all machines, devices, equipment and access ways, and such other information as may be reasonably requested.

e. Amusement arcades or arcade amusement centers that serve food or provide catering services on premises must be licensed by the department of health, department of business professional regulation, or department of agriculture and consumer services.

(4) *Machine registration requirements*.

a. The permittee is required to maintain its premises a complete inventory, along with serial numbers or equivalent identification, as set forth in subsections (d) and (e) of this section, the amusement devices in operation on the premises of the amusement arcade at all times. The initial application for permit shall include a certificate of inspection by the planning department of the inventory, along with serial numbers or equivalent of identification, as set forth in subsections (d) and (e) of this section, of the machines that the permittee intents to put into operation when the amusement arcade begins its business activities.

b. Each renewal permit application shall contain a certificate of inspection of updated inventory, along with serial numbers or equivalent identification, as set forth in subsections (d) and (e) of this section, of the amusement device that the permittee intends to put into operation when the amusement arcade begins its business activities under the renewal license.

c. Before a new amusement device is put into operation at the amusement arcade or arcade amusement center, the permittee shall notify the planning department of the addition of the device to the inventory and update its inventory accordingly.

PROOFS

d. Upon review of the inventory of devices under subsections (1), (2) and (3) of this section, the planning department shall enter each amusement device into a registry that the license administrator shall create. For each amusement device registered, the permit administrator shall cause to be issued and delivered to permittee for each amusement device within seven days of the notification required under subsection (c) of this section a numbered metal or plastic decal. The registration decal of each amusement device shall be affixed to the upper left front of the game in a prominent position where easily viewed by zoning inspectors, code enforcement inspectors and police. Registration decals are not transferable. The failure of any amusement device to display a current registration decal shall be a violation of this section and subject to enforcement action by the city.

e. The inventory of devices under subsections (1), (2) and (3) of this section shall provide the following information: the manufacturer serial number; common name, type or description of the game played on the machine. The registration decal shall contain the inventory number of the amusement device.

f. Each inventory of amusement devices submitted under subsections (a), (b), and (c) of this section shall be accompanied by a certificate issued by an independent testing laboratory licensed by the state pursuant to F.S. ch. 551, certifying that the game played by the skill-based amusement devices identified in the inventory meet the application of skill requirement contained in F.S. §§ 551.104(d), 551.105 and 551.107.

(5) *Waiver of distance.*

a. The city commission shall determine if the health, safety, or general welfare have been provided for with any waiver request and may impose any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

b. The city commission may not waive distance restrictions imposed by subsections (a)(4) and (a)(5) of this section.

c. The city commission shall consider the following for any waiver request:

1. The actual location and distance of the proposed establishment with respect to other places of business licensed to sell intoxicating beverages, whether on or off the premises;

2. The type and size of the establishment, including the number of machines, seating capacity, and whether, in view of such type or size, the proposed establishment is likely to create a public nuisance or traffic impediment by drawing crowds or persons milling about outside the building;

3. Whether adequate parking and landscaping for the facility is provided so as to meet the requirements set forth in sections 123-37 and 125-316;

4. Whether the facility is physically separated or well-buffered from all adjacent residentially zoned areas;

5. Whether traffic generated by patrons or pickup/delivery vehicles will pass through low or moderate density residentially zoned neighborhood;

6. The number of police calls to the proposed location and/or adjacent properties within the past year.

(6) *Preexisting amusement arcades or arcade amusement centers.*

a. Preexisting amusement arcades or arcade amusement centers will be required to immediately comply with all procedural requirements such as permitting, licensing, general operating standards, fees, and nonhardscape design standards. Hardscape design standards such as parking lots, exterior lighting, landscaping, sidewalks, etc. will be subject to a 24-month time for compliance.

(7) *Florida law compliance.* It is not the intent of this section to allow amusement arcades or arcade amusement centers that:

a. Mimic the look and feel of gambling venues which are prohibited by law.

PROOFS

b. Include any game, machine or device that violates any provision of state and federal law, including, but not limited to, F.S. ch. 849.

c. All amusement arcades or arcade amusement centers shall operate in full compliance with all state statute requirements and other applicable laws.

(Code 1983, § 22-71; Ord. No. L-217, § 4, 12-5-2011)

**Sec. 125-326. Density bonuses.**

(a) *Purpose.* To encourage infill and redevelopment in certain areas of the city through density bonus provisions in order to maximize existing infrastructure, protect natural resources, lower the cost of public services and promote a more sustainable community.

(b) *General requirements.*

(1) Property located within the coastal high hazard area (CHHA), as defined by the adopted city comprehensive plan and the state statutes, is not eligible for density bonus provisions;

(2) A maximum of five dwelling units per acre density bonus is permitted for development located within one-fourth mile radius of a rail station, multimodal transit center or transit stop;

(3) The rail station, multimodal transit center or transit stop must be serviced by the regulating transit authority of the particular transportation facility at the time that the density bonus is awarded;

(4) Development is eligible for density bonus provisions if it is located within the one-fourth-mile radius by any measure; and

(5) The director of planning may make the determination that a development is eligible for density bonus provisions if it is located outside the one-fourth-mile radius but within an enclave surrounded on all sides by several density bonus boundary limits.

(c) *Tiered density bonus provisions.*

(1) Development located within the community redevelopment area (CRA) that is not located within the CHHA is eligible for a maximum density bonus of five units-per-acre;

(2) Development located outside the CRA boundary and not in an R-1 zoning district shall be eligible for a maximum density bonus of three units-per-acre; and

(3) Development located on property in the R-1 zoning district and that is outside the CRA boundary shall be eligible for a maximum density bonus of one unit-per-acre.

(d) *General standards.*

(1) The density bonus is measured from the maximum density permitted on site before the density bonus provisions are applied; and

(2) All development receiving a density bonus shall require site plan approval through the planning department.

(3) Compatibility review.

a. A determination shall be made as to whether the density bonus provisions will result in a significantly greater negative impact on the surrounding property. The determination shall be based upon a comparison between the development impacts of the site before and after applying the density bonus provisions to the surrounding property and shall address:

1. Whether the increase in density will decrease visual access to the surrounding vista by existing development, especially with regard to historic sites, waterfront or open space areas by more than 25 percent;

2. Whether buffer landscaping provides sufficient screening between sites;

3. Whether the orientation of buildings, doors or windows allow for sufficient sight-line separation between building sites; and

PROOFS

4. Whether the increase in density will result in the decrease the level of service for public facilities.

b. Such negative impacts shall be mitigated as a condition of approval by related development standards as required by the director of planning, such as:

1. Increased building setbacks;

2. Increased side yard setback;

3. Increased planting and screening requirements;

4. Orientation of buildings away from adjacent development;

5. Location of open space toward surrounding development; and

6. Any material improvement necessary to maintain the level of service of public facilities.

c. Development requiring mitigation for one or more significant negative impacts will not be eligible for the flexible development identified in this section.

(e) *Flexible development standards.*

(1) Administrative relief may be provided by the director of planning with regard to the following:

a. Setback requirements may be reduced up to the required landscaped area;

b. Lot size requirements may be reduced up to ten percent;

c. Parking requirements may be reduced; and/or

d. The required 25 percent open space requirement for all development may be provided off-site, or may be reduced, if the development is connected by a continuous sidewalk to an existing public park that is located within one-fourth mile of the site.

(Code 1983, § 22-72; Ord. No. L-263, § 1, 8-20-2012)

**Sec. 125-327. Fueling stations.**

(a) *Purpose.* It is the purpose of this section is to protect the public safety and welfare, and enhance the city's beauty and protect property values by regulating the location of filling stations and design of new or remodeled stations.

(b) *Applicability.* This article shall apply to any building, structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories incident thereto, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement, body and fender repair or spray painting. This shall also include the terms "fueling station," "filling station," "gasoline station," "service station," and "gasoline service station." This section shall not apply to fueling operations accessory to marinas or industrial uses which do not offer retail sale to the general public.

(c) *General requirements.* Fueling stations shall comply with the following regulations:

(1) *Enclosed structure.* All tire repairing, battery charging, lubricating or washing of automobiles, and/or storage of merchandise or supplies, must be accommodated or conducted wholly within the main structure or an enclosed structure of any new, remodeled, relocated or existing filling station.

(2) The design of each new station, or remodeling of an existing station, shall be in compliance with the design review guidelines as contained in section 125-314. Renovations, alterations and/or additions to existing structures shall be reviewed as minor applications pursuant to section 125-314.

(Code 1983, § 22-73; Ord. No. 16-002, § 2, 3-21-2016 )

PROOFS

**Secs. 125-328--125-357. Reserved.**

DIVISION 2. WIRELESS COMMUNICATION FACILITY SITING

**Sec. 125-358. Definitions.**

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

*Accessory equipment building* means any building, cabinet, or equipment enclosure constructed for the primary purpose of housing the electronics, backup power, power generators and other free standing equipment associated with the operation of antennas.

*Alternative site* means one or more separate locations within the search ring at which a provider could place its antenna to serve substantially all of the area intended to be served by the site requiring a special exception. Alternative sites must be available to the provider on commercially reasonable terms.

*Antennas* means any apparatus designed for the transmitting and/or receiving of electromagnetic waves which includes but is not limited to telephonic, radio or television communications. Types of antennas include, but are not limited to, whip antennas, panel antennas, dish antennas. As used herein the term antenna includes all antennas integrated and used as a single unit, such as an antenna array. For purposes of this article, the following shall not be considered antennas and shall not be regulated by this article; privately owned amateur radio and citizens band antennas, irrespective of height and diameter; and antennas with a total diameter or width, including all parts of the antenna arrays, of two meters or less in commercial or industrial areas, or one meter or less in all areas if mounted no greater than ten feet above the roofline.

*Antenna support structure* means a facility that is constructed and designed primarily for the support of antennas, which include the following types:

*Camouflaged structure* means a structure designed to support antenna and designed to blend into the existing surroundings. Privately owned amateur radio and citizens band antennas support structures shall be exempt from this article.

*Collocation* means when more than one FCC licensed provider uses an antenna support structure to attach antennas.

*Existing structures* means any lawfully constructed manmade structure, including, but not limited to, antenna support structures, buildings, utility structures, light poles, clock towers, bell towers, steeples, water towers and the like, which allow for the attachment of antennas.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Guyed tower* means a tower that is supported in whole or in part by guy wires and ground anchors or other means of support in addition to the superstructure of the tower itself;

*Lattice tower* means a tower that consists of vertical and horizontal supports and crossed metal braces, which is usually triangular or square in a cross section;

*Monopole* means a tower of a single pole design; and

*Provider* means an FCC licensed communications company.

*Search ring* means a geographic area in which a provider's antenna is intended to be located to serve the provider's coverage area.

*Temporary antenna support facility* means a facility that is designed and constructed to serve, on temporary basis, as a means of supporting antennas and is used typically to provide emergency wireless communications service or to provide wireless communications service to special events.

(Code 1983, § 22-157; Ord. No. J-452, § 1, 9-21-1998)

PROOFS

**Sec. 125-359. Intent.**

The regulations and requirements of this article are intended to:

(1) Promote the health, safety and general welfare of the citizens by regulating the siting of wireless communication facilities;

(2) Accommodate the growing need and demand for wireless communication services;

(3) Provide for the appropriate location and development of wireless communication facilities within the city;

(4) Recognize that the provisions of wireless services may be an essential service within such land use categories as may be provided for under the comprehensive plan, subject to the limitations set forth in this article;

(5) Minimize adverse visual effects of wireless communication facilities through careful design, siting, landscape screening and innovative camouflaging techniques;

(6) Encourage the location and collocation of antennas on existing structures thereby minimizing new visual impacts and reducing the need for additional antenna support structures; and

(7) Further the balance between the need to provide for certainty to the communications industry in the placement of wireless communication facilities and the need to provide certainty to the residents and citizens of the city that the aesthetic integrity of the city will be protected from the proliferation of unnecessary antenna support structures.

(Code 1983, § 22-156; Ord. No. J-452, § 1, 9-21-1998)

**Sec. 125-360. Antennas.**

(a) *Where permitted.* Antennas attached to existing structures shall be permitted in all zoning districts subject to the requirements of this section.

(b) *Requirements.* All antenna installations shall meet the following requirements:

(1) Antennas may be located on existing structures with a height of 30 feet or greater, so long as the antennas do not extend more than 15 feet above the highest point of the existing structure, and as limited by subsection (b)(3) of this section;

(2) Antennas may be located on existing structures with a height of less than 30 feet, so long as the antennas do not extend more than five feet above the highest point of the existing structure, and as limited by subsection (b)(3) of this section;

(3) Notwithstanding subsections (b)(1) and (2) of this section, antennas, as defined in section 125-358, shall not be located on single family structures;

(4) Antennas to be located on existing structures in public road rights-of-way may only be located in collector, arterial or limited access road rights-of-way;

(5) No advertising shall be allowed on an antenna;

(6) No signals, lights or illumination shall be permitted on an antenna, unless required by any applicable federal, state or local rule, regulation or law;

(7) Antennas shall comply with all applicable Federal Communications Commission emission standards;

(8) Design, construction, and installation of antennas shall comply with all ordinance provisions of this Code and such other local building codes as may be applicable;

(9) Accessory equipment buildings used in conjunction with antennas, if located on the ground, shall comply with the minimum accessory building setback requirements of the zoning district in which they are located.

(c) *Approvals.* All antenna support structures shall require a site plan conforming to section 125-313(d), to be approved administratively by the ~~director of development~~ planning director.

PROOFS

(d) *Nonconforming antennas.* All antennas legally installed at the time of initial installation may be repaired, replaced and/or relocated at an equal or lower height on the existing structure, if otherwise not in conformity with this article.

(Code 1983, § 22-158; Ord. No. J-452, § 1, 9-21-1998)

**Sec. 125-361. Antenna support structure.**

(a) *Preapplication conference for approval process.* Construction of any antenna support structure shall require a permit, to be issued upon approval following completion of procedures provided by this section. Any applicant or agent thereof seeking to construct an antenna support structure shall schedule a courtesy review with the department of planning prior to the submission of the permit application, in order to review the requirements of this section. The applicant shall bring to the conference the legal description of the proposed antenna support structure site and zoning lot, a conceptual plan of the antenna support structure, and an elevation drawing of the antenna support structure site improvements.

(b) *Submission requirements.* All applications for an antenna support structure permit shall contain the following items:

(1) The applicant shall be the antenna support structure owner or authorized agent. The application shall be signed and notarized by the owner of the property upon which the antenna support structure is being built, with the property owners acknowledgment of the requirements relating to abandonment of antenna support structures, as provided in section 125-365. Documentation shall be submitted as to telecommunication carrier utilizing the antenna support structure.

(2) Site and landscape plan drawn to scale, legal description of the antenna support structure site and zoning lot, north arrow and demonstration of compliance with applicable land development regulations.

(3) An elevation, drawn to scale, of the zoning lots view from city right-of-way and any abutting residential use or property.

(4) Documentation of compliance with FAA and any applicable local aviation authority regulations.

(5) Documentation to ensure that any antennas to be placed on the antenna support structure meet all relevant FCC regulations and radio frequency emission standards.

(6) Copies of any relevant easements.

(7) The applicant must include in the application an affidavit of good faith intent to allow the co-location of wireless communication antennas by other telecommunication carriers at a reasonable market rate.

(8) The applicant shall provide a notice of the proposed location to other telecommunication carriers with potential interest in co-location by satisfactory evidence of actual notice. Copies of any such notices must be submitted with the application. Notice shall direct the carriers interested in collocation to contact the planning department. If a potential user requests co-location in writing to the planning department, the burden shall be on the applicant to demonstrate that co-location cannot be accommodated pursuant to subsection (b)(10) of this section.

(9) The applicant shall provide the applicable propagation models and/or search ring maps for the telecommunication carrier which has demonstrated an intent to locate a wireless communication antenna on the proposed antenna support structure and shall identify all existing structures within the telecommunication carrier's search ring of equal or greater height than the proposed antenna support structure.

(10) The applicant must demonstrate by provision of an affidavit from a registered professional engineer with expertise in the telecommunications industry that the wireless telecommunication antenna to be attached to the antenna support structure cannot be accommodated on the identified existing structures or on a commercial communication tower within the telecommunication carrier search ring due to one or more of the following reasons:

a. Both the owner/operator of the existing antenna support structure and the applicant have verified that an additional antenna array would exceed the structural capacity of the existing support

PROOFS

structure, and the existing antenna support structure cannot reasonably be replaced with a new tower at its current location.

b. Documentation from a registered professional engineer with expertise in the telecommunication industry that the wireless telecommunication antennae would cause RF or other type of interference to be interfered with by the operation of existing or proposed wireless telecommunication antennas, located on or near the existing structure.

c. The existing antenna support structure does not have the space or availability at the required height, or adequate area upon which to locate and operate the necessary equipment effectively and reasonably.

d. The lease terms on an existing tower are not economically reasonable or are substantially higher than current market rates.

(11) Documentation establishing the structural integrity for the antenna support structures proposed use.

(12) An affidavit from the property owner or applicant acknowledging acceptance of the requirements of section 125-365.

(13) A lease agreement demonstrating that one or more telecommunication carriers intend to locate wireless communication antenna on the proposed antenna support structure.

(14) An affidavit from the applicant documenting the specific number of antennas the proposed antenna support structure is designed to carry.

(15) Prior to issuance of a certificate of completion, the applicant shall document liability coverage in an amount satisfactory to the department as reasonably commensurate with the nature of the structure.

(c) *Action on application.* The following procedures and requirements shall apply to any application for construction of an antenna support structure:

(1) The ~~department of planning and development~~ planning department will review the completed application to ensure conformity with this article. Such review shall be completed within a period of 30 days. If there are no violations, the department shall forward such completed application to the city planning board with a written report.

(2) The city planning board shall review the proposed application and make a recommendation to the city commission. If the board recommends disapproval, the reason shall be stated.

(3) The city commission shall hold a hearing and approve or disapprove the proposed application. In so doing, it shall adopt written findings, based upon competent substantial evidence. The application may not be approved in the event public health, safety and general welfare are not properly provided for.

(d) *Standards for review.* It is the intent of this section to provide reasonable opportunities for siting of telecommunications towers and other wireless facilities consistent with federal and state guidelines while also providing for protection of the public welfare through the city's exercise of its police powers. The city shall consider and weigh the aesthetic impact and compatibility issues of the proposed antenna support structure with the public benefit derived from having an efficient and reliable wireless communications system when determining whether or not to approve the application. Consideration shall be based upon these factors:

(1) Height of the proposed antenna support structure.

(2) Proximity of the antenna support structure to residential structures and residential district boundaries.

(3) Nature of uses on adjacent and nearby properties.

(4) Surrounding topography.

(5) Surrounding tree coverage and foliage.

(6) Design of the antenna support structure, with particular attention to design characteristics which have the effect of reducing or eliminating visual obtrusiveness, to the extent reasonably possible.

(7) Proposed ingress and egress.

PROOFS

(8) Availability of suitable existing antenna support structures and other structures. No new antenna support structure may be permitted unless the applicant demonstrates to the city's reasonable satisfaction that no existing antenna support structure or other suitable structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing antenna support structure or other structure can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing antenna support structures or other suitable structures are located within the geographic area required to meet the applicant's engineering requirements;

b. Existing antenna support structures or other suitable structures are not of sufficient height to meet the applicant's engineering requirements;

c. Existing antenna support structures or other suitable structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing antenna support structure or other suitable structure, or the antenna on the existing antenna support structure would cause interference with the applicant's proposed antenna;

e. The fees, costs or contractual provisions required by the applicant in order to share an existing antenna support structure or other structure or to adapt such structure for sharing are unreasonable. Costs exceeding a new antenna support structure are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing antenna support structures or other structures unsuitable.

(Code 1983, § 22-159; Ord. No. J-452, § 1, 9-21-1998; Ord. No. K-128, §§ 1, 2, 1-22-2002)

**Sec. 125-362. General requirements for all antenna support structures.**

(a) Antenna support structures shall be constructed in compliance with all applicable construction building codes, which shall include Electronic and Technological Industry Association standards, as amended.

(b) An antenna support structure may be located on a zoning lot containing other principal uses and may be located within an area smaller than the minimum lot size of the applicable zoning district if the zoning lot within which the antenna support structure is located complies with the applicable minimal lot size for the existing principal use or is a legal nonconforming or grandfathered lot.

(c) Unless another section of this article indicates otherwise, the area within which the antenna support structure is located shall be the area subject to the requirements of this section, rather than the entire zoning lot.

(d) Antenna support. Structures shall comply with the minimum setback requirements of the underlying zoning district, except that additional setbacks due to height shall not be required. Ground anchors for guyed towers shall meet the minimum setbacks for accessory structures in the underlying zoning district.

(e) Prior to the issuance of a building permit, the applicant shall provide evidence that the antenna support structure is in compliance with regulatory standards imposed by the FAA.

(f) No advertising shall be allowed on the antenna support structure.

(g) No signals, lights, or illumination shall be permitted on the antenna support structure unless required by any federal, state or local agency, or where such lighting or illumination is part of the design of a camouflaged structure.

(h) The antenna support structure site (exclusive of guyed anchors where applicable) shall be enclosed within a metal or wood fence or a wall not to exceed eight feet in height. Barbed wire may not be used. This requirement shall not apply to camouflaged structures and may be waived by the administrator for other antenna support structures if the structure is made unclimbable up to a height in excess of 20 feet.

(i) Landscaping shall be provided between an antenna support structure or accessory equipment building and public streets or residential parcels, in accordance with section 125-314 and as additionally required by the following:

(1) If the antenna support structure or accessory equipment building abuts the public right-of-way or

PROOFS

residentially developed or zoned property, the antenna support structure or accessory equipment building shall be screened from such abutting use by placing the landscaping along the security fence or wall.

(2) If the antenna support structure or accessory equipment building is not immediately abutting a public right-of-way or residentially developed or zoned property, the landscaping shall be provided along the boundaries of the zoning lot between the antenna support structure or accessory equipment building and the public right-of-way or residentially developed or zoned property.

(3) A hedge at least six feet high shall be maintained along the entire length of the perimeter, with a tree placed every 30 linear feet, with the width of the landscaping strip not to exceed ten feet. Existing landscaping, vegetation or intervening buildings or permanent structures may be substituted in place of the landscaping otherwise required for new approval, providing there is a determination that the screening is equivalent.

(j) The only signage which may be permanently attached to any fence or wall required by this article shall be for the purpose of identifying the party responsible for the operation and maintenance of the facility, its address and telephone number, and security or safety signs.

(k) Mobile or immobile equipment not used in direct support of the wireless facility shall not be stored or parked on the site, unless repairs to the antennas and related equipment and/or to the antenna support structure are being made.

(l) A temporary antenna support facility may be used by a provider in any zoning district for the purpose of providing temporary wireless service for special short-term events such as political events, sporting events, or entertainment events; to allow for modification, replacement and/or repairs to an existing facility; or as necessary to aid in disaster relief efforts.

(Code 1983, § 22-160; Ord. No. J-452, § 1, 9-21-1998)

**Sec. 125-363. Accessory equipment building.**

Accessory equipment buildings used in conjunction with the operation and maintenance of antennas shall be permitted subject to the following requirements:

(1) Shall not exceed 750 square feet of gross floor area per provider;

(2) If ground constructed or mounted, shall not exceed 20 feet in height;

(3) Shall be located within close proximity, as is reasonably possible, to the structure upon which the antennas are attached;

(4) If ground constructed or mounted, shall meet the underlying zoning district setback requirements for accessory structures;

(5) Shall be designed, constructed and installed in compliance with all codes and ordinances of the city. If prefabricated, the building shall be certified by the state under all applicable state laws;

(6) Shall be of a material and/or color which matches the exterior of the existing structure, if any, where the antennas are located; and

(7) If ground constructed or mounted shall meet the landscaping requirements of this article and section 125-314.

(Code 1983, § 22-161; Ord. No. J-452, § 1, 9-21-1998)

**Sec. 125-364. Collocation.**

To encourage a reduction in the number of antenna support structures that may be required to site antenna in order to meet the community's increasing demand for wireless service, antenna support structures shall be structurally designed to accommodate the collocation of antenna as follows:

(1) All antenna support structures, except camouflaged structures, over 80 feet and up to and including 150 feet in height shall be structurally designed to accommodate at least two providers;

(2) All antenna support structures, except camouflaged structures, exceeding 150 feet in height shall be

PROOFS

structurally designed to accommodate at least three providers.

(Code 1983, § 22-162; Ord. No. J-452, § 1, 9-21-1998)

**Sec. 125-365. Removal of abandoned antenna support structures.**

(a) At time of building permit the applicant shall enter into a contractually enforceable agreement with the city which requires the applicant or the owner of the antenna support structure to remove the antenna support structure upon its abandonment.

(b) Prior to issuance of any permit in accordance with this article, the property owner or tower operator shall submit a bond, surety or other financial guaranty for the use and benefit of the city, to ensure the removal of abandoned communication towers. The form of surety shall be subject to approval by the director of planning and the city attorney. The required surety shall be irrevocable, unless released by the city. The surety shall be utilized to cover the costs of removal and disposal of abandoned towers and shall consist of the following:

(1) Submittals of an estimate from a certified structural engineer indicating the costs to remove and dispose of the tower;

(2) A surety equivalent to 100 percent of the estimated costs to remove and dispose of the tower.

The planning director, subject to review by the city attorney, may accept documentation from a tower operator or property owner that adequate resources or irrevocable contract obligations are available to remove obsolete or abandoned communication towers.

(c) In the event all legally approved use of any antenna support structure has been discontinued for a period of 180 consecutive days, the antenna support structure shall be deemed abandoned. Determination of the date of abandonment shall be made by the ~~department of code enforcement~~ code compliance division, which may request suitable documentation from the owner of the antenna support structure regarding any matter relating to whether the antenna support structure is currently being used or not.

(d) At such time as the ~~department of code enforcement~~ code compliance division determines that an antenna support structure is abandoned, it shall provide the antenna support structure owner with written notice of an abandonment determination by certified mail. Failure or refusal by the owner to respond within 60 days of receipt of such notice, shall constitute prima facie evidence that the antenna support structure has been abandoned.

(e) If the owner of the antenna support structure fails to respond or fails to demonstrate that the antenna support structure is not abandoned, the antenna support structure shall be considered abandoned and the owner of the antenna support structure shall have an additional 120 days within which to:

(1) Reactivate the use of the antenna support structure or transfer the antenna support structure to another owner who makes actual use of the antenna support structure within the 120 day period; or

(2) Dismantle and remove the antenna support structure. At the earlier of 121 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any special exception approval for the antenna support structure shall automatically expire.

(Code 1983, § 22-163; Ord. No. J-452, § 1, 9-21-1998)

**Sec. 125-366. Nonconforming antenna support structures, replacements and modifications of existing structures.**

To encourage the use of sites which already have an existing structure which creates a visual or height impact, modifications to or replacement of such facilities may occur subject to the following conditions:

(1) Nonconforming antenna support structure. All antenna support structures legally installed at the time of initial construction but which do not meet requirements of this article, shall be considered legally permitted nonconforming uses. Such facilities may be used or repaired and, may be replaced or modified in accordance with this section;

(2) Modification or replacement of existing structures to accommodate collocation.

a. Modification or replacement of existing antenna support structures. An existing antenna support structure may be modified or replaced to accommodate the collocation of antenna as follows:

PROOFS

1. Antenna support structures which, when modified or replaced, will conform to the requirements of the Code, may be modified or relocated on the same zoning lot up to the requirements of the Code;
2. Antenna support structures which, when modified or replaced, will not conform to the requirements of the Code, may be increased in height, one time, up to 40 feet above the approved height and/or may be relocated on the same zoning lot, one time, within 75 feet of the existing location, with administrative review and without conformance with any other setbacks, or height-related requirements;
3. After the antenna support structure is replaced, as provided herein, the existing antenna support structure shall be removed within 90 days;
4. An antenna support structure which is modified or replaced to accommodate the collocation of additional antenna shall be either of the same type as the existing antenna support structure or a monopole.

b. Utilization of existing structures, other than antenna support structures. An existing structure, other than an antenna support structure, may be modified or replaced to accommodate both its prior function and antenna as follows:

1. Such existing structure which, when modified or replaced, will conform to the requirements of this article for antenna support structures and may be modified or relocated on the same zoning lot up to the requirements of the Code;
2. Such existing structure which, when modified or replaced, will not conform to the requirements of this article for antenna support structures, may be:
   (i) Increased in height, one time:
      A. If a distance greater than 110 percent of the height of the modified existing structure from any single-family residential structure, up to 50 percent of the height of the existing structure or 40 feet, whichever is less; or
      B. If the distance is less than 110 percent of the height of the modified existing structure from any single-family residential structure, up to 25 percent of the height of the existing structure or 40 feet, whichever is less.
   (ii) Relocated on the same zoning lot, one time, within 50 feet of the existing location, with administrative review and without requirement that it conform with any other setbacks, separations, or height-related requirements.
3. The modified or relocated pole-type structure shall comply with all applicable FCC and FAA regulations and applicable codes of the city.

(Code 1983, § 22-164; Ord. No. J-452, § 1, 9-21-1998)

**Secs. 125-367--125-390. Reserved.**

DIVISION 3. SIDEWALK CAFES AND SUPPLEMENTARY SIDEWALK

**Sec. 125-391. Definitions.**

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

*Permittee* means the holder of a valid sidewalk cafe permit under the terms and provisions of this article.

*Sidewalk* means that portion of a public street right-of-way between the back of the curb if the sidewalk abuts an existing curb or the edge of the sidewalk closest to the roadway if the sidewalk does not abut a curb and the adjacent property lines which is improved for use by pedestrians.

*Sidewalk cafe* means a use located on a sidewalk which is associated with a business establishment which serves or sells food including beverage products and is located in the abutting building. To serve alcoholic beverages

PROOFS

in a sidewalk cafe the business establishment shall have a valid license from the state to sell alcoholic beverages for consumption on premises in connection with a restaurant use. Sidewalk cafes characterized by tables and chairs may be shaded by awnings, canopies or umbrellas.

*Sidewalk cafe area* means the area calculated by multiplying the frontage of that portion of the property or building containing the business establishment times the width of the sidewalk less such area as is reserved for the unobstructed pedestrian walkway or such other area as is approved by the city for use as a sidewalk cafe.

(Code 1983, § 22-301; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-392. Permit required.**

It shall be unlawful for any person to operate a sidewalk cafe on any sidewalk or public right-of-way without a permit as provided by this article. Sidewalk cafes shall be permitted only within the C-2, C-3, C-4, C-5 and C-6 zoning district. A sidewalk cafe permit shall be a license to use the sidewalk and shall not grant nor shall it be construed or considered to grant any person any property right or interest in the sidewalk.

(Code 1983, § 22-301; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-393. Sidewalk cafe permit and fee.**

(a) Each permit shall be effective for one year from October 1 until September 30, and must be annually renewed with the approval of the city.

(b) The annual permit fee for establishing or maintaining a sidewalk cafe shall be established by the city commission by resolution.

(c) The permit fee shall be paid on or before October 1 and shall cover the time period from October 1 through September 30 of the following calendar year. For a permit issued after October 1 and before September 30, the permit fee will be prorated on a per month basis. Any portion of a month shall be considered a full month for the purposes of calculating the prorated permit fee.

(Code 1983, § 22-302; Ord. No. K-492, § 1, 6-4-2007; Ord. No. L-86, § 9, 7-20-2009)

**Sec. 125-394. Sidewalk cafe permit application.**

(a) Application for a sidewalk cafe permit shall be made to the planning department. Such application shall include, but not be limited to, the following information:

(1) Name, address and telephone number of the applicant;

(2) Name and address of the abutting, permitted business establishment;

(3) A copy of a valid city business tax receipt to operate the business establishment abutting the sidewalk cafe which is the subject of the application;

(4) Written approval from the owner of the building abutting the proposed sidewalk cafe;

(5) A copy of current certificate of insurance in the amounts and categories required by this article;

(6) A drawing (drawn to scale) showing the layout and dimensions of the sidewalk, sidewalk cafe area and adjacent private property, proposed location, size and number of tables, chairs, steps, umbrellas, awnings, canopies, location of doorways, trees, parking meters, bus shelters, sidewalk benches, trash receptacles, railings, decorative chains and any other fixture, structure or obstruction either existing or proposed within the sidewalk cafe;

(7) Photographs, drawings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs; umbrellas, awnings, canopies or other fixtures related to the sidewalk cafe;

(8) If any table, railing, awning, canopy or any other fixture is to be permanently anchored, such information must be shown on the drawing.

(b) The application shall be accompanied by a nonrefundable application fee which shall be credited toward the first year permit fee if the application is approved.

(c) Applications must be reviewed by the engineering department and any departments deemed appropriate

PROOFS

by the planning department.

(Code 1983, § 22-304; Ord. No. K-492, § 1, 6-4-2007; K-492, §, 6-14-2007))

**Sec. 125-395. Standards and criteria for application review.**

The following standards and criteria shall be used in reviewing the application;

(1) Permits shall be issued only to persons who hold a valid business tax receipt for a business establishment and who wish to provide tables and chairs on the sidewalk abutting such establishment for use by the general public.

(2) Sidewalk cafes are restricted to the sidewalk frontage of the abutting business establishment to which a permit has been issued.

(3) Sidewalk cafe areas shall be located on sidewalks which are at least eight feet in width. Variances to this requirement shall not be granted.

(4) Sidewalk cafes shall be located in a manner that promotes efficient and direct pedestrian movement. A minimum of one unobstructed pedestrian path at least five feet wide shall be maintained at all times. In areas of congested pedestrian activity, the planning department may require a wider pedestrian path. In the event the applicant can meet the minimum space and sidewalk clearance requirements otherwise imposed by this section, but for city-owned obstructions considered by the city in its discretion to be minor, such as planters, garbage cans or benches, the city shall move, rearrange or eliminate such minor obstructions if the public health, safety or general welfare are not unreasonably affected. Any cost incurred therewith shall be paid by the applicant.

(5) The perimeter around the sidewalk cafe area may be delineated using nonpermanent fixtures such as railings, potted plants, decorative chains, or other approved fixtures. As described in the application, the planning department may require that any fixture not permanently anchored shall be removed from the sidewalk cafe area during any time when the sidewalk cafe or abutting business establishments is not open for business.

(6) The permanent anchoring of tables, chairs, umbrellas, awnings, canopies, columns, railings or other fixtures may be approved by the building department provided such anchoring meets all applicable building codes, ordinances and laws and the permittee provides adequate assurances that the sidewalk will be repaired in a manner consistent with city requirements concerning sidewalk repair in the event any permanently anchored fixture is removed.

(7) Posts, columns, pilasters, and other features may be located in public right-of-way, public property, or public sidewalks provided they are allowed by the applicable governing authority having jurisdiction. All encroachments, if granted, must comply with all applicable state building and ADA code requirements. In addition, compliance with Index No. 700 as listed within the Florida Department of Transportation Design Standards, latest edition, is required.

(8) Tables, chairs, umbrellas, canopies, awnings and any other fixtures shall be of uniform design and shall be made of quality materials and workmanship to ensure the safety and convenience of users and to enhance the visual quality of the urban environment. Design, materials and colors must be compatible with the abutting building for locations in the C-4 zoning district, and the downtown historical district and must be approved for compatibility by the planning department prior to the issuance and renewal of the permit.

(9) No part of the sidewalk cafe area is permitted within the clear vision area as defined in section 125-308. or defined within Index No. 700 of the Roadway Design Standards as issued by the Florida Department of Transportation, latest edition.

(10) The permit applies only to the sidewalk cafe areas; related uses on private property are governed by other regulations.

(Code 1983, § 22-305; Ord. No. K-492, § 1, 6-4-2007)

PROOFS

**Sec. 125-396. Liability and insurance.**

(a) By use of any permit granted hereunder, the permittee agrees to indemnify, defend, save and hold harmless the city, its officers, agents and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of this permit or the permittee's activity regarding the sidewalk cafe. The permittee shall enter into a written agreement with the city to evidence this indemnification. Such agreement must be on form approved by the city.

(b) The permittee shall acquire and keep in full force and effect, at its own expense, the following insurance requirements for the entire permit period:

(1) Commercial general liability insurance in the amount of $500,000.00 per occurrence for bodily injury and property damage. The city must be named as an additional ensured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement.

(2) Workers' compensation and employers liability as required by the state.

(3) All policies must be issued by companies authorized to do business in the state and rated B+; VI or better per Best's Key Rating Guide, latest edition.

(4) The city shall receive at least 30 days written notice prior to any cancellation, nonrenewal or material change in the coverage provided.

(5) The permittee must provide and have approved by the city's risk manager an original certificate of insurance as evidence that the above requirements have been met prior to the permit becoming effective. Failure to comply with these requirements shall cause a suspension or revocation of this permit.

(c) The insurance requirements described in this article shall be in effect from October 1 until September 30 of the following calendar year.

(Code 1983, § 22-306; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-397. Conditions of sidewalk cafe permit.**

Sidewalk cafes permitted under this article shall be subject to the following conditions:

(1) The permit issued shall be personal to the permittee and shall be transferable only with the prior written approval of the planning department.

(2) The planning department may require the temporary removal of sidewalk cafes by the permittee when street, sidewalk, or utility repairs necessitate such action or when it is necessary to clear sidewalks for a parade permit issued by the police department. The permittee shall be responsible for removing all sidewalk cafe fixtures at least two days prior to the date identified in writing by the city. If such temporary removal exceeds 15 days during any the calendar year, the city shall apply a credit toward the following year's permit fee for each additional day the sidewalk cafe is removed. The permittee shall not be entitled to any refund for such removal. The city shall not be responsible for any costs associated with the removal or the return and installation of any sidewalk cafe fixtures.

(3) The city may cause the immediate removal or relocation of all or any part of the sidewalk cafe or its fixtures in emergency situations. The city, its officers, agents and employees shall not be responsible for any damages or loss of sidewalk cafe fixtures relocated during emergency situations and shall not be responsible for any costs associated with the removal or the return and installation of any sidewalk cafe fixtures.

(4) The sidewalk cafe, shall be specifically limited to the sidewalk cafe area shown in the permit.

(5) The permittee shall ensure that the sidewalk cafe does not interfere with or limit the free unobstructed passage of sidewalk users in the approved pedestrian path.

(6) The sidewalk cafe shall be open for use by the general public and such use may be restricted to patrons of the permittee only during the hours of operation of the sidewalk cafe.

(7) Tables, chairs, umbrellas, canopies, awnings and any other fixtures used in connection with a sidewalk cafe shall be maintained with a clean and attractive appearance and shall be in good repair at all times.

PROOFS

(8) Tables, chairs, awnings, canopies, umbrellas and any other decorative material shall be fire-retardant or manufactured of fire resistant material.

(9) No tables, chairs or any other fixtures used in connection with a sidewalk cafe shall be attached, chained, or in any manner affixed to any tree, post, sign or other fixture.

(10) The sidewalk cafe area including the area extending from the sidewalk cafe area to the street and five feet beyond either end, shall be maintained in a neat and orderly appearance at all times and shall be cleared of all debris on a periodic basis during the day and at the close of each business day.

(11) No additional outdoor seating authorized herein shall be used for calculating seating requirements pertaining to the location of, applications for, or issuance of a liquor license for any establishment nor shall the additional seats be used to claim any exemption from any other requirements of any city, county or state codes, ordinances and/or laws.

(12) The opening and closing hours of sidewalk cafes shall not extend beyond the hours of operation for the abutting business establishment holding the sidewalk cafe permit. The city may restrict the hours of operation for sidewalk cafes abutting residential uses.

(13) No food preparation shall be allowed on the sidewalk. There shall be no cooking, storage, cooling or refrigeration or other equipment located in the sidewalk cafe area.

(14) The permittee is responsible for repair of any damage to the sidewalk caused by the sidewalk cafe.

(15) Tables or chairs shall not be placed within four feet of bus stops, taxi stands, telephone booths, fire hydrants, or counter service windows nor within two feet of any building entrances and/or exits.

(16) Tables and chairs must maintain a minimum setback of three feet from the edge of pavement or curbs.

(17) No signs shall be permitted outside the sidewalk cafe area.

(18) Not more than one menuboard shall be allowed for each sidewalk cafe. The menuboard shall not exceed four square feet. The menuboard shall be attached to the abutting building or other location approved by the planning department and must be in compliance with city codes. All signage, including the menuboard and signage on awnings, canopies and umbrellas and other fixtures, must be in compliance with city codes regulating signage.

(19) The permittee shall be required to maintain routine maintenance of the horizontal surfaces (i.e., concrete sidewalks or brick pavers, etc.) after each meal or other use period with more intensive pressure cleaning performed on a monthly basis.

(20) Permittee shall meet all other city, county and state regulations, laws or ordinances.

(Code 1983, § 22-307; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-398. Supplemental sidewalk guidelines for all public sidewalks if not a sidewalk cafe.**

(a) It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least nine feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

(b) It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display, except in the event the city commission has approved a special event application.

(c) It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk, except in the event the city commission has approved a special event application.

(d) Posts, columns, pilasters, and other features may be located in public rights-of-way, public property, or public sidewalks provided they are allowed by the applicable governing authority having jurisdiction. All encroachments, if granted, must comply with all applicable Florida Building and ADA code requirements. In addition, compliance with Index No. 700 as listed within the state Department of Transportation Design Standards, latest edition, is required.

PROOFS

(Code 1983, § 22-308; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-399. Denial, revocation or suspension of permit; removal and storage fees; penalties.**

(a) The planning department may deny, revoke or suspend a permit if it is found that:

(1) Any required business or health permit or occupational license for the sidewalk cafe or the abutting business establishment has expired or been suspended, revoked, or canceled.

(2) The permittee does not have insurance in effect which complies with the minimum amounts and requirements described in this article.

(3) Changing conditions of pedestrian or vehicular traffic cause congestion. Such decision shall be based upon findings of the planning department that the minimum five-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrians or vehicular traffic.

(4) The permittee has failed to correct violations of this Code or conditions of the permit or other applicable laws or regulations within three days of receipt of the city's notice of same delivered in writing to the permittee.

(b) Upon denial suspension or revocation of the permit, the planning department shall give notice of such action to the permittee in writing. In the event the denial, suspension or revocation is based upon subsections (b)(2) or (3) of this section, the action shall be effective immediately upon receipt of such notice by the permittee. Otherwise, such notice shall become effective 15 days from the date of such notice. Any revocation or suspension shall entitle the permittee to a refund of the annual permit fee prorated on a per month basis from the date of the notice of such action.

(c) In the event the permittee fails to remove any tables, chairs, canopies, awnings or other fixtures or objects related to the sidewalk cafe before the date set forth in the city's notice of denial, revocation or suspension, the planning department may have ordered the removal of such fixtures or objects. The permittee shall be responsible for all expenses incurred by the city for the removal and storage of such fixtures or objects.

(Code 1983, § 22-309; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-400. Appeals and variances.**

(a) The decision of the planning department to grant, deny, revoke or suspend a permit may be appealed to the board of adjust and appeals by following the provisions in section 125-35.

(b) Variances to the requirements of this article, unless otherwise prohibited, may be granted by the board of adjustment if the request meets the criteria for obtaining a variance from the board.

(Code 1983, § 22-310; Ord. No. K-492, § 1, 6-4-2007)

**Sec. 125-401. Areas for sale of alcoholic beverages—designated.**

Except as otherwise provided by law, it shall be unlawful for any person to sell, manufacture or distribute any intoxicating or alcoholic beverages, as defined in section 4-1, by retail for consumption on the premises or in sealed containers for consumption off the premises within the city, except in the following zone areas, where consistent with the applicable provisions of ~~the zoning ordinance~~ this chapter:

(1) Areas zoned R-4, Medium Density Residential.

(2) Areas zoned R-5, High Density Residential.

(3) Areas zoned C-1, Office Commercial.

(4) Areas zoned C-2, Neighborhood Commercial.

(5) Areas zoned C-3, General Commercial.

(6) Areas zoned C-4, Central Commercial.

(7) Areas zoned C-5, Tourist Commercial.

(8) Areas zoned I-1, Light Industrial.

PROOFS

(9) Areas zoned I-2, Marine Industrial.

(10) Areas zoned OS-1, General and Recreational Open Space. (City commission approval required for alcohol consumption in parks. See chapter 12).

(11) Areas zoned PUD, Planned Unit Development.

(12) Areas zoned PUR, Planned Unit Redevelopment.

(Code 1960, § 3-2; Code 1983, § 3-6; Ord. No. L-216, § 4, 7-5-2011)

**State law reference—** Off-premises sales of malt beverages not subject to municipal zoning, F.S. § 563.02.

PROOFS

**Treasure Coast Newspapers**
PART OF THE USA TODAY NETWORK
St Lucie News Tribune
1801 U.S. 1, Vero Beach, FL 32960

**AFFIDAVIT OF PUBLICATION**

**CITY OF FORT PIERCE**
100 N. U.S. 1

**FORT PIERCE, FL 34950**

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he/she is a legal clerk of the St Lucie News Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St Lucie News Tribune in the following issues below. Affiant further says that the said St Lucie News Tribune is a newspaper published in Fort Pierce in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St Lucie News Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

**06/26/2020**

Subscribed and sworn to before on June 26, 2020:

Notary, State of WI, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

My commission expires August 6, 2021

Publication Cost: $113.88
Ad No: 0004251742
Customer No: 1330884
PO #:

# of Affidavits 1

CITY OF FORT PIERCE
NOTICE OF PUBLIC HEARING

The City Commission of the City of Fort Pierce, Florida, pursuant to City Charter and Florida Statute 166.041, will hold Public Hearings on Monday, July 6, 2020 and Monday, July 20, 2020 on first and second readings, respectively in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida, at their meeting which begins at 6:30 p.m., to consider review and approval of the following:

ORDINANCE NO. 20-014 - AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF FORT PIERCE, FLORIDA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

All interested parties may appear at the meeting and be heard with respect to the Amendment of the Code of Ordinances. Said Ordinances will be available for inspection in the City Clerk's Office, City Hall, 100 North U.S. #1, Fort Pierce, Florida.

ANY PERSON SEEKING TO APPEAL THE DECISION OF THE CITY COMMISSION AS TO THE FOREGOING IS ADVISED THAT A RECORD OF PROCEEDINGS IS REQUIRED IN ANY SUCH APPEAL AND THAT SUCH PERSON MAY NEED TO INSURE THAT A VERBATIM RECORD OF PROCEEDINGS IS MADE INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

/s/ Linda W. Cox, City Clerk
Pub: June 26, 2020 TCN 4251742

**City Commission Regular Meeting** **12. f.**

**Meeting Date:** 07/20/2020

**Re:** Annexation - 4114 Poinsetta Avenue

**SUBJECT:**

Legislative Hearing - Ordinance 20-015 - extending the territorial limits of the City of Fort Pierce, Florida, to include 4114 Poinsetta Avenue in Fort Pierce, Florida. FIRST READING

**SUMMARY:**

Approval of a Voluntary Application for Annexation of a parcel of land along with Future Land Use Designation of Low Density Residential (RL) and the Zoning designation of Singel Family Low Density Residential (R-1).

**RECOMMENDATION:**

Approval

**ALTERNATIVES:**

Disapproval

**RESPONSIBLE STAFF:**

Brandon C. Creagan, LEED Green Associate, Planner

**COORDINATED WITH:**

City Attorney's Office
Technical Review Committee

**Fiscal Impact**

**OTHER INFORMATION:**

Per the St. Lucie County Property Appraiser, this parcel has a Taxable Value of $42,854 and the 2019 tax bill was $1,315.02.

**Attachments**

Ordinance 20-015
Staff Presentation
Staff Packet
Application Packet
Public Notification Certification
Proof of Publication

**Form Review**

| Inbox | Reviewed By | Date |
|---|---|---|

| | | |
|---|---|---|
| City Manager | Nick Mimms | 07/15/2020 11:09 AM |

Form Started By: Brandon Creagan
Started On: 07/08/2020 12:20 PM
Final Approval Date: 07/15/2020

**ORDINANCE NO. 20-015**

AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE **4114 POINSETTA AVENUE IN FORT PIERCE, FLORIDA** AND SHOWN ON EXHIBIT A; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2021; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; ESTABLISHING THE ZONING DESIGNATION; ESTABLISHING THE LAND USE DESIGNATION; DIRECTING FILING OF THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT AND CHIEF ADMINISTRATIVE OFFICER OF ST. LUCIE COUNTY; DIRECTING REVISION OF THE CHARTER BOUNDARY ARTICLE TO BE FILED WITH THE DEPARTMENT OF STATE AND SUBMITTED TO THE OFFICE OF ECONOMIC AND DEMOGRAPHIC RESEARCH; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** Part I, Chapter 171, Florida Statutes, sets forth a procedure for Municipal Annexation; and;

**WHEREAS,** in accordance with Section 171.044 of the Florida Statutes, the owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality; and

**WHEREAS**, the owners have submitted an application petitioning the property to be annexed to the municipality of the City of Fort Pierce; and

**WHEREAS**, the petition bears the signatures of all owners of property in the area proposed to be annexed; and

**WHEREAS,** the City of Fort Pierce Planning Board, at their June 9, 2020 meeting, voted 4 to 0 to recommend Approval of the request; and

**WHEREAS,** in accordance with Policy Section 4.1.1 of the Joint Planning Agreement between the City of Fort Pierce and St. Lucie County, the City Planning Department has provided notice of this annexation by mail to the St. Lucie County Administrator's Office on June 19, 2020, no fewer than thirty (30) days prior to the first reading of this annexation Ordinance by the City Commission of the City of Fort Pierce, Florida; and

**WHEREAS**, in accordance with Section 171.044(6) of the Florida Statutes, the City Planning Department has provided notice of this annexation, via certified mail, to the St. Lucie County Board of County Commissioners on June 19, 2020, no fewer than ten (10) days prior to publishing or posting the ordinance notice; and

**NOW, THEREFORE BE IT ORDAINED** by the City Commission of the City of Fort Pierce, Florida as follows:

**SECTION 1.** The territorial limits of the City of Fort Pierce, Florida, are hereby extended, as depicted on Exhibit "A", attached hereto and incorporated herein; and annexed into the City:

a) Parcel IDs: 2433-414-0003-100-9

BEGIN AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE NE 1/4 AND THE SE 1/4 OF SECTION 33, TOWNSHIP 35 SOUTH, RANGE 40 EAST AND RUN NORTHERLY ALONG THE WEST LINE OF SAID EAST 1/2 190 FEET TO THE POINT OF BEGINNING; THENCE RUN EASTERLY PARALLEL TO THE NORTH LINE OF TUMBLIN KLING ROAD 105.97 FEET; THENCE RUN NORTHERLY PARALLEL TO SAID WEST LINE 31.00 FEET; THENCE RUN WESTERLY 5.97 FEET; THENCE RUN NORTHERLY PARALLEL TO SAID WEST LINE 89.00 FEET; THENCE RUN WESTERLY PARALLEL TO THE NORTH LINE OF TUMBLIN KLING ROAD 100 FEET; THENCE RUN SOUTHERLY ON SAID WEST LINE 120 FEET TO THE POINT OF BEGINNING. SAID LANDS LYING IN ST. LUCIE CO., FLORIDA. CONTAINING 0.28 ACRES OF LAND MORE OR LESS.

Said property containing .28 acres said property being generally located at 4114 Poinsetta Avenue in Fort Pierce, Florida.

**SECTION 2.** That the St. Lucie County Property Appraiser and the St. Lucie County Tax Collector are directed to place upon and add to the assessment roll, and to collect taxes on the land described in Exhibit "A" hereof as of January 1, 2021 and subsequent years, and to enter the same at such valuation that it will bear an equal and just proportion of taxes as of that date and subsequent years.

**SECTION 3.** That upon this ordinance becoming effective, the land herein described on Exhibit A and annexed into the territorial limits of the City of Fort Pierce shall be zoned R-4, Medium Density Residential, and assigned a Future Land Use Designation of RM, Medium Density Residential, as depicted on Exhibit "B" attached hereto and incorporated herein.

**SECTION 4**. That in accordance with Section 171.044(3), this ordinance shall be filed with clerk of the circuit court, the chief administrative officer of St. Lucie County, and the Department of State within seven (7) days after adoption.

**SECTION 5**. That in accordance with Section 171.091, any change in the City boundaries through annexation shall revise the charter boundary article and shall be filed as a revision of the charter with the Department of State within thirty (30) days; and a copy of such revision shall be submitted to the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

**SECTION 6**. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 7.** All ordinances or parts thereof that may be determined to be in conflict herewith are hereby repealed.

**SECTION 8.** This Ordinance shall be and become effective immediately upon final passage.

**APPROVED AS TO FORM & CORRECTNESS**:

_____
Pete Sweeney
City Attorney

STATE OF FLORIDA

COUNTY OF ST. LUCIE

**WE, THE UNDERSIGNED**, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 20-015 was duly advertised in accordance with Section 171.044(2) of the Florida Statutes in the St. Lucie News Tribune on Sunday, July 5, 2020 and Sunday, July 12, 2020; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on July 20, 2020; and was duly introduced, read by title only, and passed on second and final reading August 3, 2020, by the City Commission of the City of Fort Pierce, Florida.

**IN WITNESS HEREWITH**, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 3rd day of August, 2020.

_____
**Linda Hudson**
**MAYOR COMMISSIONER**

ATTEST

_____
**Linda W. Cox**
**CITY CLERK**

**(CITY SEAL)**

**EXHIBIT A**
Territorial Limits Extension

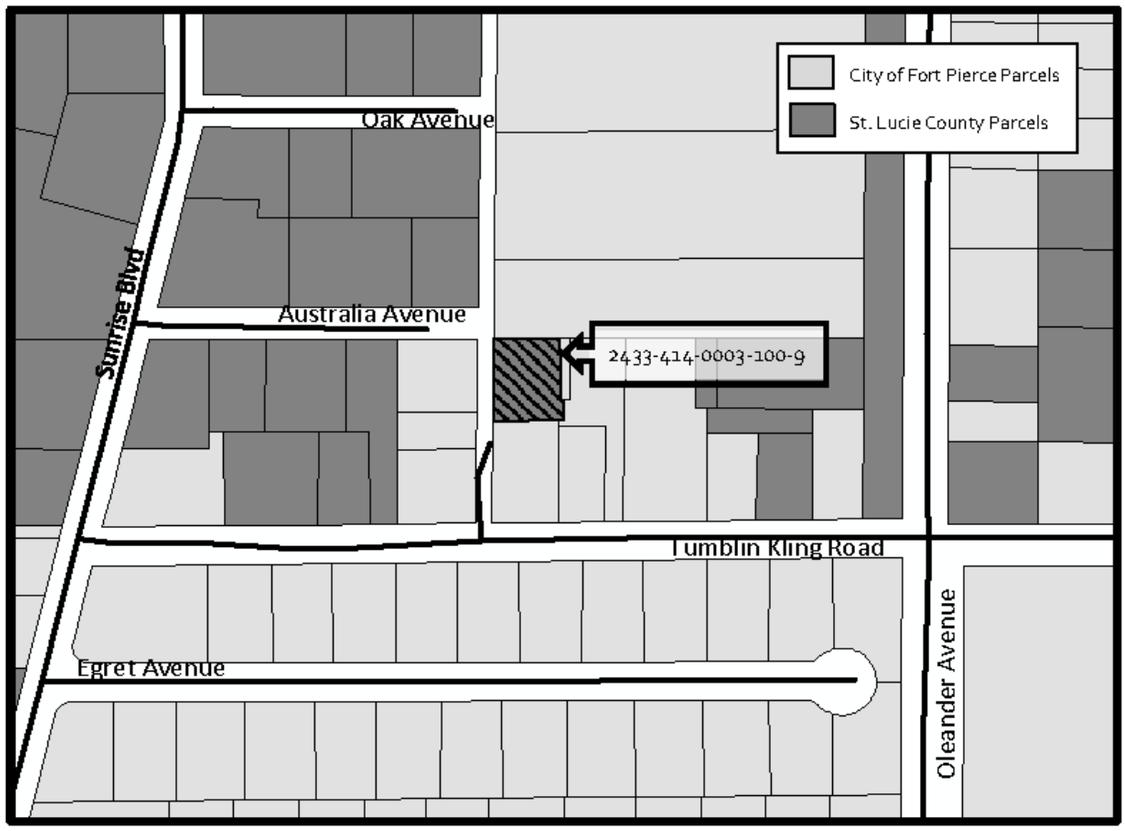
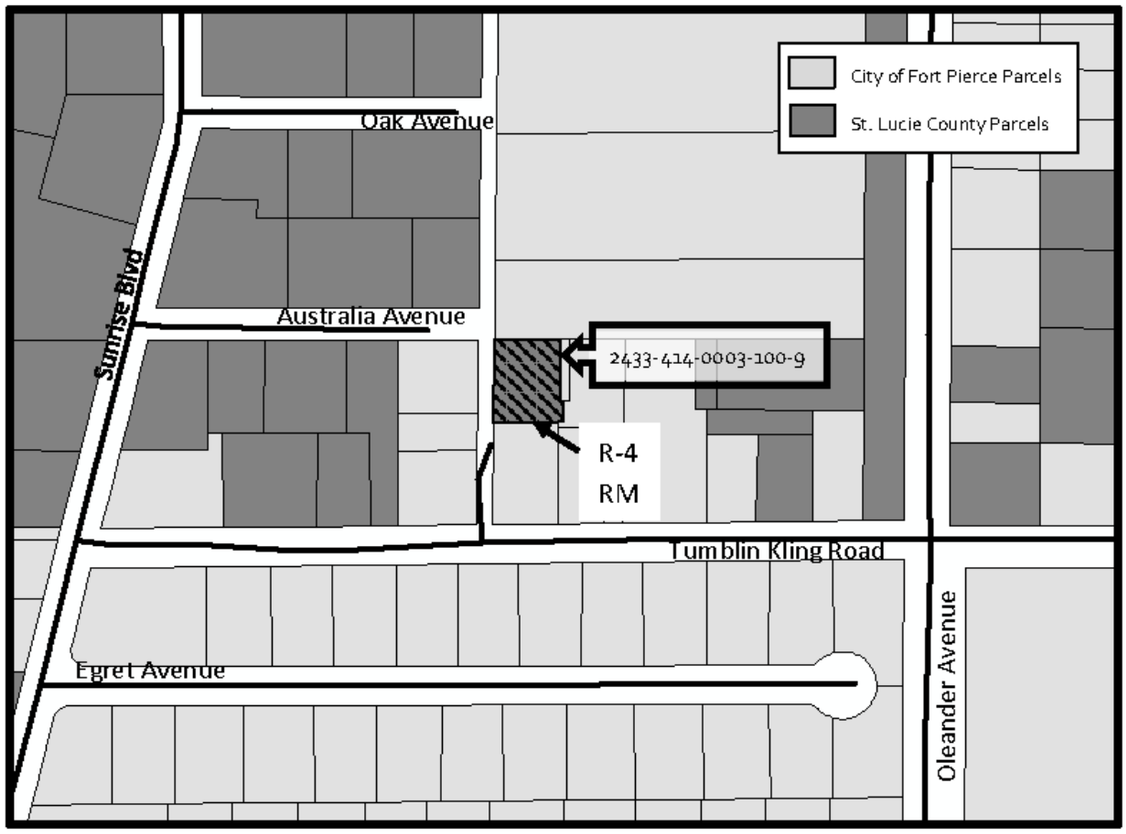


**EXHIBIT B**

Zoning & Future Land Use Designation Assignment

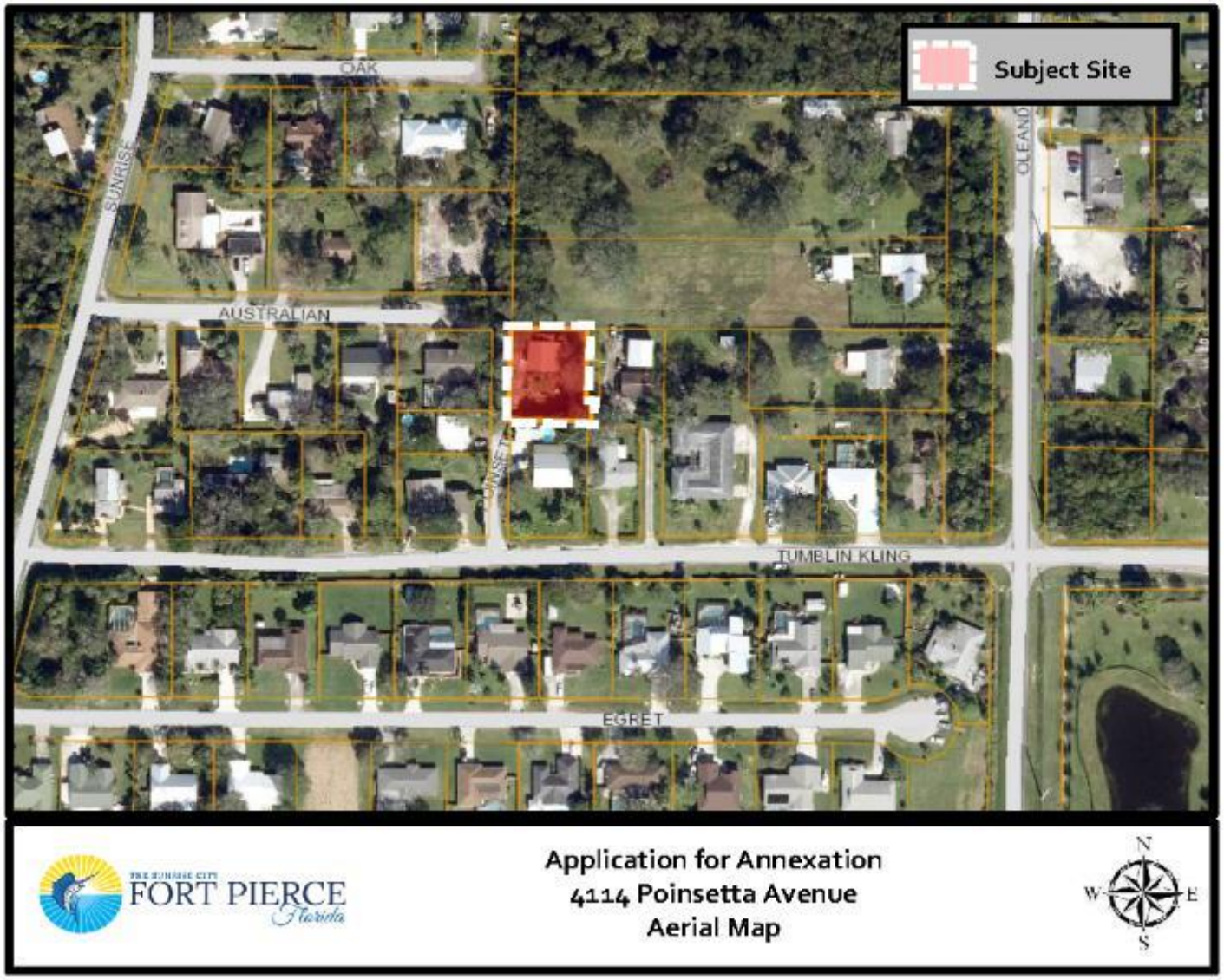



*The property to be annexed is currently zoned RM-5, Residential, Multi-family 5 Dwelling Units/Acre with a Future Land Use of RM, Residential Medium, 9 Dwelling Units/Acre. Once annexed, this parcel will have a City of Fort Pierce Zoning Designation of R-4, Medium Density Residential and have a Future Land Use Designation of RM, Medium Density Residential.

# Application for Annexation

## 4114 Poinsetta Avenue

# Site Aerial Map



# Future Land Use Map

- Current County FLU: RM, Residential Medium 9 Du/Acre
- Proposed City FLU: RM, Medium Density Residential

# Zoning Map

- Current County Zoning: RM-5 Residential Multi-Family 5 du/ac
- Proposed City Zoning:R-4, Medium Density Residential

# Staff Recommendation…

**As proposed, the annexation meets the standards of the City's Comprehensive Plan, specifically Policy Section 1.11 regarding annexations.**

**Planning Staff recommends that the City Commission approve for the proposed annexation along with the Future Land Use Designation of RM and Zoning of R-4.**

# CC Recommendations

**Possible actions of the City Commission:**

- Recommend **APPROVAL** of the proposed Annexation
  - Staff recommends approval
  - Planning Board has recommended approval
- Recommend **DISAPPROVAL** of the proposed Annexation.

# Application for Annexation

## 4114 Poinsetta Avenue

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT
Florida

**TO:** Nicholas Mimms, P.E., ICMA-CM, City Manager

**THROUGH:** Jennifer Hofmeister, AICP, LCAM, Planning Director

**FROM:** Brandon Creagan, LEED Green Associate, Planner

**RE:** **Application for Annexation**
**4114 Poinsetta Avenue**

**BOARD DATE:** July 20, 2020

## STAFF REPORT

**Property Owner/Applicant:** Aleksandr O Osipchuk & Mandy A Osipchuk
4114 Poinsetta Ave
Fort Pierce, FL 34982

**Requested Action:** Approval of a Voluntary Application for Annexation for a parcel of land

**Site Location:** 4114 Poinsetta Avenue Fort Pierce, Florida

**Parcel ID:** 2433-414-0003-100-9

**Parcel Size:** 0.28 acres

**Current Future Land Use:** Residential Medium, 9 Dwelling Units/Acre (St. Lucie County) (RM)

**Current Zoning:** Residential, Multi-family 5 Dwelling Units/Acre (St. Lucie County) (RM-5)

**Proposed Future Land Use:** Medium Density Residential (RM)

**Proposed Zoning:** Medium Density Residential (R-4)

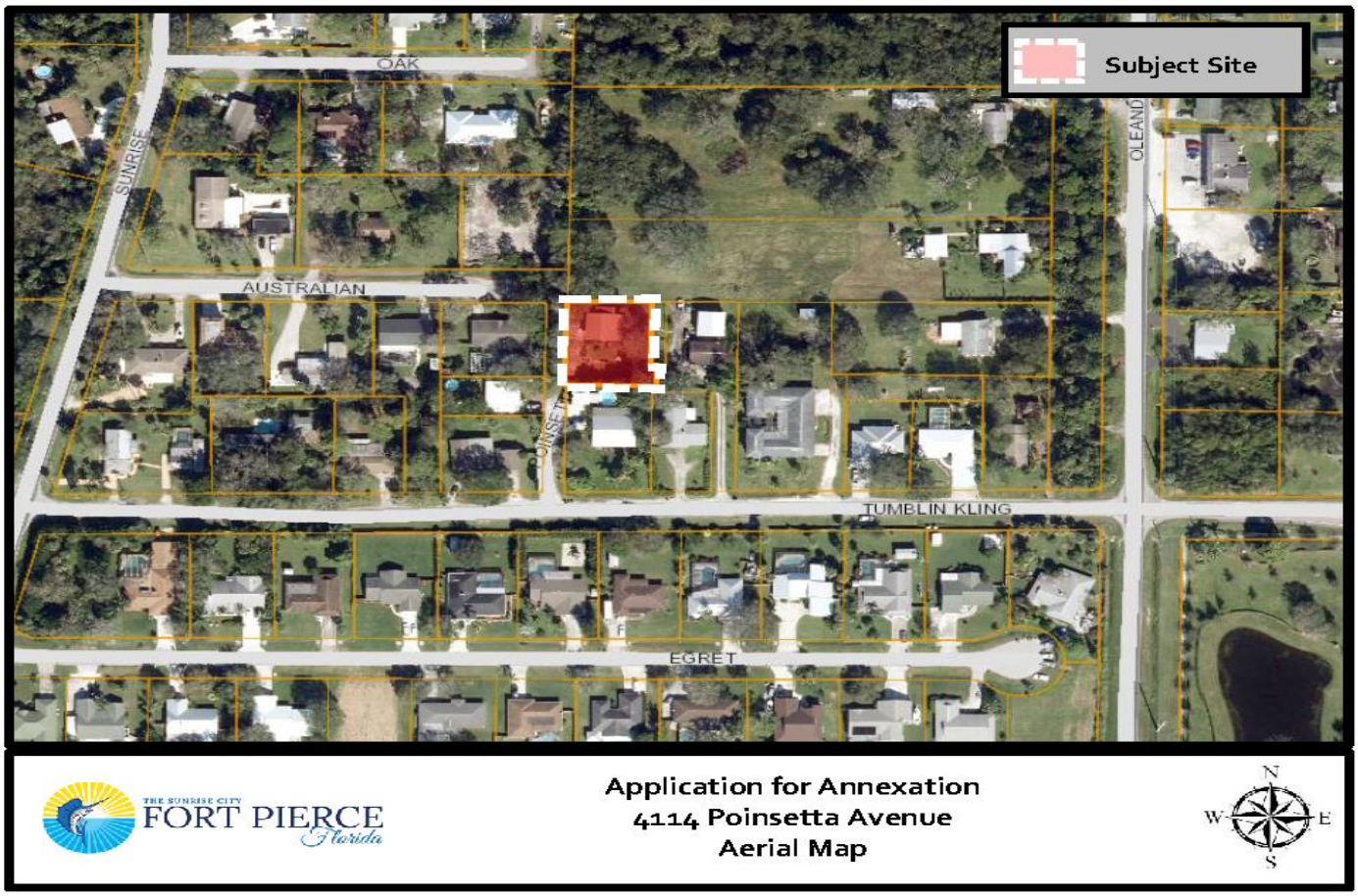
| | North | East | South | West |
|---|---|---|---|---|
| **Surrounding FLU:** | RM (FP) | RM(FP) | RL (FP) | RL (FP) |
| **Surrounding Zoning:** | R-4 (FP) | R-4 (FP) | R-4 (FP) | R-1 (FP) |

**Utilities:** FPUA

**Staff Analysis:**

***Request***

The applicant is requesting a voluntary annexation of property (Parcel ID 2433-414-0003-100-9) located at 4114 Poinsetta Avenue in Fort Pierce, Florida.




The subject property at 4114 Poinsetta Avenue has a St. Lucie County Future Land Use designation of Residential Medium, 9 Dwelling Units/Acre (RM) and a compatible zoning designation of Residential, Multi-family 5 Dwelling Units/Acre (RM-5). To ensure consistency with Policy 1.11.5 of the City's Comprehensive Plan, the proposed Future Land Use designation is Medium Density Residential (RM) and the zoning classification of Medium Density Residential (R-4).

Staff has confirmed that the property is located within unincorporated St. Lucie County and is contiguous to the Fort Pierce City municipal boundary and within the FPUA service area. The subject proposed voluntary annexation is also consistent with Chapter 171.044, F.S., whereas the property is contiguous to a municipality and reasonably compact; and the annexation will not result in the creation of an enclave.

The current taxable value of the property is approximately $42,854. Should the Application for Annexation be approved it would create a new source of ad-valorem tax revenue annually to the City of Fort Pierce, depending on the millage rate per year, which currently is 6.9000.

***Comprehensive Plan***

Staff has reviewed the Comprehensive Plan and finds the proposed annexation is consistent with the following Objectives and Policies:

Objective 1.11 of the Comprehensive Plan: "Annex properties within the Fort Pierce Utilities Authority Boundary in an orderly manner that promotes efficiency of public service provision and economic vitality of the City."

The property is within the FPUA service boundary. Policy, 1.11.1 of the City Comprehensive Plan: "The City shall evaluate proposed annexations within the urban service boundary based upon the following criteria:

1. The ability of the City to provide public services at a level equal to or better than that available from the current service providers;
2. The ability of the City to provide public services at the City's adopted levels of service;
3. Whether the annexation would eliminate an unincorporated island or could be expanded to eliminate an unincorporated island; and
4. Whether the annexation would eliminate an irregularity or irregularities in the City's boundaries, thereby improving service delivery"

The subject property is located in an area that consists of properties that are within both the St. Lucie County and the City of Fort Pierce jurisdictions. However, this particular property is surrounded by properties that are within the City Limits. The annexation of this property would assist in the City's effort to eliminate jurisdictional irregularities along the City's boundary and provide more efficient public services. The applicant is requesting that the City of Fort Pierce Future Land Use and Zoning designations remain consistent with the current County designation and the City's Comprehensive Plan. Thereby, the requested Future Land Use and Zoning Designations of RM and R-4, respectively, would be consistent with Policy 1.11.5. Pursuant to the Future Land Use Element of the Comprehensive Plan, annexations are reviewed for fiscal impacts, the effect upon adopted level of service standards for public facilities, and the elimination of the municipal boundary irregularities to improve service delivery.

***Planning Board***

The Planning Board at their meeting on June 14, 2020 voted 4-0 to recommend approval of the proposed annexation.

***Public Notification***

In accordance with Policy Section 4.1.1 of the Joint Planning Agreement between the City of Fort Pierce and St. Lucie County, the City Planning Department will provide notice of these annexations by mail to the St. Lucie County Administrator's Office on or before June 19, 2020, no fewer than thirty (30) days prior to the first reading of this annexation by the City Commission.

***Technical Review Committee***

All affected Departments have reviewed the submittals and provided comments regarding the proposed voluntary annexation application based on compliance with the requirements of the City Code and Comprehensive Plan and have no objections.

***Staff Recommendation***

As proposed, the annexations meet the above standards of the City's Comprehensive Plan, specifically Policy Section 1.11 regarding annexations. Planning Staff recommends that the City Commission approve the proposed annexation along with the Future Land Use designation of RM and the Zoning designation of R-4.

THE SUNRISE CITY FORT PIERCE Florida

**Application for Annexation**
**4114 Poinsetta Avenue**
**Aerial Map**

N W E S

THE SUNRISE CITY FORT PIERCE Florida

**Application for Annexation**
**4114 Poinsetta Avenue**
**Future Land Use Map**

N W E S

THE SUNRISE CITY
FORT PIERCE
Florida

**Application for Annexation**
**4114 Poinsetta Avenue**
**Zoning Map**

N
W E
S

THE SUNRISE CITY
# FORT PIERCE
*Florida*
ENGINEERING DEPARTMENT

**TO : Brandon Creagan, Planner**

**FROM : John R. Andrews, P.E., City Engineer**

RECEIVED

**RE : Annexation – 4114 Poinsetta Avenue**
**TRC No. 20-02000001**

CITY OF FORT PIERCE
PLANNING & ZONING

**DATE : March 16, 2020**

This is to advise you that we have completed the review of the following documents as received by this office on March 12, 2020:

- [x] Annexation Application
- [ ] Test Reports & Related Documents
- [ ] Record Drawings
- [ ] Clearances from all applicable Local, State and Federal Agencies
- [ ] P/D Drawings
- [ ] Certificate of Completion
- [ ] Permits from applicable Local, State & Federal Agencies

Based on our reviews and appropriate site final inspection, we

- [x] Recommend
- [ ] Do Not Recommend

- [x] Approval of Annexation
- [ ] Building Permit
- [ ] C/O

Developer, Owner, Engineer, Contractor and other members of the Development Team must be aware, the above recommendation is based only on the construction requirements of the engineering plans and other engineering documentation approved by this department. The Development Team shall be responsible for the compliance with other City department requirements and all approved documents, as well as Local, State and Federal regulations. The development requirements for this project may necessitate additional construction requirements that are not subject to this department's review for approval.

- [ ] See attached for engineering comments

JRA/jra

Q:\ENGINEERING\Site Development Projects\A\Annexations\4144 Poinsetta Avenue\Annexation Approval - 031620.docx

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

# APPLICATION FOR ANNEXATION

Annexation applications will require the adoption of an ordinance which will require a public meeting before the Planning Board and two public hearings before the City Commission.

**Application submission shall include the following:**

- **TRC** (*Initial Submission): One (1) original and (8) paper copies of the application and support documents and provide one (1) electronic copy of the application packet as described below.
- **Planning Board**: One (1) original and (16) paper copies of the application and support documents and provide one (1) electronic copy of the application packet as described below.
- **City Commission**: One (1) original and (11) paper copies of the application and support documents and provide one (1) electronic copy of the application packet as described below.

**In addition to a complete application, packets shall include:**

- Warranty Deed
- Current Survey (completed within the last 12 months)

RECEIVED
FEB
CITY OF FORT PIERCE
PLANNING & ZONING

1. Address: 4114 Poinsetta Ave, Fort Pierce FL, 34982
2. Legal description of real property for which annexation is being requested: See Attached Document page 1

   Property Tax ID: 2433-414-0003-100-9
3. Size of described property: .28
4. Project description: Forced Annexation
5. Current St. Lucie County Future Land Use Designation: RM Med Density
6. Current St. Lucie County Zoning: RM 5 Cou
7. Is this a Historic property? No
8. Appraised value: 190,800
9. Name of Owner(s): Aleksandr O Osipchuk , Mandy A Osipchuk

   Signature of Owner(s): _____

   Mailing Address: 4114 Poinsetta Ave

   City Fort Pierce State Florida Zip 34982

   Phone 772-626-9247 Fax _____

**10.** Name of Representative: Ryan Grazi

Signature of representative: _____

Mailing Address: 217 SE Ocean Blvd

City) Stuart State Florida Zip 34994

Phone 772 286-0200 Fax 772 286-4789

E-mail: rgrazi@gglawyers.com

***INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3729***

---

**OFFICE USE:**

**DATE RECEIVED:**_____ Signed:_____

File Number:_____ Check No: _____ Receipt No: _____

TRC Review:_____ Planning Board Review: _____ City Commission: _____

Ordinance No:_____ Date Approved: _____

JOSEPH E. SMITH, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
FILE # 3920976 OR BOOK 3600 PAGE 1537, Recorded 01/31/2014 at 03:36 PM
Doc Tax: $203.00

**Prepared by and Return to Vicki Hornbecker ,**
**an employee of First International Title, Inc.**
107 North 2nd Street
Fort Pierce, FL 34950
File No.: 36390-41

# WARRANTY DEED

This indenture made on January 30, 2014, by **Derald Erickson** whose address is: 2 Sierra Del Norte, Fort Pierce, FL 34951 , hereinafter called the "grantor",

to **Mandy Osipchuk and Aleksandr Osipchuk, wife and husband** whose address is: 4114 Poinsetta Avenue, Fort Pierce, FL 34982 hereinafter called the "grantee":

(Which terms "Grantor" and "Grantee shall include singular or plural, corporation or individual, and either sex, and shall include heirs, legal representatives, successors and assigns of the same)

**Witnesseth,** that the grantor, for and in consideration of the sum of Ten Dollars, ($10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in St Lucie County, **Florida,** to-wit:

Parel 1:

Begin at the Southwest corner of the East Half of the Northeast Quarter of the Southeast Quarter of Section 33, Township 35 South, Range 40 East, St. Lucie County, Florida and run Northerly along the West line said East Half 30 feet to the North line of Tumblin Kling Road; thence run Easterly along said North line 100.00 feet; thence run Northerly parallel to said West line 149.00 feet to the Point of Beginning; thence continue Northerly on same line 11.00 feet; thence run Easterly parallel to the North line of said Tumblin Kling Road 5.97 feet; thence run Northerly parallel to said West line 31.00 feet; thence run Easterly parallel to the North line of said Tumblin Kling Road 9.03 feet; thence run Northerly 89.00 feet; thence run Easterly 85.00 feet; thence run Southerly 280.00 feet to the North line of Tumblin Kling Road; thence run Westerly along the North line of Tumblin Kling Road 30.00 feet; thence run Northerly parallel with said West Line 149.00 feet; thence run Westerly parallel with Tumblin Kling Road 70.00 feet to the Point of Beginning.

Parcel 2:

Begin at the Southwest corner of the East Half of the Northeast Quarter of the Southeast Quarter of Section 33, Township 35 South, Range 40 East, St. Lucie County, Florida and run Northerly along the West line said East Half 30 feet to the North line of Tumblin Kling Road; thence continue Northerly 280 feet; thence Easterly 100 feet to the Point of Beginning; thence continue Easterly 15 feet; thence Southerly 89 feet; thence Westerly 15 feet; thence Northerly 89 feet to the Point of Beginning.

Parcel Identification Number: 2433-414-0004-000/5

**The land** is not the homestead of the Grantor under the laws and Constitution of the State of Florida and neither the Grantor nor any person(s) for whose support the Grantor is responsible reside on or adjacent to the land.

**Subject to** all reservations, covenants, conditions, restrictions and easements of record and to all applicable zoning ordinances and/or restrictions imposed by governmental authorities, if any.

**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in any way appertaining.

**To Have and to Hold,** the same in fee simple forever.

**And** the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31st of 2013.

**In Witness Whereof,** the grantor has hereunto set their hand(s) and seal(s) the day and year first above written.

Derald Erickson

Derald Erickson

***Signed, sealed and delivered in our presence:***

Witness Signature

Print Name: Veronika Swads

Witness Signature

Print Name: VICKI HORNBECKER

State of FLORIDA

County of St Lucie

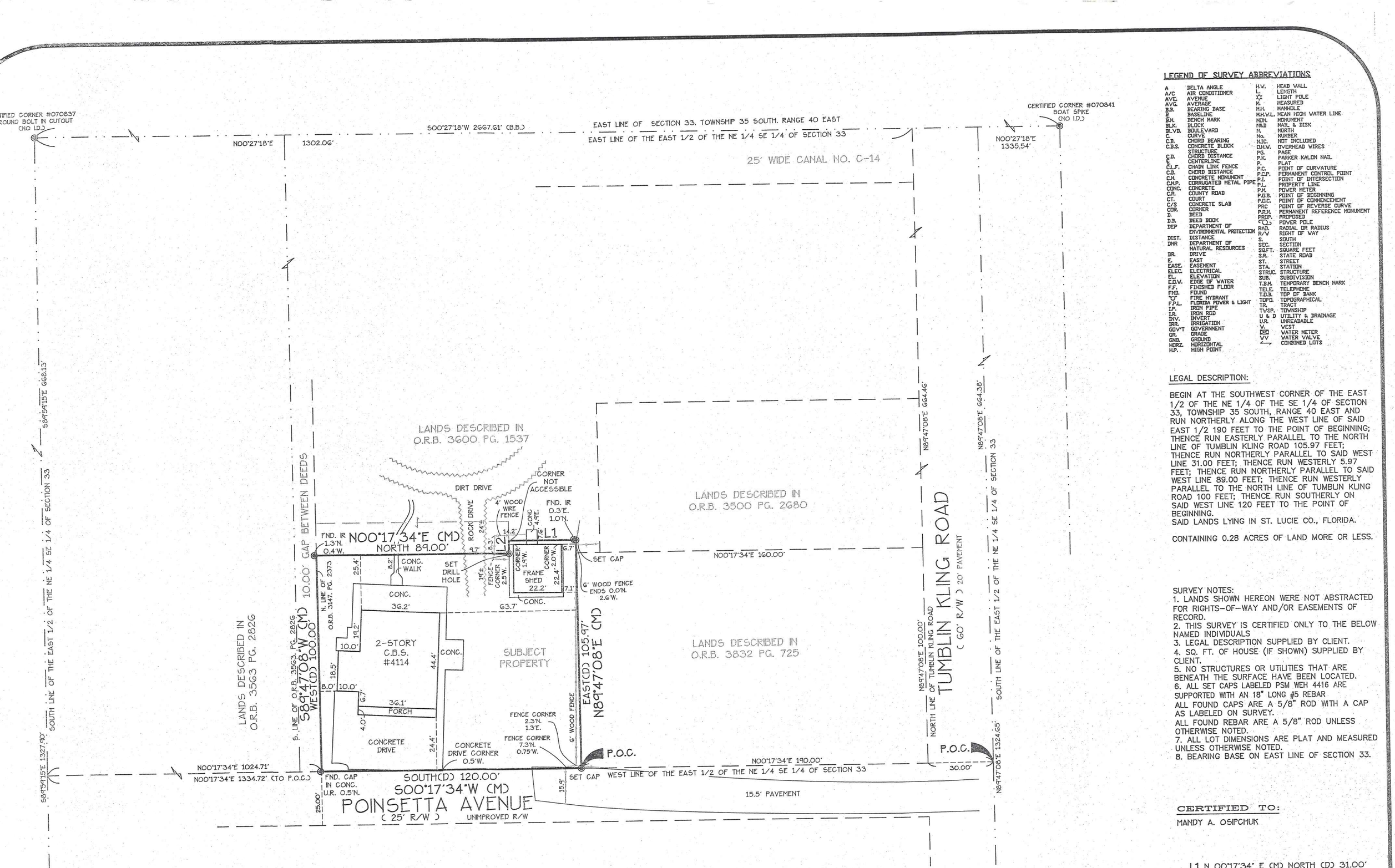
**The Foregoing Instrument Was Acknowledged** before me on 1-30-2014, by **Derald Erickson**, who is/are personally known to me or who has/have produced a valid Derald Erickson driv lic as identification.

Notary Public

(Printed Name)

My Commission expires: _____

VICKI HORNBECKER
Notary Public - State of Florida
My Comm. Expires Oct 14, 2014
Commission # EE 34652




## LEGEND OF SURVEY ABBREVIATIONS

| | | | |
|---|---|---|---|
| A | DELTA ANGLE | H.W. | HEAD WALL |
| A/C | AIR CONDITIONER | L | LENGTH |
| AVE. | AVENUE | ☼ | LIGHT POLE |
| AVG. | AVERAGE | M | MEASURED |
| B.B. | BEARING BASE | M.H. | MANHOLE |
| ℄ | BASELINE | M.H.W.L. | MEAN HIGH WATER LINE |
| BM. | BENCH MARK | MON. | MONUMENT |
| BLK. | BLOCK | N&D | NAIL & DISK |
| BLVD. | BOULEVARD | N. | NORTH |
| C | CURVE | No. | NUMBER |
| C.B. | CHORD BEARING | N.I.C. | NOT INCLUDED |
| C.B.S. | CONCRETE BLOCK STRUCTURE | O.H.W. | OVERHEAD WIRES |
| | | PG. | PAGE |
| C.D. | CHORD DISTANCE | P.K. | PARKER KALON NAIL |
| ℄ | CENTERLINE | P. | PLAT |
| C.L.F. | CHAIN LINK FENCE | P.C. | POINT OF CURVATURE |
| C.D. | CHORD DISTANCE | P.C.P. | PERMANENT CONTROL POINT |
| C.M. | CONCRETE MONUMENT | P.I. | POINT OF INTERSECTION |
| C.M.P. | CORRUGATED METAL PIPE | P.L. | PROPERTY LINE |
| CONC. | CONCRETE | P.M. | POWER METER |
| C.R. | COUNTY ROAD | P.O.B. | POINT OF BEGINNING |
| CT. | COURT | P.O.C. | POINT OF COMMENCEMENT |
| C/S | CONCRETE SLAB | PRC | POINT OF REVERSE CURVE |
| COR. | CORNER | P.R.M. | PERMANENT REFERENCE MONUMENT |
| D | DEED | PROP. | PROPOSED |
| D.B. | DEED BOOK | ○ | POWER POLE |
| DEP | DEPARTMENT OF ENVIRONMENTAL PROTECTION | RAD. | RADIAL OR RADIUS |
| | | R/W | RIGHT OF WAY |
| DIST. | DISTANCE | S. | SOUTH |
| DNR | DEPARTMENT OF NATURAL RESOURCES | SEC. | SECTION |
| | | SQ.FT. | SQUARE FEET |
| DR. | DRIVE | S.R. | STATE ROAD |
| E. | EAST | ST. | STREET |
| EASE. | EASEMENT | STA. | STATION |
| ELEC. | ELECTRICAL | STRUC. | STRUCTURE |
| EL. | ELEVATION | SUB. | SUBDIVISION |
| E.O.W. | EDGE OF WATER | T.B.M. | TEMPORARY BENCH MARK |
| F.F. | FINISHED FLOOR | TELE. | TELEPHONE |
| FND. | FOUND | T.O.B. | TOP OF BANK |
| ▽ | FIRE HYDRANT | TOPO. | TOPOGRAPHICAL |
| F.P.L. | FLORIDA POWER & LIGHT | TR. | TRACT |
| I.P. | IRON PIPE | TWSP. | TOWNSHIP |
| I.R. | IRON ROD | U & D | UTILITY & DRAINAGE |
| INV. | INVERT | U.R. | UNREADABLE |
| IRR. | IRRIGATION | W. | WEST |
| GOV'T | GOVERNMENT | ⊠ | WATER METER |
| GR. | GRADE | ⋎⋎ | WATER VALVE |
| GND. | GROUND | ⟷ | COMBINED LOTS |
| HORZ. | HORIZONTAL | | |
| H.P. | HIGH POINT | | |

## LEGAL DESCRIPTION:

BEGIN AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE NE 1/4 OF THE SE 1/4 OF SECTION 33, TOWNSHIP 35 SOUTH, RANGE 40 EAST AND RUN NORTHERLY ALONG THE WEST LINE OF SAID EAST 1/2 190 FEET TO THE POINT OF BEGINNING; THENCE RUN EASTERLY PARALLEL TO THE NORTH LINE OF TUMBLIN KLING ROAD 105.97 FEET; THENCE RUN NORTHERLY PARALLEL TO SAID WEST LINE 31.00 FEET; THENCE RUN WESTERLY 5.97 FEET; THENCE RUN NORTHERLY PARALLEL TO SAID WEST LINE 89.00 FEET; THENCE RUN WESTERLY PARALLEL TO THE NORTH LINE OF TUMBLIN KLING ROAD 100 FEET; THENCE RUN SOUTHERLY ON SAID WEST LINE 120 FEET TO THE POINT OF BEGINNING.
SAID LANDS LYING IN ST. LUCIE CO., FLORIDA.

CONTAINING 0.28 ACRES OF LAND MORE OR LESS.

SURVEY NOTES:
1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY AND/OR EASEMENTS OF RECORD.
2. THIS SURVEY IS CERTIFIED ONLY TO THE BELOW NAMED INDIVIDUALS
3. LEGAL DESCRIPTION SUPPLIED BY CLIENT.
4. SQ. FT. OF HOUSE (IF SHOWN) SUPPLIED BY CLIENT.
5. NO STRUCTURES OR UTILITIES THAT ARE BENEATH THE SURFACE HAVE BEEN LOCATED.
6. ALL SET CAPS LABELED PSM WEH 4416 ARE SUPPORTED WITH AN 18" LONG #5 REBAR
ALL FOUND CAPS ARE A 5/8" ROD WITH A CAP AS LABELED ON SURVEY.
ALL FOUND REBAR ARE A 5/8" ROD UNLESS OTHERWISE NOTED.
7. ALL LOT DIMENSIONS ARE PLAT AND MEASURED UNLESS OTHERWISE NOTED.
8. BEARING BASE ON EAST LINE OF SECTION 33.

## CERTIFIED TO:

MANDY A. OSIPCHUK

L1 N 00°17'34" E (MD) NORTH (DD) 31.00'
L2 S 89°47'08" W (MD) WEST (DD) 5.97'

THIS SURVEY MAP AND REPORT OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

WILLIAM E. HAYHURST
PROFESSIONAL LAND SURVEYOR & MAPPER
FLORIDA REGISTRATION NO 4416

7/8/19
DATE

HAYHURST LAND SURVEYING INC.
CERTIFICATE OF AUTHORIZATION NUMBER (L.B. 7364)
SURVEYING & MAPPING COMPANY
445 9TH ST. S.W. Unit-7
VERO BEACH, FL. 32962
PHONE: (772) 569-6680
FAX: (772) 770-3446
hayhurstls@live.com

| SURVEY TYPE: BOUNDARY | | DATE: | REVISIONS: | BY: | FLOOD ZONE: X<br>EFFECTIVE DATE: 02/16/12<br>PNL NO.: 12061C0189 J |
|---|---|---|---|---|---|
| CHECKED BY: | W.E.H. | | | | |
| DRAWN BY: | T.B. | | | | |
| FIELD BOOK: | 377 | | | | |
| PAGE NO: | 33 | | | | |
| FIELD DATE: | 04/05/19 | | | | |
| SCALE: | 1"=30' | | | | |
| JOB NO: | 19-115 | | | | |

THE SUNRISE CITY
FORT PIERCE
PLANNING DEPARTMENT Florida

## PUBLIC NOTIFICATION CERTIFICATION

**PROJECT NAME:** Annexation - 4114 Poinsetta Avenue

**NOTICES PROVIDED PURSUANT TO:** 22-142

**NOTICE BY NEWSPAPER:** 7-5-2020 & 7-12-2020

**NOTICE BY MAIL:** 6-19-2020 (to St. Lucie County Administrator & Attorney Per Joint Planning Agreement)

**NOTICE BY SIGNS:** N/A

**VERIFIED BY:** Brandon C. Creagan **TITLE:** Planner

**SIGNATURE:** **DATE:** 7/8/2020

# Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

St. Lucie News-Tribune
1939 SE Federal Highway, Stuart, FL 34994
**AFFIDAVIT OF PUBLICATION**

**CITY OF FORT PIERCE**
**100 N US 1**
**FORT PIERCE FL 34950**
**ATTN LINDA COX**

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he is a legal clerk Manager of the St. Lucie News-Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St. Lucie News-Tribune in the following issues below. Affiant further says that the said St Lucie News-Tribune is a newspaper published in Fort Pierce, in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement ; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St. Lucie News-Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

**7/5/2020; 7/12/2020**

Subscribed and sworn to before on 12TH DAY OF JULY, 2020

Tara Mondloch

Notary, State of WI, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

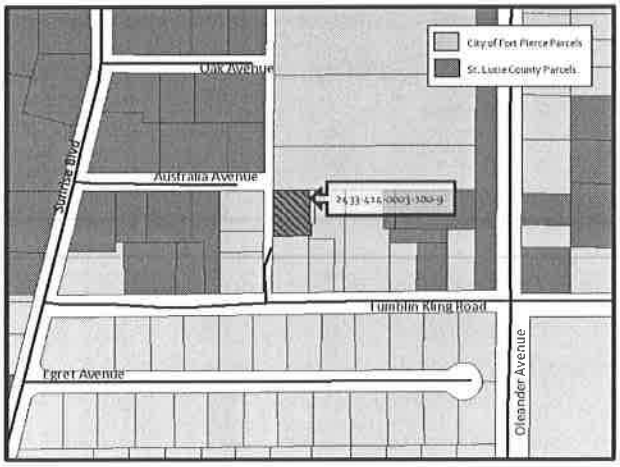
My commission expires: August 6, 2021

Publication Cost: $315.00
Ad No: GCI0447841
Customer No: 980457
PO#: 2019 POINSETTA AVE

# CITY OF FORT PIERCE
# NOTICE OF PROPOSED ANNEXATION

The City Commission of the City of Fort Pierce, Florida, pursuant to Chapter 171 of Florida State Statutes, and of the Code of Ordinances of the City of Fort Pierce, will on Monday, July 20, 2020, and Monday, August 3, 2020, hold Public Hearings on the enactment of the following proposed annexation ordinance on first and second readings, respectively, in the City Hall Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida, at their meeting which begins at 6:30 p.m.; said ordinances entitled:

**ORDINANCE NO. 20-015** - AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE **4114 POINSETTA AVENUE** IN FORT PIERCE, FLORIDA AND SHOWN ON EXHIBIT A; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2021; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; ESTABLISHING THE ZONING DESIGNATION; ESTABLISHING THE LAND USE DESIGNATION; DIRECTING FILING OF THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT AND CHIEF ADMINISTRATIVE OFFICER OF ST. LUCIE COUNTY; DIRECTING REVISION OF THE CHARTER BOUNDARY ARTICLE TO BE FILED WITH THE DEPARTMENT OF STATE AND SUBMITTED TO THE OFFICE OF ECONOMIC AND DEMOGRAPHIC RESEARCH; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.




All interested parties may appear at the Public Hearings and be heard with respect to the proposed annexation. Said proposed ordinance and application will be available for inspection in the City Clerk's Office, City Hall, 100 North U.S. #1, Fort Pierce, Florida.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises you that if you or another person decide to appeal any decision made by the City Commission with respect to any matter considered at its meeting or hearing, that you or said person will need a record of the proceedings, and that for such purpose, affected persons may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

TR-GC0447641-01

**City Commission Regular Meeting** **13. a.**

**Meeting Date:** 07/20/2020

**Re:** Charrette Report

**Submitted For:** Nick Mimms, City Manager, City Manager

**SUBJECT:**

Discussion of the South Beach Western Peninsula Charrette Report at the request of Commissioner Alexander.

## Attachments

Letter from Harold H. Smyth

South Beach Western Peninsula Charette Report

Minutes from 9/17/2012

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/15/2020 11:16 AM |

Form Started By: Jennifer Robinson Started On: 07/14/2020 05:59 PM

Final Approval Date: 07/15/2020

Commissioner Rufas Alexander
C/o City of Ft. Pierce
100 N US Hwy #1
Ft. Pierce, Fl. 34950

3-5-2020

Re: South Beach Western Peninsula Charrette

Dear Commissioner Alexander,

On September 17th, 2012, the city of Fort Pierce "Adopted" the South Beach Western Peninsula Charrette by a unanimous vote of 5-0.

In the minutes, it was Commissioner Sessions who asked after the Charrette was adopted "where do they go?"

Mr. Margotta said the Planning staff will create a Resolution and bring this plan to the city commission via the Planning Board for formally adopt it as part of their Comp Plan.

It is also noted that Commissioner Alexander asked if they are going to try to implement a partnership with the private citizen?

Mr. Margotta said, "it is a must".

Unfortunately, Mr. Margotta the Planning Director was soon called to active duty and subsequently never returned, and the city manager soon left, leaving no one to follow through with the Resolution.

When the new city manager was hired, and the new Planning Director came on board they did not consider this a priority and therefor put it on the back burner.

In the private sector when a new CEO comes on board it is up to him and his staff to complete unfinished projects otherwise the business cannot move forward.

It is my sincere request that the city move forward with the Planning staff to create a Resolution and bring this plan, with their analysis of it, to the Planning Board and then to the City Commission for formally adopt it as part of their Comp Plan, as recommended by then Planning Director Mr. Margotta. Otherwise this will be unfinished business for the city and the future.

Sincerely

***Harold H. "Buzz" Smyth***
*Phone: 772-201-8230*
*Email: smythbuild@gmail.com*

Business & Development Consultant
Member, Tourist Development Council
President of "Citizens for Clean Air & Water"
State Certified Building Contractor #CBC1251321
"Realtor" Ross Island Realty
Commercial Pilot
Veteran, US Navy SEABEE

# Towards A Destination

*A Community's Vision for the Relocation of the Fort Pierce Waste Water Treatment Plant*

July, 2012

City of Fort Pierce

Marcela Camblor & Associates, Inc.

# CONTENTS


A | Acknowledgements

1 | Executive Summary

2 | The Charrette Process

3 | A Basic Choice

4 | The Goal

5 | The Citizens' Master Plan

6 | A Great Vision

7 | Hotel Studies

8 | Program

9 | Financial Strategy

10 | What's Next

# ACKNOWLEDGEMENTS

The vision for the Fort Pierce Western Peninsula, which includes the proposed relocation of the Fort Pierce Waste Water Treatment Plant, is the result of the hard work of a community and local government who aspired for a unified and cohesive plan for the area, and truly care about the community's future.

Our sincere gratitude to Mayor Bob Benton, Commissioner Rufus Alexander, Commissioner Edward Becht, Commissioner Thomas Perona, Commissioner Reginald Sessions; County Commissioners Chris Craft, Cris Dzadovsky, Tod Mowery, Paula Lewis and Frannie Hutchinson; the South Beach Association, City Manager David Recor, County Administrator Faye Outlaw, City staff: Matthew Margotta, Leslie Olson, David Carlin, Kori Benton; City Attorney Robert Schwerer; Chief Ron Parish, Bill Thiess, Jon Ward, Chairman Weaver, SLC Planning Director Mark Saterlee; and all those who participated in the public planning process. A special thank you for all those who assisted the design team, especially Carole Mushier, Ashton DePeyster, Ramon Trias, Doris Tillman, Mary Chapman, John Parry and Roy Whitehead

# 1 EXECUTIVE SUMMARY

*Envisioned by residents and businesses working together, the Western Peninsula Master Plan is a collaborative effort, unified vision and business plan for the relocation of Fort Pierce's waterfront Waste Water Treatment Plant. It is also a guide for future growth of the of the island and a strategy to further Economic Prosperity in the City.*

The City of Fort Pierce is a model for inspiration and wonder. It is one of the best examples in Florida and throughout the United States of a complete, sustainable community. The graceful character of the City is the result of the application of traditional town planning principles, an interconnected network of streets and blocks, exemplary architecture, remarkable civic spaces and a complete and integrated mix of uses. Like most traditional Towns and Cities, Fort Pierce's great structure allows it to be resilient and easily adapt to change.

Over the past two decades, the City and its residents have worked together to create a vision for their future. Plans have been envisioned and largely implemented. As a result of a continued public involvement, the City boasts one of the best urban environments in the region.

But despite many successfully implemented projects, the City has yet to reach its full potential. Many businesses (particularly retail and restaurants) are struggling. A large percentage of the locals'(residents) shopping occurs outside the City's boundaries, and despite the world class tourist attractions the City has to offer, tourism is not providing the economic engine it could to allow businesses to thrive. The job market is still in need of expansion, and

there is a need for more people to call Fort Pierce "home" year round.

The lands on the western tip of Hutchinson Island – also referred to as the "Western Peninsula", present an opportunity to strengthen the City as a destination and an economically prosper hub for its residents and the region as a whole.

With this in mind, on March 17th, 2012, City and community got together once again to decide the future of the Western Peninsula of Hutchinson Island.

The Waste Water Treatment plant located on the westernmost end of the island announces arrival to the beach and its neighborhoods, "anchors" the City's outstanding amenities (beaches, parks and museums), and lines one of the most diverse and pristine natural environments in the country.

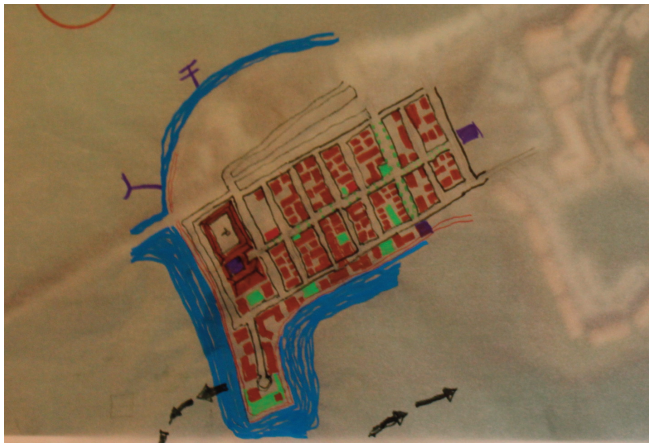
United, City and residents addressed specific planning issues for the Western Peninsula, and requested that the City develop a plan and strategy for the ultimate relocation of the waste water treatment facility. Participants in the effort expressed their desire to create a plan for the area that will not only ensure that growth and inevitable change happen on the community's terms, but also that this generation leaves as worthy a legacy to future generations as the one inherited from past ones.

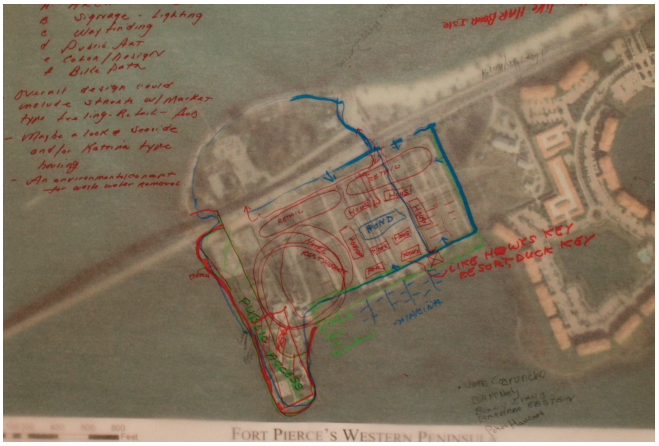
The public workshop was held at the River Walk Center, and was well attended by over 200 residents, property and business owners, representing a good cross section of the community.

During the workshop, citizens, the business community and elected officials, with the assistance of a professional team of consultants, addressed the many challenges affecting the study area, and proposed specific solutions. The overall Master Plan and specific project plans and sketches included in this Report are conceptual in nature, provided to graphically illustrate one possible solution to an identified problem or opportunity. They are not meant to represent the only solution, but to provide a starting point for additional discussion and detailed design.

# 2 THE PUBLIC PROCESS

Over 200 residents, business and property owners and community leaders participated in the day-long event.





The Citizens' plans.

# 3 A Basic Choice

## If or When?

### The Question:

Should the Waste Water Treatment Plant be relocated?

*During the charrette, participants were asked to answer this but fundamental question.*

### The Consensus:

Yes.

*Planning for the area should be aimed at the eventual relocation of the Plant.*

### The Condition:

Not at the community's expense.

*Relocation costs should not result in increases taxes or utility fees for residents, property or business owners.*

To that extent, this report analyzes and exposes the different alternatives and implications of this community decision, and recommends a process for its implementation.

# 4 THE GOAL

TO DEVELOP a business strategy and Master Plan for the relocation of the Fort Pierce Waste Water Treatment Plant and surrounding areas that:

a) announces arrival and sets a dignified stage for the island,
b) preserves and enhances surrounding natural resources and compliments surrounding parks and beaches,
c) allows public access to the waterfront,
d) promotes connectivity,
e) defines and enhances the existing greens and open spaces as a greenway system,
f) implements a "blueway",
g) complements and supports the City's existing retail and businesses,
h) preserves and improves the residents'quality of life, and above all,
i) accommodates uses that will further job creation and economic prosperity for the community as a whole,
j) ensures predictability.

# 5 The Citizens' Master Plan

The citizen's master plan is a community-based effort to create a vision for the North Hutchinson Island Western Peninsula Area that preserves, enhances and complements the surrounding neighborhoods and the City, while balancing the amount of development necessary to ensure that the cost of relocating the Waste Water Treatment Plant is paid overtime by development of the property, and does not become a cost to be absorbed by the community.

The Master Plan aims at Ensuring Predictability not only for investors, but for the citizens and community as a whole. To do this, it sets a series of Goals that seek to:

1) Announce Arrival: Marking the entrance to Hutchinson Island and the Beaches with development and physical improvements worthy of the City and its residents;
2) Compliment The Efforts And Investment In Existing Parks and Beaches: by establishing a system of interconnected public open spaces and public beaches. This is a system of greens, parks, plazas and boardwalks (or Rambla) that connect to, and build upon the existing public park system in place in the area and honors and enhances existing civic and public facilities;
3) Provide Access To The Waterfront: Making the waterfront publicly accessible as is the culture of the City;
4) Establish An Interconnected Network of Streets and Blocks: A system that can accommodate different increments of development and provide flexibility to house all necessary and complimentary uses in a variety of locations and in a manner that can be done over time and incrementally;
5) Define An Interconnected System Of Greens, Parks And Open Spaces: Connecting existing parks, greens, and waterfront paths with new proposed ones to create one of the most extensive and unique public amenities in the region.
6) Implement a "Blue Way": Establishing water connections between the City's special districts ( the island, downtown, and the port) that is both a means of transportation and a tool to enhance economic competitiveness.
7) Establish Complimentary Commercial And Retail Uses: Located in a manner that supports those already in place in the City, and in an appropriate scale and direct relation to the location of new and existing development.

These Goals of the Citizens' Master Plan and the physical elements necessary to achieve these goals need to be adopted by the City's leadership, classified, valued and quantified. Achieving these Goals will result in the ultimate reorganization of land use entitlements for the area. This reorganization will provide a framework to modify or increase development rights to enable the relocation of the Waste Water Treatment Plant and fulfill specific community needs and desires, while preserving and enhancing the residents' quality of life.

This classification, value and quantification need to be determined and considered either at the time of reorganizing and changing land use entitlements (preferred), or when a clear set of development regulations (e.g. a form-based code or design regulations) is established to implement the plan. A matrix depicting both a classification and possible quantification is shown on this page.

Increases shall be considered only if necessary to enable the ultimate goal of relocating the Waste Water Treatment Plant, attracting a much desired resort hotel or job generator to the City, or achieving design-specific improvements such as the provision of public waterfront. To that effect, a final matrix with specific quantification (bonuses) needs to be developed.

For the purpose of applying increase bonus factors, design compliance with intended added values and degree of fulfillment of the Citizen's Master Plan Goals will be determined by staff and ultimately approved by the City Commission.

Finally, this plan *suggests increments to existing densities, permitted uses and height*, but only to be awarded as a result of the direct provision of design and implementation of the Goals and physical elements outlined in this report.

## VALUE AND BONUS MATRIX

| Added Value | Description | Bonus Factor | Height Increase |
|---|---|---|---|
| Publicly Accessible Waterfront | - Minimum 50%<br>- Every Addt'l 10% | 1.75<br>1.1 | Yes, **up to** 1 addtl' story |
| Parks and Public Open Spaces | - Within fabric<br>- Waterfront | 1.1<br>1.25 | No |
| Resort Hotel | - With public ground level that engages the street | 2 | Yes TBD |
| Blueway | - Within fabric<br>- Waterfront | 1.5 | No |
| Civic Buildings and Infrastructure | - Within fabric<br>- Waterfront | 1.5<br>1.75 | Yes, **up to** 1 addtl' story |
| Public Parking (shielded) | - Surface<br>- Structured | 1.1<br>1.75 | No |

*NOTE: The bonus factors shown here are merely depicted as examples. Actual bonus factors need to be determined at the time of either amending entitlements (preferred) or creating specific development regulations for this area. Also note that height increases are offered "across the board". Extense of height Increments shall be determined in accordance to the value added.*

## Other Ideas Proposed Beyond Main Goals

In addition to the Goals of the Citizen's Master Plan are numerous programmatic ideas proposed both during the public event and as part of other reports developed by residents and stakeholders such as "The Big Idea" .

All of these feasible ideas include:

- Marinas (currently undergoing review and approval process)
- Water sports (including a sailing club that could be operative immediately prior agreement of the parties on the privately owned vacant land east of the waste water treatment plan)
- Seaplane landing areas
- Education and research facilities

It is important to highlight that this community plan may be developed incrementally (i.e. the private and public parcels independently, as well as on a block-by-block basis within each parcel) and has built-in flexibility to allow for an extensive program and diverse location and organization of its elements listed on pages 12 and 14 (e.g. proposes two alternate approaches to locate first class resort hotels).

1. Hotel Site
2. Waterfront Market
3. Mixed Use Building
4. Residential
5. Parking (surface and structured)
6. Public Beach

# 6 A Great Vision. An Even Greater Future.

In the tradition of the City's exceptional architecture and urban design, future development of the site currently occupied by the Waste Water Treatment plant and surrounding parcels shall seek exceptional quality. This development will set the stage to attract a much desired resort hotel and further the aspiration of becoming a com--petitive world-class destination.

The residents envision this area as a place where the best concepts in town planning are applied to create an ideal urban experience in harmony with nature.

The approximately 36 acre site (18.7 WWT +17.5 privately owned) which occupies the last piece of beachfront property on the Treasure Coast Region, offers exceptionally long and uninterrupted views along the intracoastal waterway and just over 25 acres of submerged lands. If designed appropriately, it will enhance a condition unique to this area: the provision of both oceanfront and intracoastal beaches on pristine waters. A situation rarely avai|able in the entire southeast Florida, and a powerful marketing tool for the City.

The site is additionally located adjacent to a 65' tall bridge. And while moderate height may result necessary to achieve unique views where the bridge blocks them, this setting and configuration allow for the denser concentrations and any additional height to be shielded by the bridge itself, and to ensure that in a transect-like manner, less intense development extends towards the neighborhoods, parks and beaches, and the most intense sits by the bridge (ideal) or at the edge of the property (if necessary for second hotel site on vacant land).

Seeking to achieve an overall feeling of calm and simplicity for the town, the Plan accommodates not one, but two sites (*Figures 1 & 2*) where a resort hotel with extensive supporting meeting and conference space and special event facilities. The purpose of identifying two sites is to

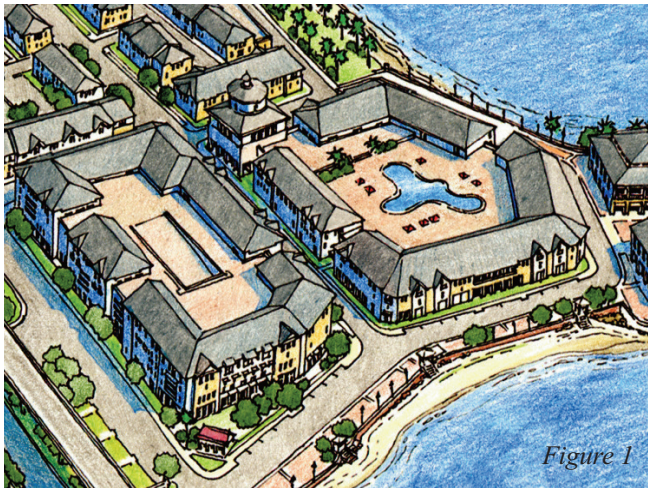
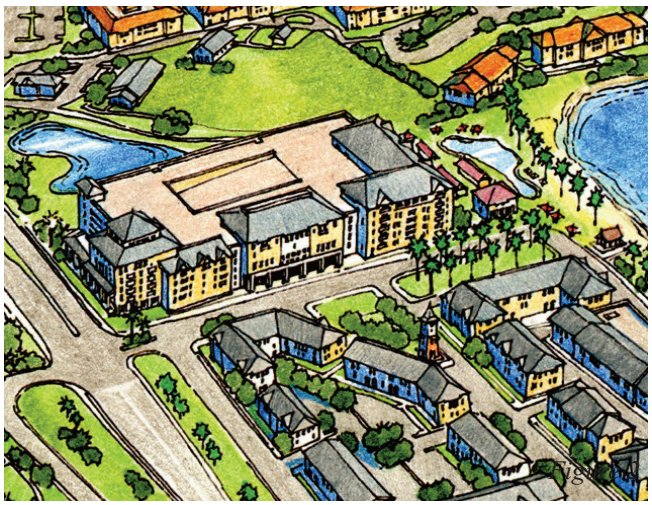


*Figure 1*



demonstrate how this use can fit on either or even both parcels, providing flexibility in the development process and a more competitive palette of options to attract the ultimate end-user.

Both parcels accommodate waterfront resorts and allow for exceptional views. The Hotel shown on Figure 1 fronts the water in a more urban manner. The hotel depicted on Figure 2 is directly connected to a sandy beach area. In this case, care and consideration to the transition to the property to the east should be taken.

Both hotel sites have been tested against four other first class, urban hotels to determine appropriateness of scale and layout. Proposed hotels respond to first class hotel room size, quantity and amenity requirements.

It is important to note that the direct connection to the beach where development meets the shore without a public road or sidewalk occurs on the edge of the site, so as not to interrupt the flow of public access. If appropriately designed, this condition could be replicated anywhere on site without impeding public access and connectivity.

All interior streets lead to the beach, with views of the water kept clear for as great a distance as possible. Special structures at the end of each street allow public access to the water and allow the public to step down into the lagoon.

An obelisk-type structure is located in a strategic corner, where water views are available in every direction. If this structure is designed in a manner to allow pedestrian access (as do many lighthouses), it would become a highly visited tourist attraction.

Both waterfront streets lead to a waterfront market. This serves as the primary gathering place in the community. As a beach-style urban center unlike any other in the region, the market will be a truly unique feature for the City.

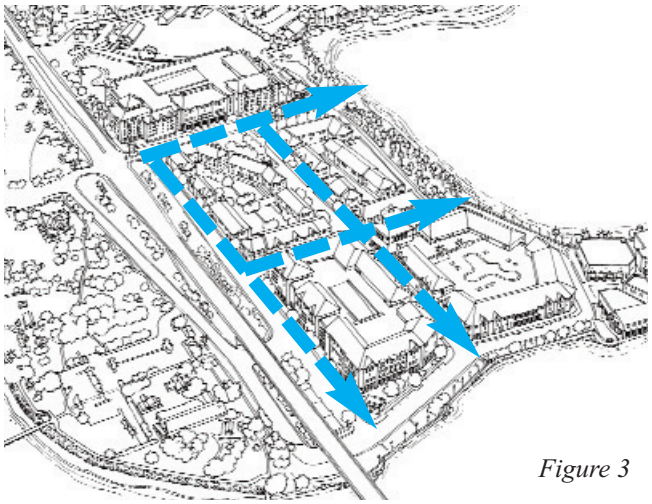


*Figure 3*

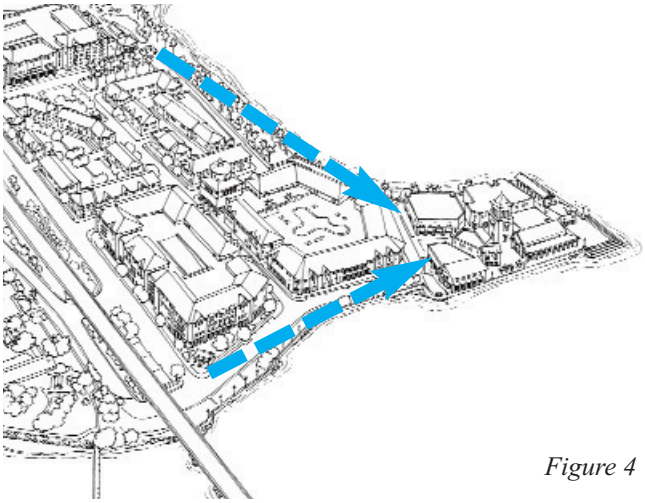


*Figure 4*

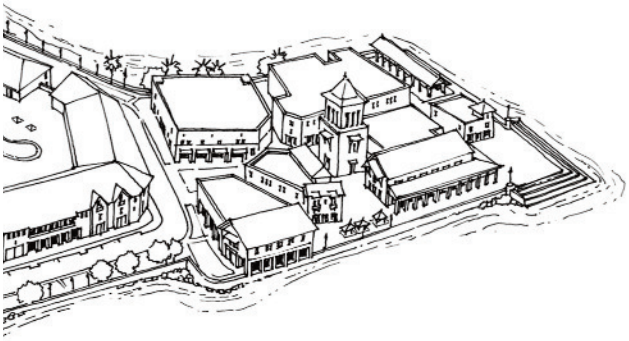


*Figure 5*

At the tip of the peninsula, wide steps lead down to the pristine emerald and turquoise waters that only Fort Pierce has to offer, and provide an ideal setting to enjoy the sunset over the City.

This architectural style and setting (see example images to the right) are aimed at ensuring the creation of place, which is only accomplished by development an interconnected network of streets lined with buildings, and the creation of safe and comfortable public open spaces.

Arcades, porches, cafes, small cottages acting as retail stores complete the waterfront market.

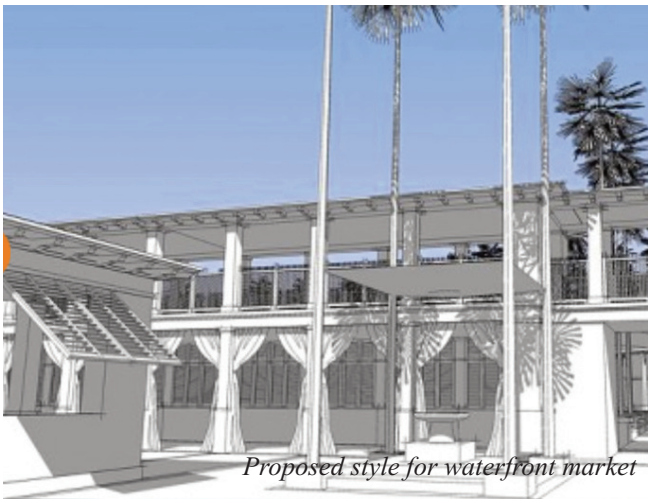
Piers and docks become the setting for an “interconnected blue-way”, with the inclusion of a water taxi or tourist water-based attractions (kayak, canoes and boat rentals, eco-tours, boat excursions, etc.)

Two to three-story (and occasionally up to four-stroy), multi-family residential buildings and attached single-family homes (townhouses) line the remainder of the streets.

The analysis conducted has not identified a need to increase height beyond the four stories currently permitted strictly to accommodate residential uses. If the City chooses to increase height beyond this for residential uses, it should be limited to specific locations, and only allowed if or when the fabric is complete so as to not hinder demand. Height beyond four stories is only proposed for hotel sites.

The City should also employ and require from future developers the best available urban design and architecture techniques to create harmonious relationship between humans and the environment. Combined with the pedestrian friendly, mixed-use plan, these techniques will make Fort Pierce a leader in ecologically sound living in Florida.

*Waterfront dining Pavilion with three-story fabric in the back*



*Proposed style for waterfront market*

*Proposed waterfront market*

Mixed Use Building

Multifamily Building

Examples of vernacular architecture that is beach-appropriate, in multiple story, residential, mixed use and hotel type buildings.

Excellence in design and variety should be a requirement for development.

Mixed Use Building

Multifamily Building

Mixed Use Building

*Waterfront Hotel*

# 7 HOTEL STUDIES

Incorporating hotels into a City's plans for the future has historically been one of the most cumbersome components of development and redevelopment. Cities usually have to aggressively compete for first class hotels, and this many times results in attempts to fulfill programmatic needs that contradict a community's vision.

Very few destinations worldwide are so desireable to the tourism industry that they can require national hotel chains to modify typical models to conform to local regulations. Such is the case of Key West, FL. or Charleston, SCI, where first class hotels abide by strict height, parking, placement and design regulations. In Miami Beach, FL., first class hotels will happily remodel historic buildings following strict historic preservation regulations just for the privilege of having a presence at this desireable location. Most others towns and cities, including large international destinations such as downtown West Palm Beach need to compete aggressively for this coveted end user, and this competition usually results in compromises to a community's ultimate vision for the area. It is even harder to enter this competition for places, such as the City of Fort Pierce, which are not yet established as desireable first class or resort hotel markets.

The City of Fort Pierce has a great potential to establish itself as a sought out, unique, desireable destination. Unparalleled natural resources, recreational boating and world-class fishing tournaments, a distinctive built environment, a diversity of civic uses, museums, research facilities, an international port and airport, are just a few of the features the City has to capitalize on to be seri-

*Figure 1*

*Figure 2*

*Figure 3*

ously considered by the tourism and hotel industry.
To accomplish this, the City will need to seek design an aggressive marketing campaign, and seek outside assistance from a qualified hotel broker who understands, believes and can effectively communicate the community's vision, the area's value and the inward investment work that has been ongoing in the City during the past two decades.

It is important to note that the Citizens' Master Plan does not limit hotels in height or size, but does propose specific placement and accessibility. This intentional, "open-ended" intensity is aimed at facilitating the hotel development process and engage the locals in understanding the dynamics of the hotel market and ensuring a process that expeditiously removes obstacles to attracting hotel investment while preserving a community's vision.

The City Commission will additionally have to seek further input from its residents to define how much intensity is acceptable within the community's vision, as this is an issue that was not discussed in depth during the public involvement event.

This report strongly recommends that when seeking the appropriate hotel for the area, this be done by a marketing consultant with experience in traditional development and historic destinations, and that the entire Master Plan and vision be advertised.

## How Other's Did It

Three first class hotels that have altered their conventional models in order to have a presence in desireable tourist destinations have been included in this report. The purpose of this inclusion is to showcase areas that have successfully attracted first class resorts and hotels, and have done so without compromising the built environment. These examples compare placement, scale, uses, land impact, and height treatment.

The hotels in this comparison are:

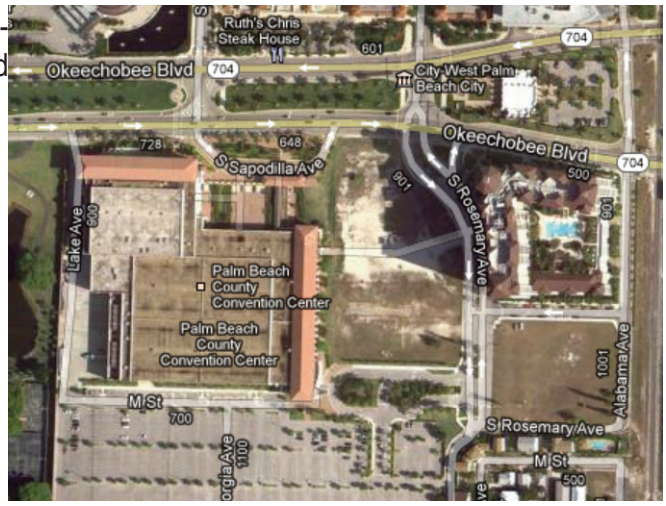
- Ritz Carlton Southbeach (Figure 1)
- Westin Key West (Figure 2)
- Charleston Place (Figure 3)
- St. Augustine Hilton (Figure 4)

Both the Ritz Carlton and the Charleston Place Hotel (Figures 1 & 3), have a 2 to 4 stories high base that match the height of the surrounding fabric, and place additional height in tower elements set back from the street.

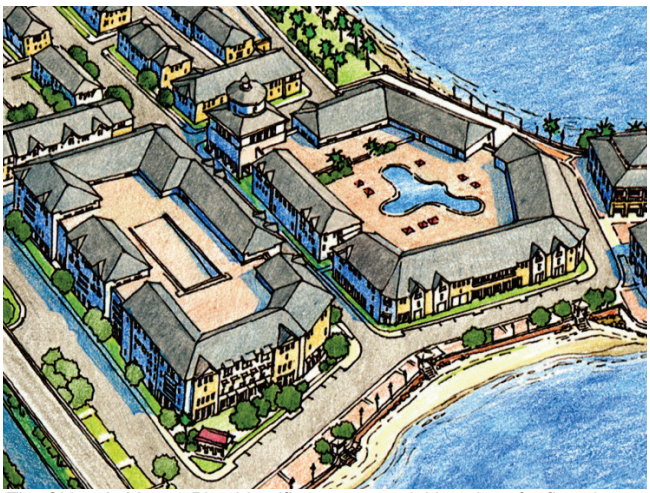
The Key West Westin accumulates room quantity and amenities within the heigh limits established in the City's Code. The St. Augustine Hilton takes the same approach. It is important to note here that these cities not only have strict development codes, but are such desireable tourist destinations that mainstream, first class hotels are amenable to changing their conventional models in order to have a presence in the city. This condition is hard to achieve in places that still need to establish them-

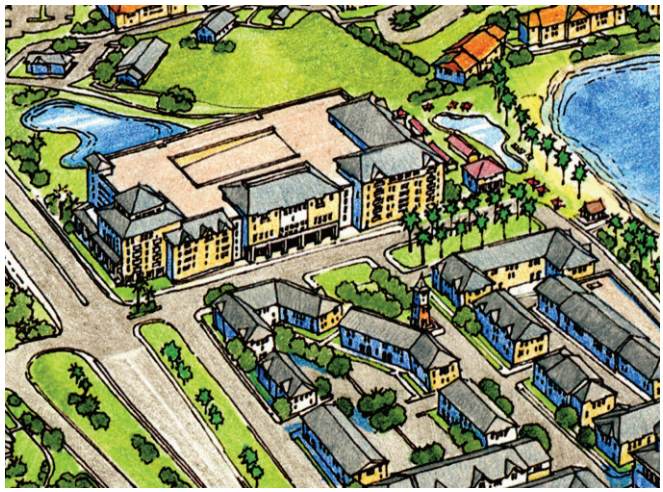
selves as destinations.

The images on pages 24-25 show how resort hotels with extensive program can be carefully embedded within the urban fabric and contribute to the creation of four of the most visited tourist destinations in the world.

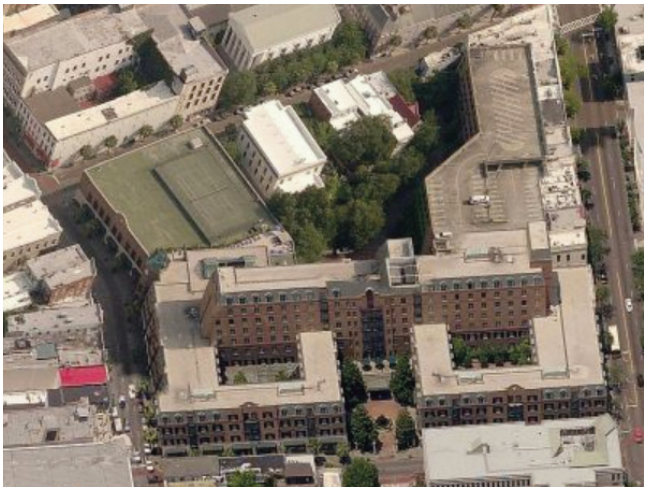



*tourist destinations in the world. Attracting first class hotels is challenging. After almost a decade working to attract first class hotels to downtown West Palm Beach, the hotel site next to the convention center still lies vacant. Through an aggressive marketing campaign, the City was able to attract a first class hotel within the downtown's fabric.*

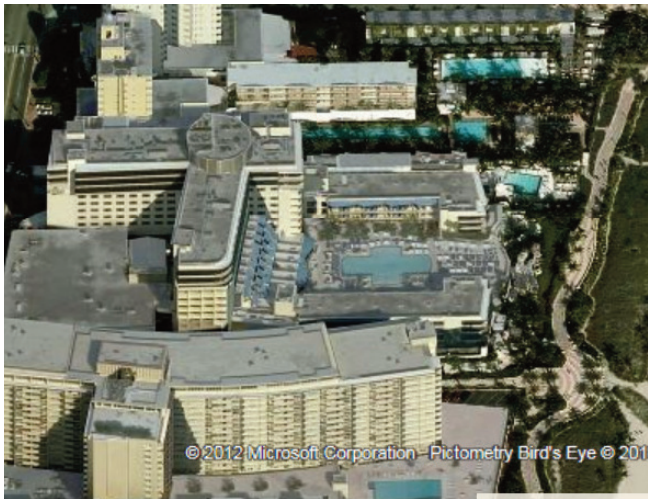


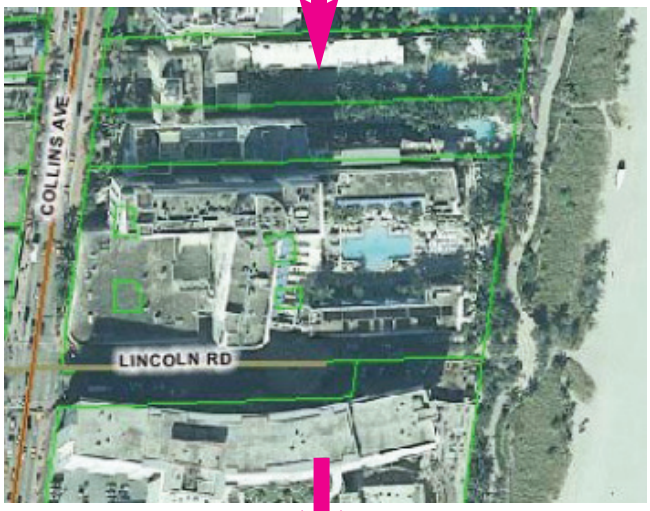


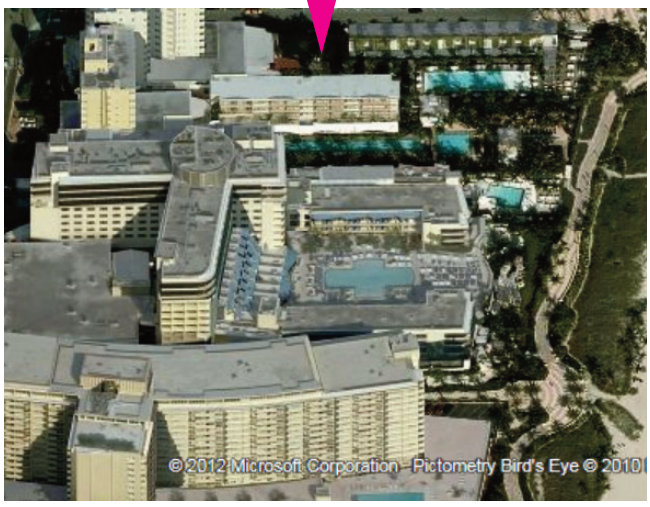
*The Citizen's Master Plan identifies two potential locations for first class resort hotel(s).*



COLLINS AVE


© 2012 Microsoft Corporation - Pictometry Bird's Eye © 201


COLLINS AVE
LINCOLN RD


© 2012 Microsoft Corporation - Pictometry Bird's Eye © 2010

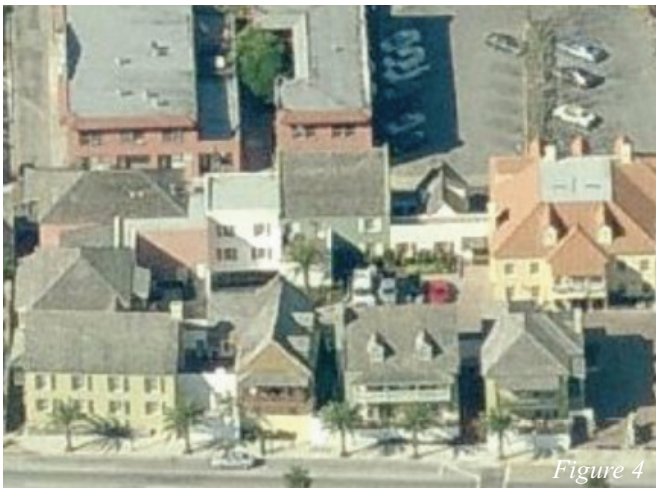
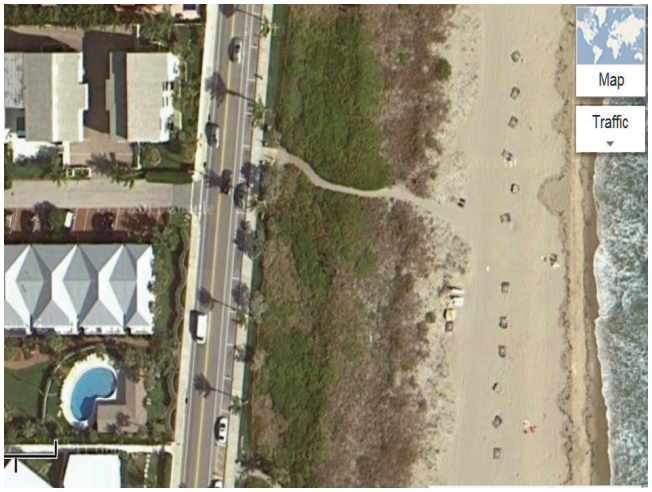


Figure 4

Figure 4

*When the destination is very desirable to hotels, they are willing to "break" their conventional type and adapt to the local government's requirement. Such is the case of the St. Augustine Hilton, built in the late 2000's to resemble detached, two and three story mixed use buildings.*




*Public Access to the waterfront can be achieved whether a hotel fronts a public street that borders the water, or is directly adjacent to the sandy beach, as shown in images above.*

# 8 PROGRAM

## IMPLICATIONS OF RELOCATION COST UNDER CURRENT REGULATIONS:

A preliminary analysis of implication of current regulations on relocation costs shows that:

- Under currently allowed density, it is possible to build up to 150 residential units.
- Under currently allowed commercial uses, it is possible to build up to 162,914sf of commercial space (retail/office/hotel/etc., in addition to residential program)
- Under current Floor Area Ratio (FAR), it is possible to build 814,572sf.
- The current FAR allows for each of the 150 residential units in a single-use development as the one to the east, to be up to a maximum average of 4,344sf.
- This density and relocation costs result in a cost incidence per residential unit of $668,500.00. This is not a feasible base incidence.
- 162,914sf of commercial space yield a hotel with meeting rooms, amenities and support program yields roughly 317 rooms. A first class hotel typically has 500 rooms.
- The base cost incidence in this scenario per hotel room is $63,100.00. Developing a hotel with this base cost incidence is unlikely under current market conditions.
- It is possible to build the currently allowed density and intensity without exceeding 3 stories in height.

### CURRENT CONDITION ANALYSIS
### WASTE WATER TREATMENT PLAN SITE

| | |
|---|---|
| Total Acreage (WWT) | 18.7 acres (814,572sf) |
| FAR | 1 |
| Developable area | 814,572sf |
| Commercial area | 20% (162,914sf) |
| Maximum Height | 45’ |
| Density | 8du/ac |
| Projected Relocation Cost | $100,000,000.00 |
| Cost Incidence per acre | $5,347,593.00 |
| Cost incidence per unit | $668,500.00 |
| Cost incidence per hotel room | $63,100 |
| Millage rate (2011) | 5.7384 |

*Under current regulations, only 20% of the development may be dedicated to commercial uses (e.g. hotel/resort). This number reflects an 80% residential 20% commercial program split.*

### CURRENT CONDITION ANALYSIS
### PRIVATELY OWNED SITE

| | |
|---|---|
| Total Acreage | 17.43 acres (+ submerged lands) |
| Developable area | 759,250sf |
| Commercial area | 151,850sf (20%) |
| Maximum Height | 45’ |
| Density | 8du/ac |
| Cost Incidence per acre | $ Solely dependent on the cost of land and hard and soft development soft costs. |

## PRELIMINARY CONCLUSIONS:

• With projected relocation costs ranging between 70 and 110 million dollars, the base incidence for development is such that construction will unlikely be financially feasible even if the maximum development potential under the Future Land Use is allowed.
• A 1st class hotel typically has 500 rooms (although there are successful resorts that have less than 500 rooms). The current commercial allocation does not contemplate this size of facility.
• A 500 room hotel requires a minimum of 256,410sf. plus additional area for supporting uses (outside of those provided by hotel).
• If a hotel is built, under current regulations there would not be sufficient development intensity available to support additional commercial uses (restaurants, retail, etc.) critical to the success of the hotel.
• The allowed FAR is such that it is possible to increase density from 8du/ac to an average of 23du/ac without changing the overall built area currently permitted (i.e. without changing size of buildings allowed). Given the property's FAR of 1, the above figures would allow for 150 residential units at 4,344sf each. A more marketable unit size averaging 1,500sf per unit would yield 434 units.
• If the site is to be developed on its own, (i.e. without any financial assistance, an FAR of 7.5 (equal to half of Manhattan's) and appropriate mix of uses would be necessary to absorb the current land plus Waste Water Treatment plant relocation costs at market rate. *This type of intensity is not inconsistent with the City's character and community's desires, but unlikely to be marketable in the area.*
• *Current projected relocation costs will result in improbable interest on the site due to financial implications.* If the cost of relocating the plant is not addressed independently from development on the site, financial assistance (outlined here and further described in Chapter 9) is necessary.

## PROPOSED DEVELOPMENT STRATEGY

There are numerous ways to finance and develop this site. This report outlines a simple option that is based on "removing" the plant relocation cost from the land transactions (sale & development). This is in essence a "land-cost-only" development scenario. As a simple example, when a house is sold, it is generally sold for its actual value, not for the value of the house plus the cost of building a new house elsewhere.

It is important to point out that this option contemplates the relocation cost, but forsees this relocation cost being absorbed by a combination of local, state and federal funds, FPUA bonds, and by the ultimate (and fundamentally) revenue generated by new development on the site overtime.

In this scenario, land value is estimated at a maximum of $21,000,000.00 (most probably 16.5 to 17.5 million in today's market).

### Estimated Development Program Under Land-Cost-Only Scenario Consistent with the Community's Vision:

• A balanced mix of uses allowing:
  • Residential uses of up to 23du/ac
  • Four-story height for residential uses
  • Retail/Commercial uses in the form of a Neighborhood Center (per the industry's definition), of up to 45,000sf. This Neighborhood Center contemplates the demand for the entire Master Plan as proposed. This is proposed independently and in addition to hotel uses.
  • Up to two Hotels (limiting form, not intensity or height)

# 9 Financial Strategy

The decision to relocate the waste water treatment plant has a significant economic impact for the future of the area.

The Citizens' Master Plan for the area is a single, cohesive and integrated plan and its implementation and design are not dependent on financial or partnership arrangements between the two developable sites impacted (i.e. the Waste Water Treatment site and the vacant site to the east of it). This means that independently of the financial agreements or timing of development of either site, the principles embedded in the Citizen's Master Plan shall apply, and the result will be a cohesive and integrated network of streets and blocks as outlined in the Community's Vision.

Financial analysis scenarios conducted indicate that there is great benefit associated with planning and marketing both sites jointly. Combining the parcels as a "packaged proposal" broadens possibilities and increases the City's ability to attract a larger number of qualified developers.

## General Conclusions:

### Regarding Program and Development:

1) Development can occur on either buildable site independently (i.e. the Waste Water Treatment Plant site can be developed without participation of the adjacent vacant site. Financial studies conducted to prepare this report assume both single-site and combined site development scenarios). It is ideal, but not necessary to combine both sites to allow for the development envisioned for the area to occur). This statement is of ultimate importance as it has direct impact on programmatic allowances, increases relative to the maximum densities and intensities currently allowed, and the process established to determine such potential increases.

2) Development potential on the vacant site may be hindered until the decision to relocate the plant is officially adopted and funds identified; or until relocation efforts effectively commence.

3) A delay in the development of the vacant site could affect financing for the overall proposal and negatively impact the City's ability to attract development or fund improvements.

4) Increases in density and intensity are only necessary as a result of the cost of relocating the Waste Water Treatment Plant.

5) Increases in density and intensity for parcels other than the Waste Water Treatment Plant are proposed solely to: a) attract a use that was indicated as desireable by the community (i.e. a resort hotel); and b) to encourage physical improvements that are important and valuable to the residents of Fort Pierce.

6) Proposed uses, program, density and intensity should be defined within the parameters established in Chapter 8.

7) Increases in densities, intensities and height should only be allowed only in exchange for the implementation of the principles and uses as outlined in the community's vision.

## Regarding Relocation Cost:

A number of development scenarios have been tested as part of this effort and are based on relocation costs ranging between **$70,000,000** and $**110,000,000***[1].

8) Cost of relocation expressed above, while accurate, is determined (for the purpose of this report) as a range. The exact relocation cost and will be determined by many factors, not the least of them being the economic environment at the time of construction. More accurate estimates cannot be exacted until an official decision to move the plant is made, a "relocation committee" or similar body is appointed and established, and an independent or public bidding process is entered into.

9) The cost to relocate the Waste Water Treatment Plan cannot be fully absorbed (i.e. recovered) by a simple land-sale transaction.

10) In order for to attract cost-feasible development (whether residential, commercial, or mixed), the land on which the Plant sits needs to be sold at its assessed value based and be based on actual development potential.

11) Based on the different development scenarios and relocation cost estimates, to position the City in a competitive negotiating process, ideal land value should range between 15% and 25% of the total estimated relocation costs (between $16,500,000.00 and $17,500,000.00*[2]). It is recommended that land value in the current market should not exceed $21,000,000.00

11) Cost of relocation will only increase with time (given the particular economic climate at the time this plan is being prepared).

## Regarding Funding:

12) Funds identified for the upfront relocation costs include:

- Land sale revenues - 15% to 25% (*[2])
- Bond Financing (FPUA) (up to 60%)
- Regional, State and Federal Funding and Grants
- City/County/FPUA earmarked (current or future) funds
- TIFF funds (CRA)
- Special District and Plan Area Development Impact Fees
- Revenue from utilities
- Cash Reserves (if any)
- TPO funding (general transportation funds)
- EPA grants
- Brownfield funds
- Impact Fees, and
- Public-Private Partnerships
- Drinking Water State Revolving Fund
  http://www.dep.state.fl.us/water/wff/dwsrf/index.htm

*1Costs as determined by CMHHILL report minus adjustments to reflect a reduced contingency fee and current land and construction costs.*
**2 Land value reflects 2012 sales and construction estimates, and should be adjusted to reflect actual costs at the time of sale.*

- Water Infrastructure Trust Fund legislation (potential source)
- Climate Ready Estuaries Program (potential source)

13) Funds borrowed to relocate the Waste Water Treatment Plan (estimated between 55% and 70% of the projected relocation cost) and interest accrued is anticipated to be recovered over time by revenues derived from the increase in property tax assessments, tourism tax, sales tax, and customer base and demand for the waste water services provided by the new plant.

14) Bond financing will be needed to upfront relocation costs. This type of financing should be limited to prudent levels as determined by the City and FPUA. Given the current millage, at a proposed borrowing bonding level of 60% of the relocation cost, debt could be retired in approximately 17 years.

15) A Waste Water Treatment Relocation Fund and source of funds to be earmarked should be established immediately (ideally as a result, and concurrent with the approval of the Citizens' Master Plan).

16) Increased tax revenues resulting from the appraisal of the property itself due to the removal of the Plant, plus that generated overtime from resulting development shall constitute the main income stream to cover the cost of moving the plant.

17) Private funding is an option at the time of the sale. Developers may be required to finance a percentage of the relocation cost and either receive fee credits or reimbursements for the required advancement of funds.

It is expected that costs (both projected relocation costs, land values and construction costs) will proportionally change over time. It is therefore important to ensure that each funding mechanism proposed include a method for adjusting the amount of funding to reflect current costs at the time of construction.

# 10 NEXT STEPS

The Next Steps towards the implementation of the Citizens' Master Plan are as follows:

### a) Adopt the Citizens' Master Plan

### b) Establish a "Plant Relocation Committee"

The proposed Citizens' Master Plan builds in flexibility to allow quick response to changes in market conditions.
In order to properly track and adapt to these changing conditions and make the maximum use of federal, state and regional funding mechanisms, the City, County and FPUA need to establish a "Plant Relocation Committee". This committee shall be appointed by the board, or the City can rely on many of the already formed not-for-profit organizations that do similar work in the area.
This committee or not-for-profit organization needs to be appropriately funded and staffed, and its purpose is to work towards the imminent relocation of the Plant, exploring and pursuing the different funding mechanisms, establishing general financing policies, updating and adjusting relocation costs to the time of sale and implementation, and serving as an additional review board for any proposed development in the area.

### c) Hire a retail/marketing/development specialist

The City seek needs to secure the services of a nationally-recognized retail/marketing/development specialist with proven experience and clients. This will contribute to appropriately position the City in a competitive negotiation level and effectively market the area and the Citizens' Master Plan.

### d) Secure An Agreement With Adjacent Privately-Owned Parcel

The City must work towards a sale Agreement with the adjacent property owner. This does not imply the a purchase agreement. It is a simple agreement that outlines procedures and compensation if the City or private land owner successfully secure an offer for the purchase and development of both parcels jointly in accordance with the Citizens' Master Plan.

### e) Amend Current Regulations As Follows:

• Amend the City's Comprehensive Plan to allow for the increased intensities and densities outlined in this report. This should be possible without the need to amend the Future Land Use Map Hutchinson Island Mixed Use designation if the language is modified to include the proposed matrix tieing increases to specific improvements.
• Create simple, area-specific, form based regulations. An option to creating a new form based code is to adopt and simply calibrate the Smart Code available at http://www.smartcodecentral.org. The Smart Code is available for free to all local governments. Calibration is a simple process done by many qualified town planners.
• Establish architectural design regulations that simply but clearly outline the desired style for the area. It is also possible to adopt basic Design Guidelines created by the Treasure Coast Regional Planning Council (available to local governments in the region for free for every vernacular architectural style), and amend them accordingly to establish as regulations.

It is important to note that given recent changes to Florida

Statutes Chapter 163.3177and Chapter 9J-5.016 of the Florida Administrative Code, it is anticipated that, while the study area is in a Coastal High Hazzard Area, many of the implications resulting from the proposed changes can be addressed at the local level. Additionally:

• Given the combined size and magnitude of the project, the City or developer could apply for a Development of Regional Impact. While potentially costly, there are expedited venues available for proposals consistent with the Regional Planning Council's Strategic Regional Policy Plan.

• No major capital outlays except for the obvious generated by the relocation of the Waste Water Treatment Plant are anticipated.

• No significant changes to Level of Service (LOS) on Seaway Drive is anticipated as this road and bridge have excess capacity today.

• All development and infrastructure (roadways, water, sewer), including proposed boardwalks and other civic and public improvements are designed to be privately funded, in exchange for increased development entitlements.

• The proposed program is such that impact to schools should not be substantive.

## One Final Thought

The City of Fort Pierce should commend and be proud of its residents, business community, staff and elected officials. Planning "in the Public" is a lengthy and cumbersome process, but it is also a very rewarding one when a common vision is agreed upon. The predictability resulting from such process is a very powerful development tool that should not be underestimated, especially in difficult economic times. The experience that this City and its residents have creating, adopting, implementing and respecting a clear vision will be the guiding principle that make it possible to overcome the many challenges that moving the Waste Water Treatment Plan will certainly present.

The outcome will be certainly worth the effort, and the resulting built environment will not only be an asset to the residents, but a major component towards a more prosperous and resilient future for the City and the community as a whole.

# Towards a Destination

## *A Community's Vision to Relocate the Fort Pierce Waste Water Treatment Plant*

*August 1st, 2012*

CITY OF FORT PIERCE – MARCELA CAMBLOR & ASSOCIATES

March 2012
Over 200 Participated!

# The Study Area

# Why Plan for the Future?

## The Importance of A Vision:

" A County and its cities need to decide what they want and then tell us. Do they want to grow out, grow up, or not at all? It's too hard, and too inefficient, for us to guess. Instead of defining what they do not want , communities must define what they do want to be."

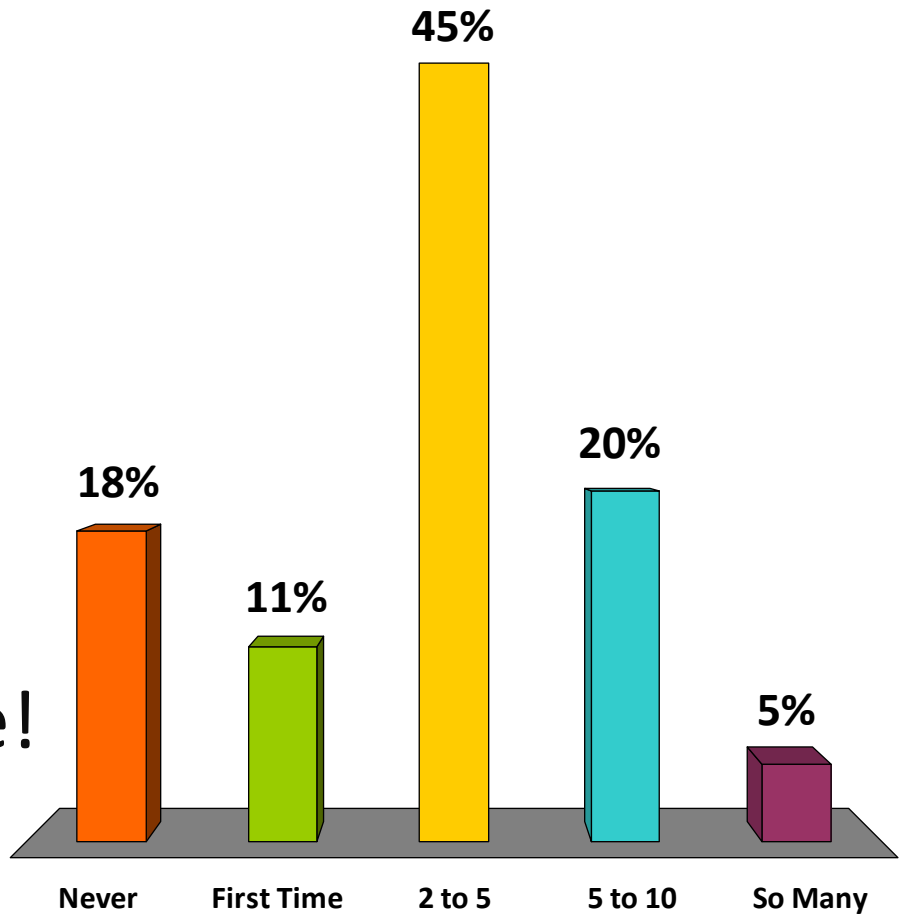
Bill Angelo, Vice President – Real Estate and the Workplace for Sun Microsystems

# To Move OR Not To Move…..

Linda + Catherine Loane
1 When
2 Master Plan in Place
A Architecture
B Signage - Lighting
C Wayfinding
D Public Art
E Color/Design
F Bike Path
- Overall design could include stands w/ Market type housing - Retail - Bus
- Maybe a look @ Seaside and/or Katrina type housing
- An environmental easement for onsite water removal
Nothing like Har Bour Isle
No RV Park
RETAIL
HOUSES
POND
PUBLIC ACCESS
MARINA
LIKE HAWKS KEY
RESORT, DUCK KEY
FORT PIERCE'S WESTERN PENINSULA
A Community's Vision
March 17th, 2012

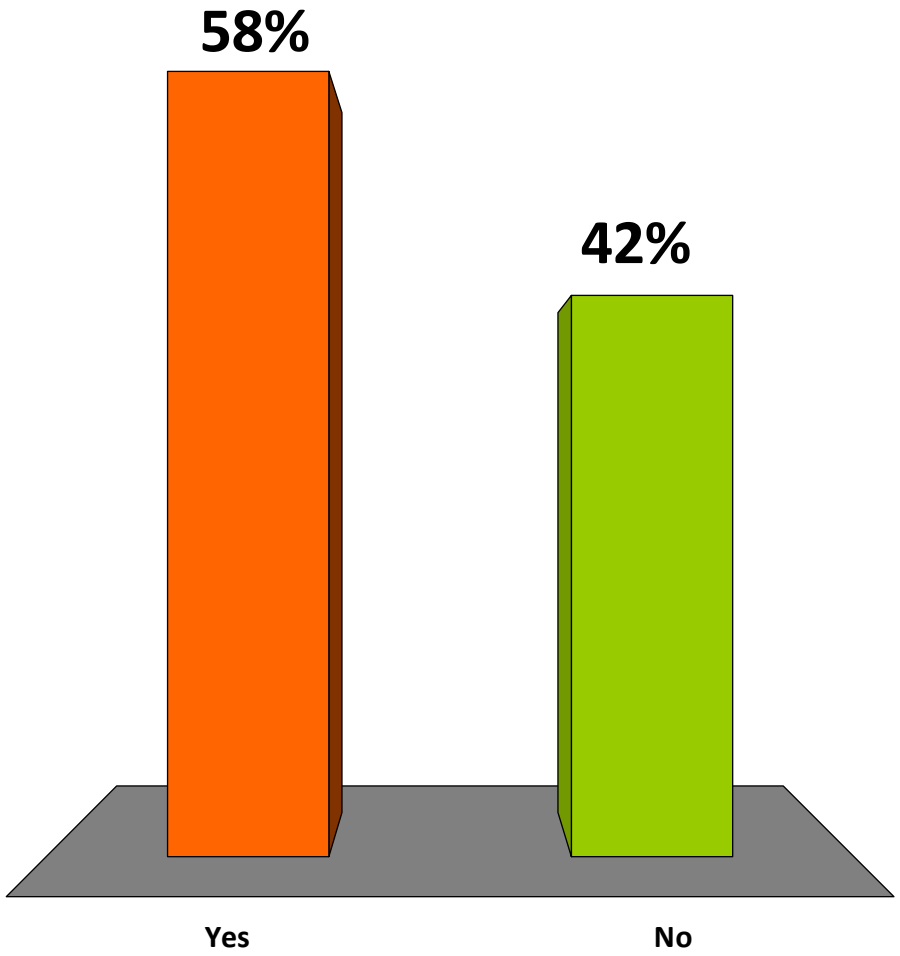
# How Many Times Have You Participated In A Charrette?

1. Never
2. This Was My First Charrette
3. 2 to 5
4. 5 to 10
5. So Many I Should Be Running This Charrette!



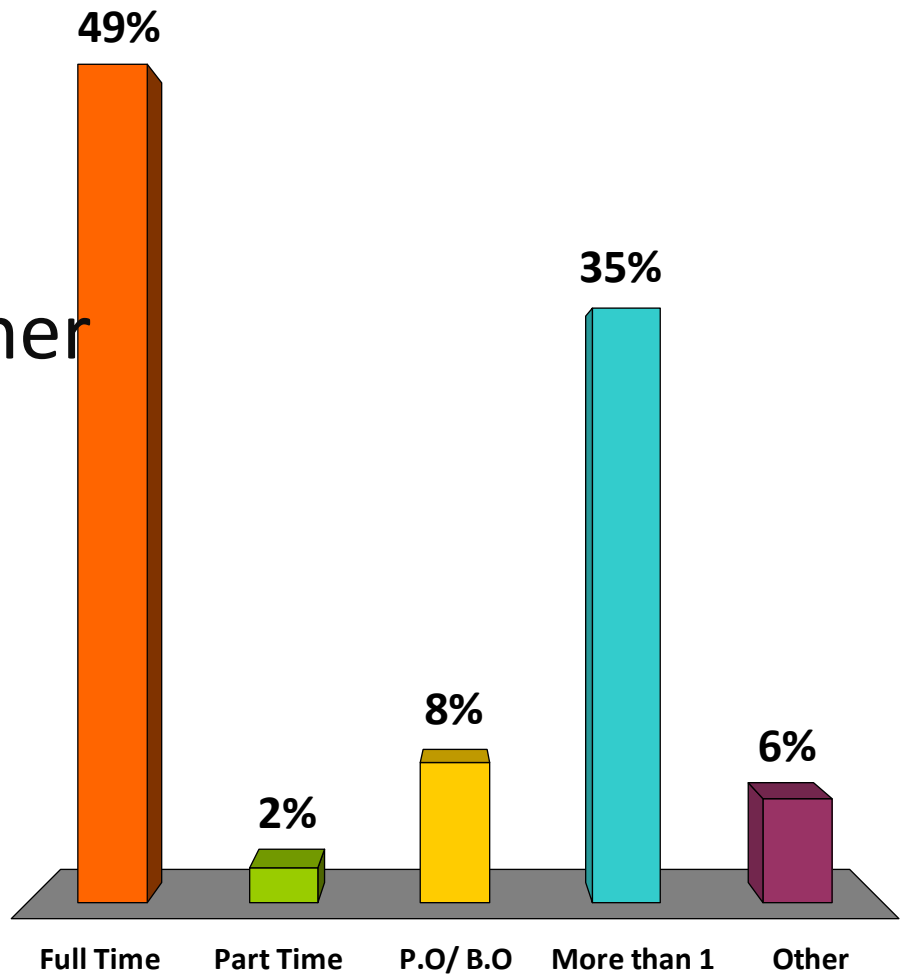
# Did you attend/participate in the Charrette for the Waste Water Treatment Plant?

1. Yes
2. No



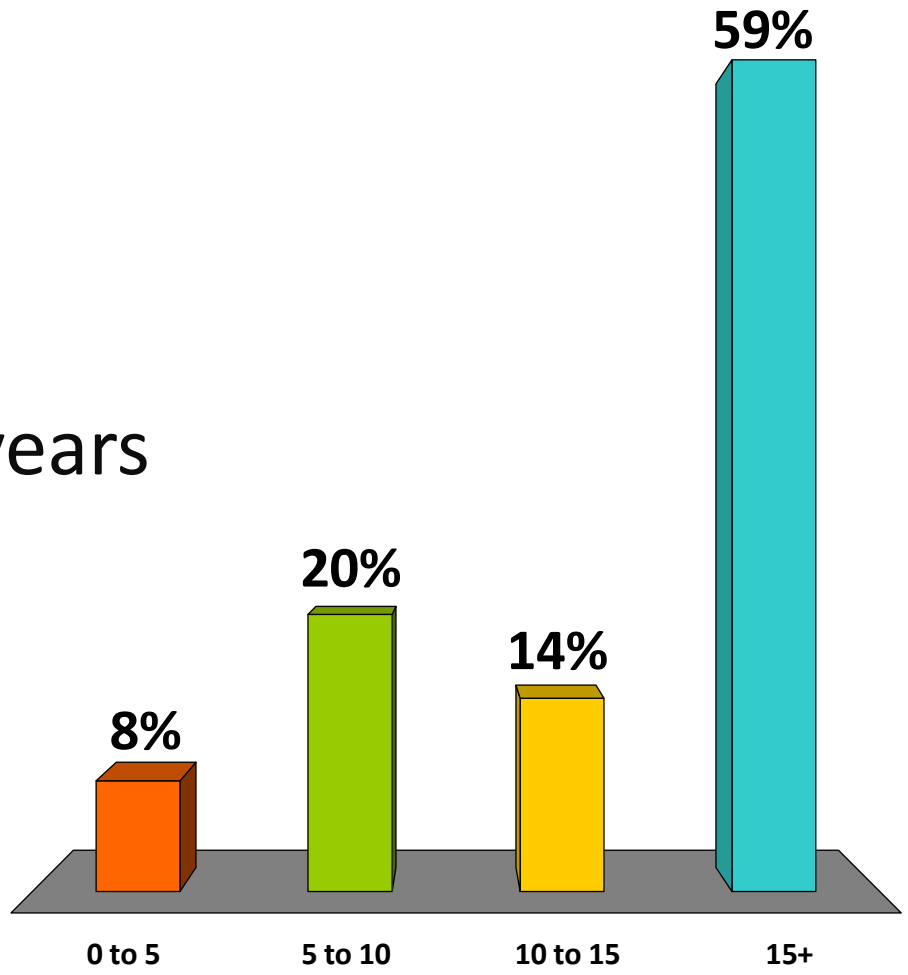
# Which Best Describes Your Connection to Fort Pierce?

1. Full Time resident
2. Part Time Resident
3. Property/Business Owner
4. More Than One Option
5. Other

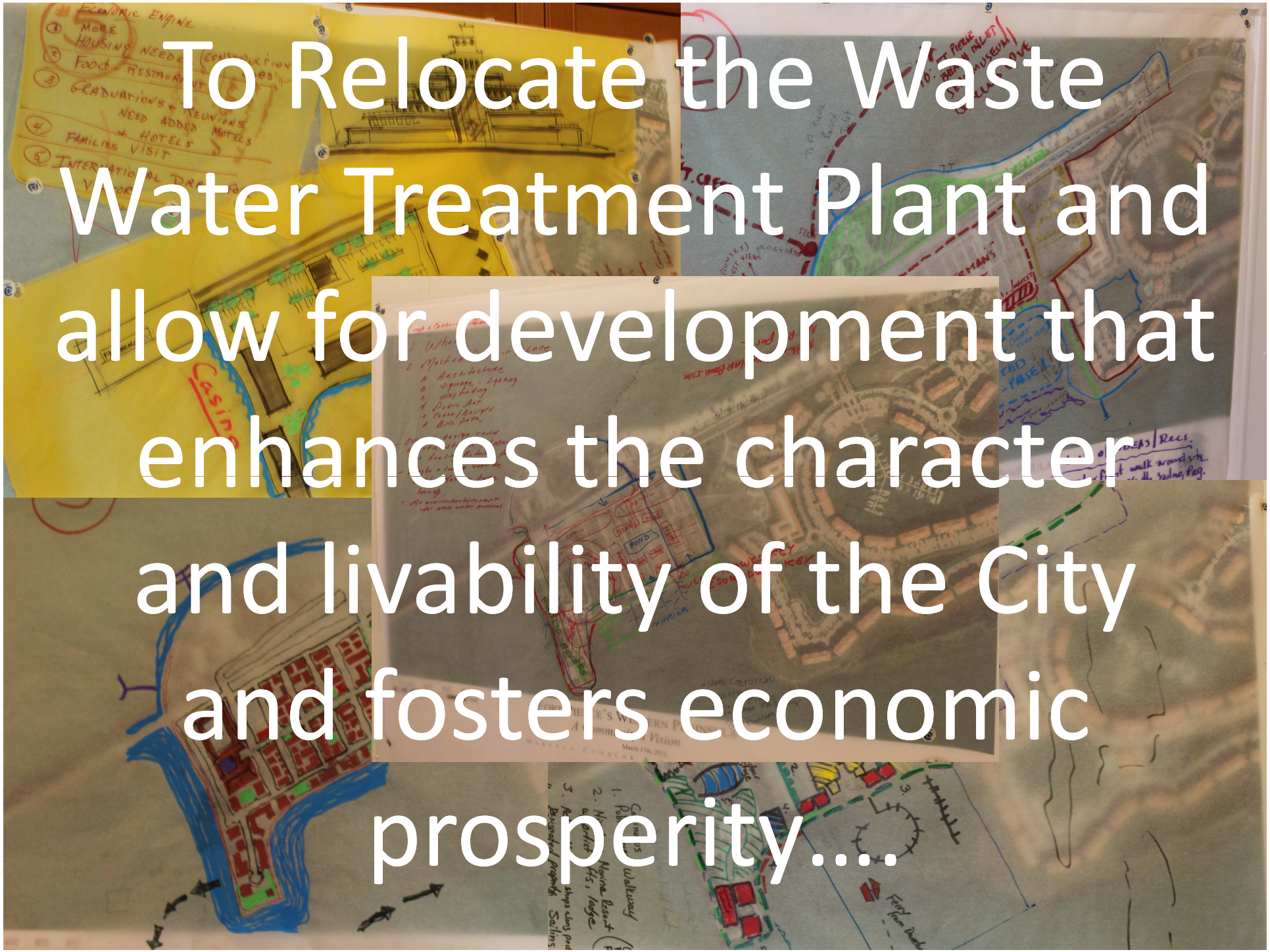


# How Long Have You Been "Connected" To Fort Pierce?

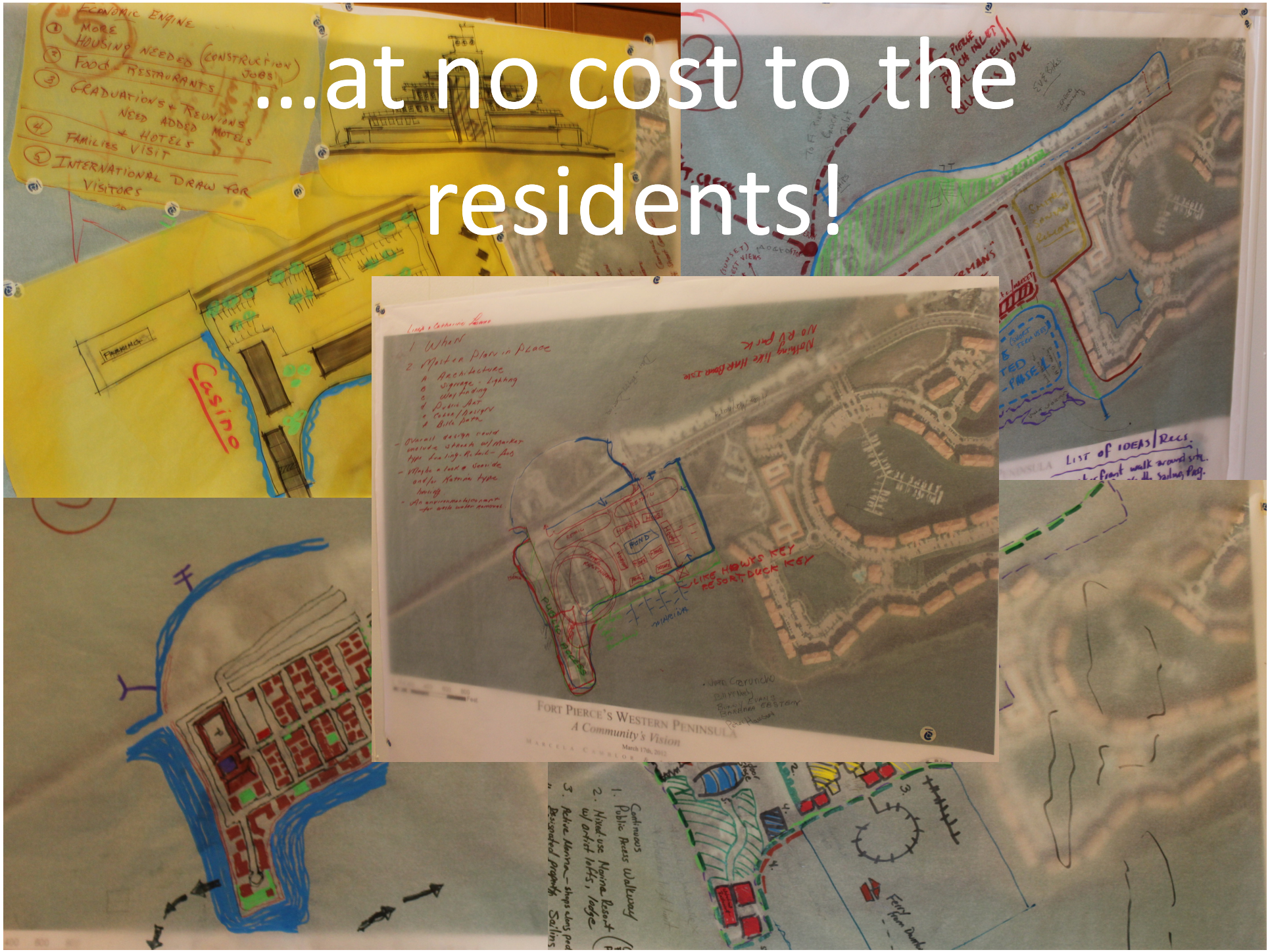
1. 0 to 5 years
2. 5 to 10 years
3. 10 to 15 years
4. More than 15 years

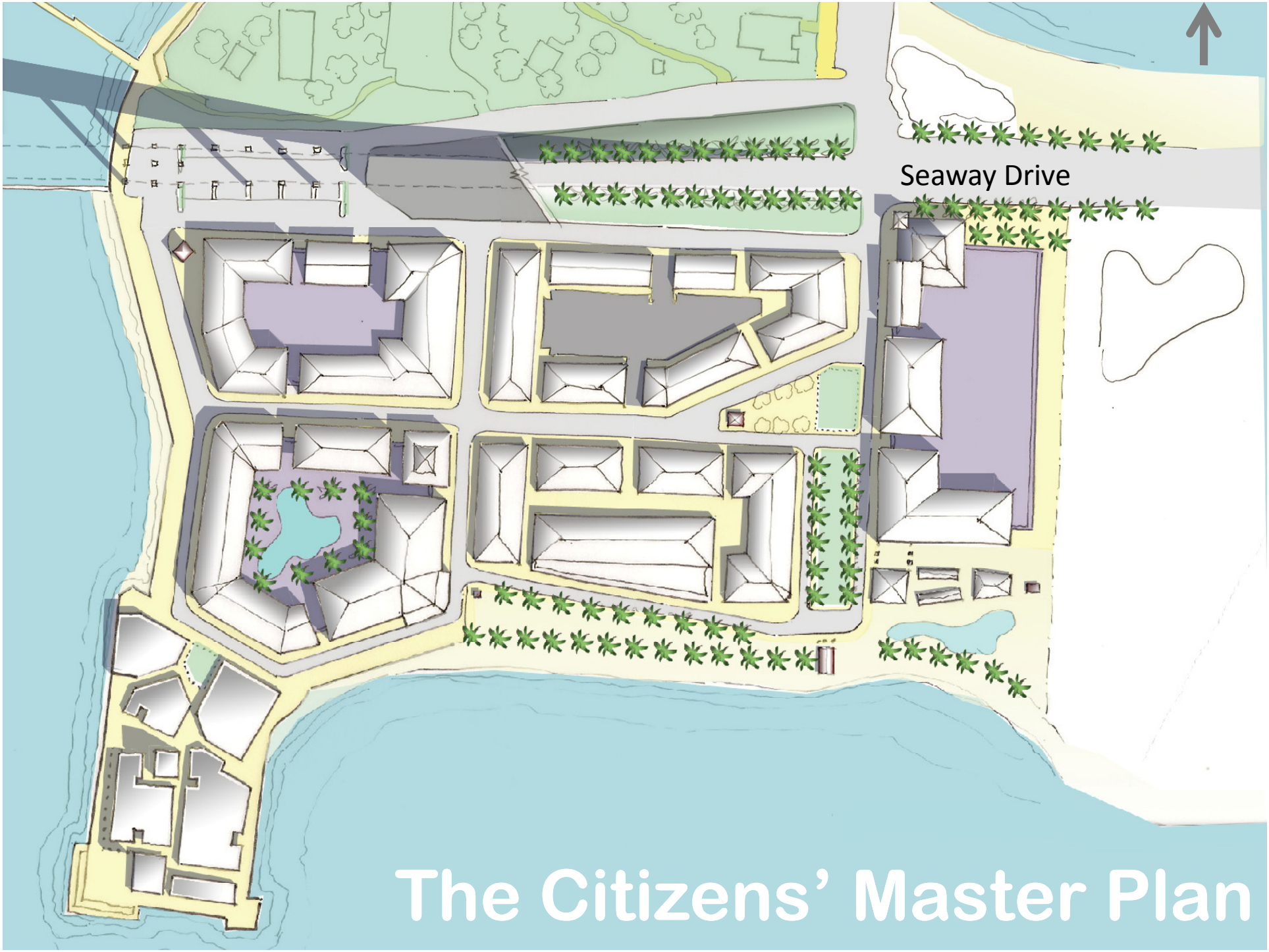


# The Community's Vision For the Future:

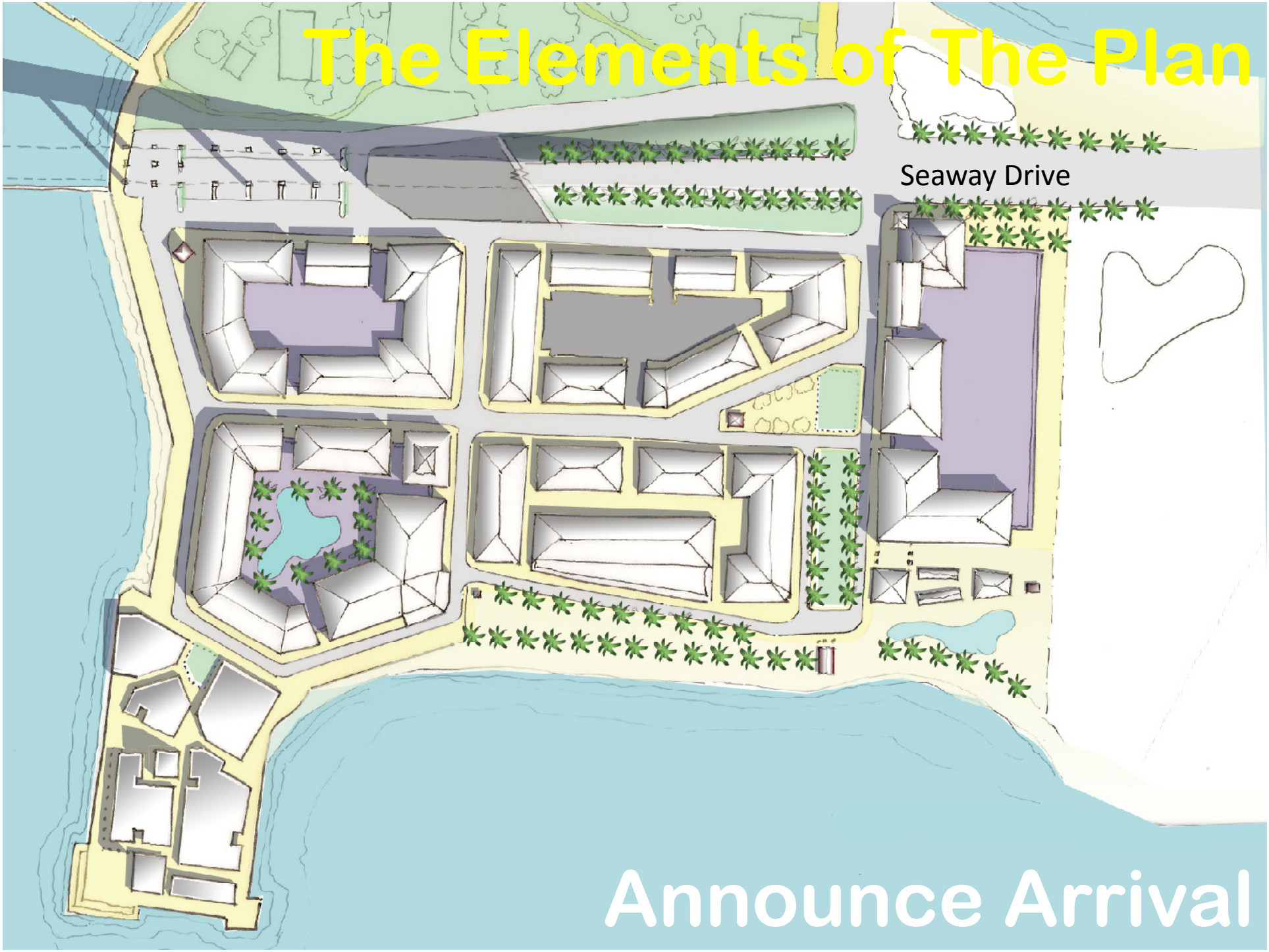

To Relocate the Waste Water Treatment Plant and allow for development that enhances the character and livability of the City and fosters economic prosperity….

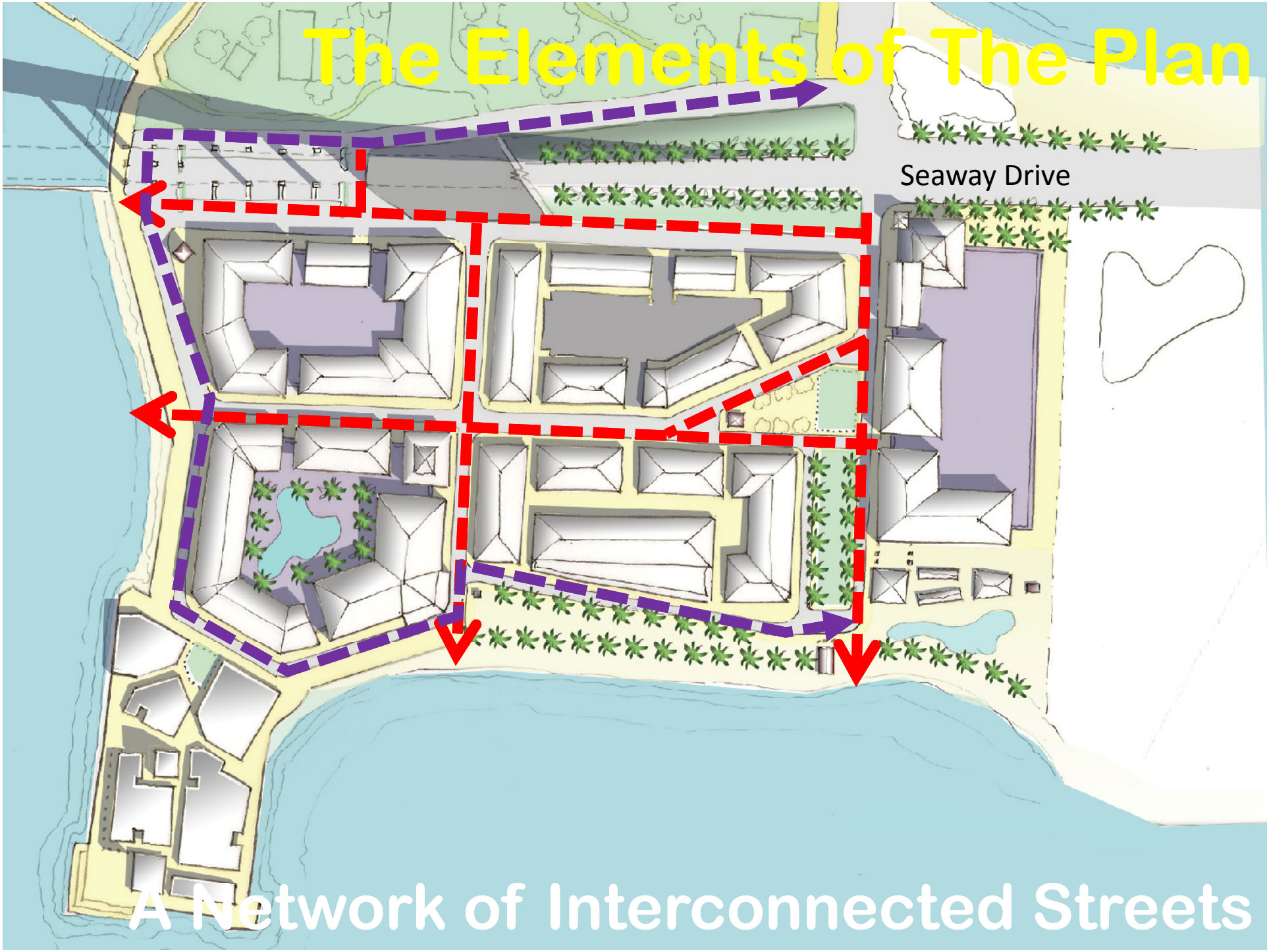
# …at no cost to the residents!




Seaway Drive
The Citizens' Master Plan

# The Elements of The Plan

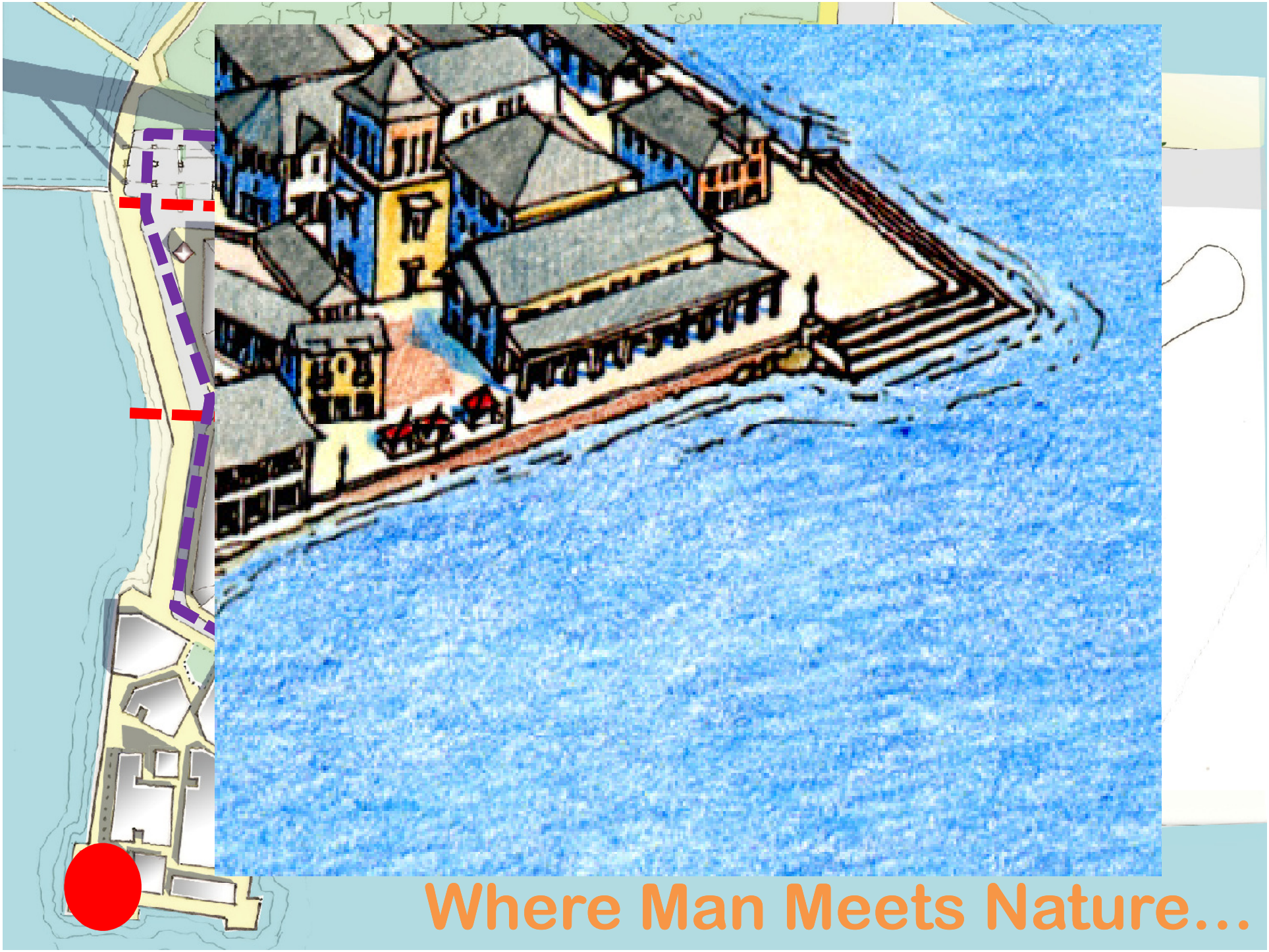



The Elements of The Plan
Seaway Drive
A Network of Interconnected Streets

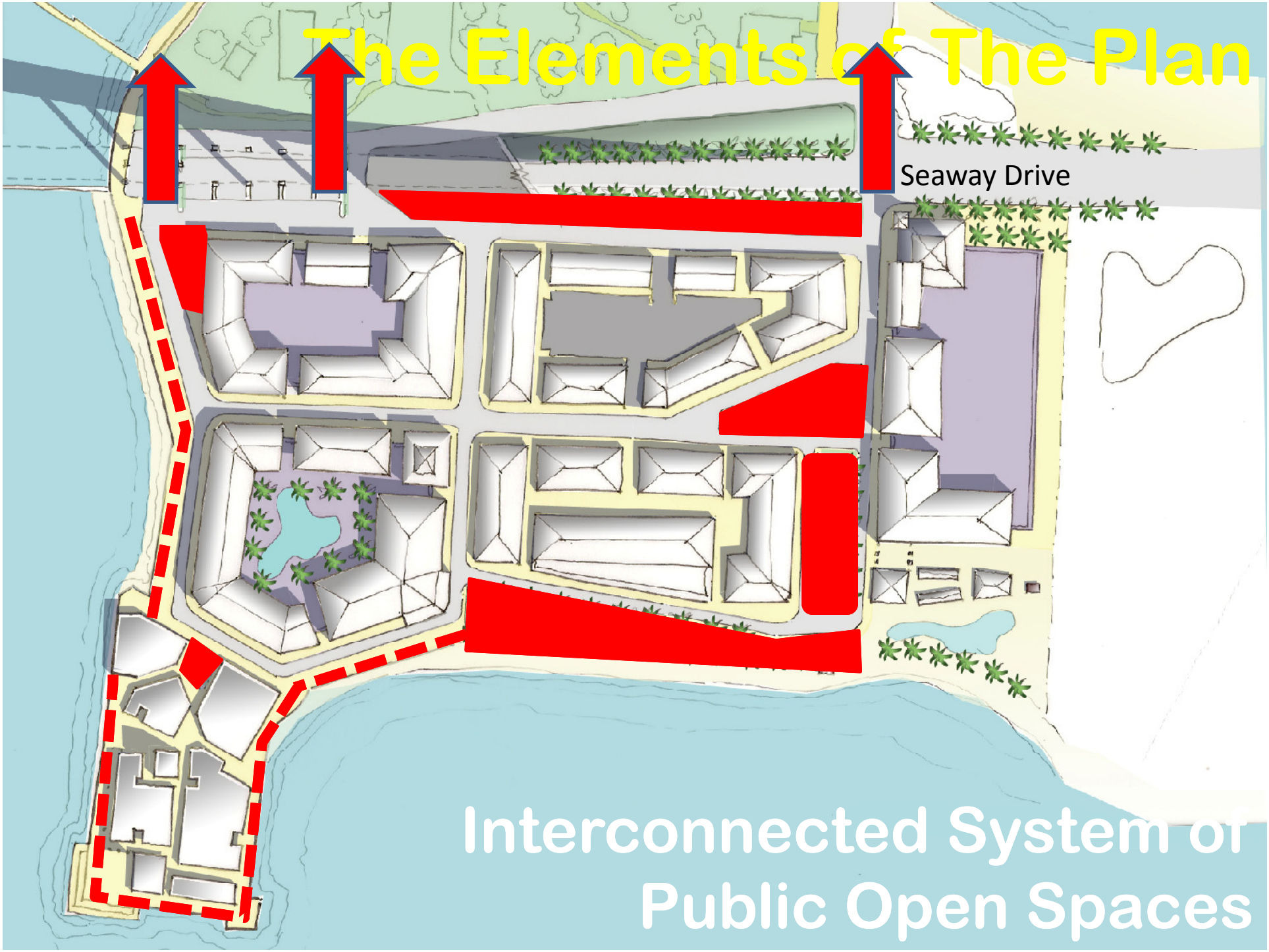
Endless Views

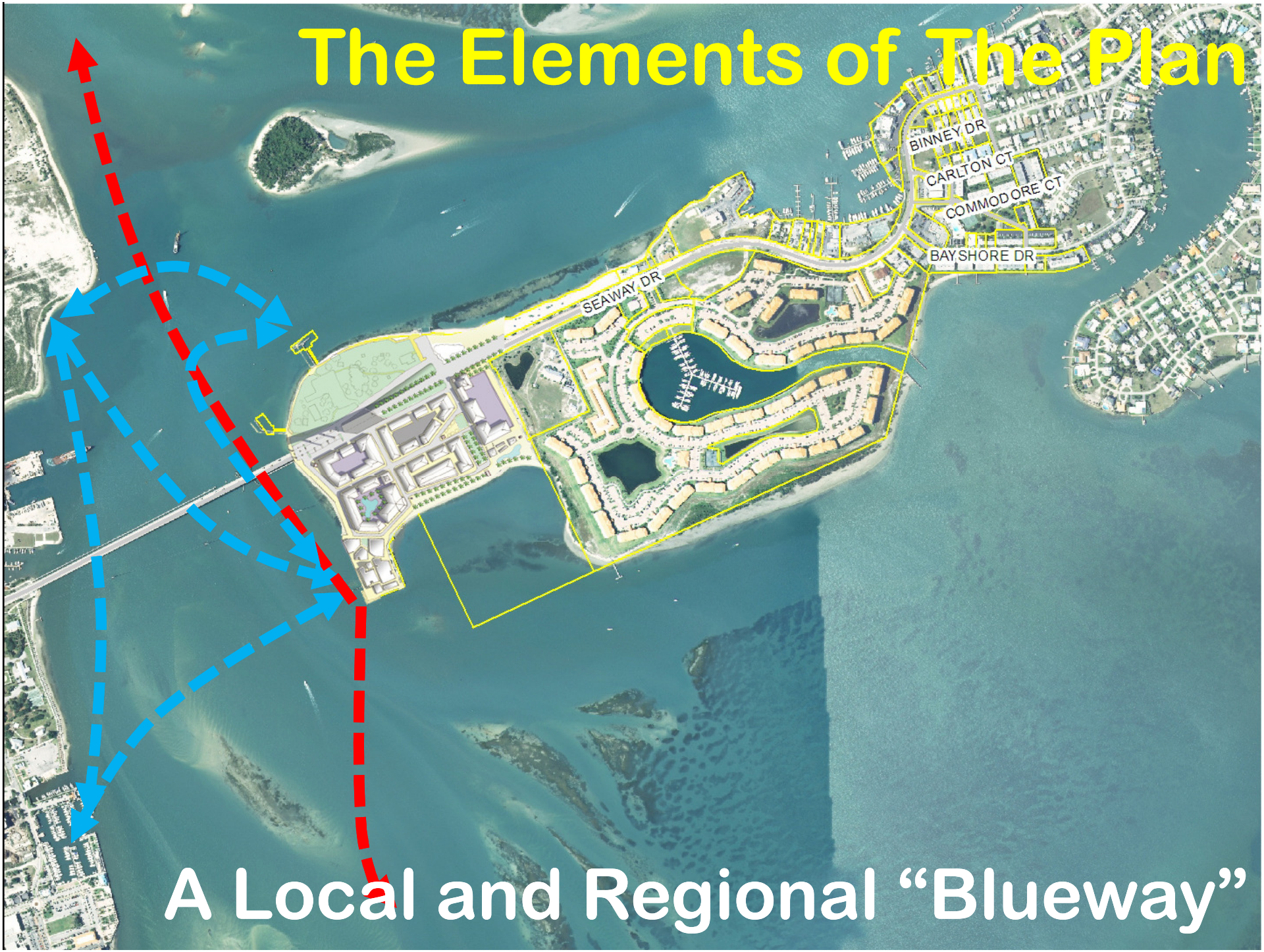
# Where Man Meets Nature...

Plan
Where Man Meets Nature...


Where Man Meets Nature...

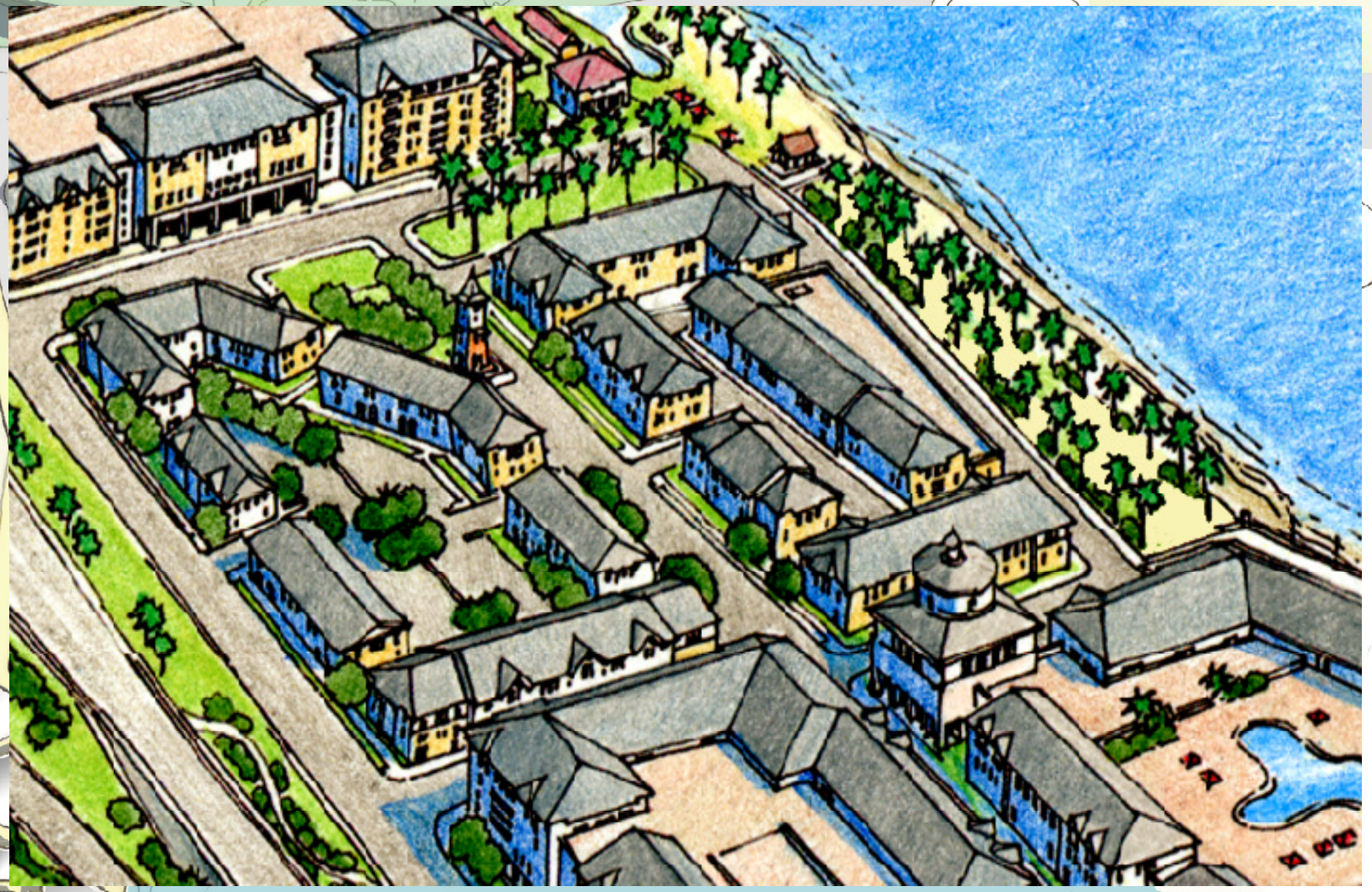
Segelschule Maschsee Nord
75


The Elements of The Plan
Seaway Drive
Interconnected System of
Public Open Spaces


The Elements of The Plan
BINNEY DR
CARLTON CT
COMMODORE CT
BAY SHORE DR
SEAWAY DR
A Local and Regional "Blueway"

# Taking Full Advantage of the Water

# The Elements of The Plan



## A Balanced Mix of Uses

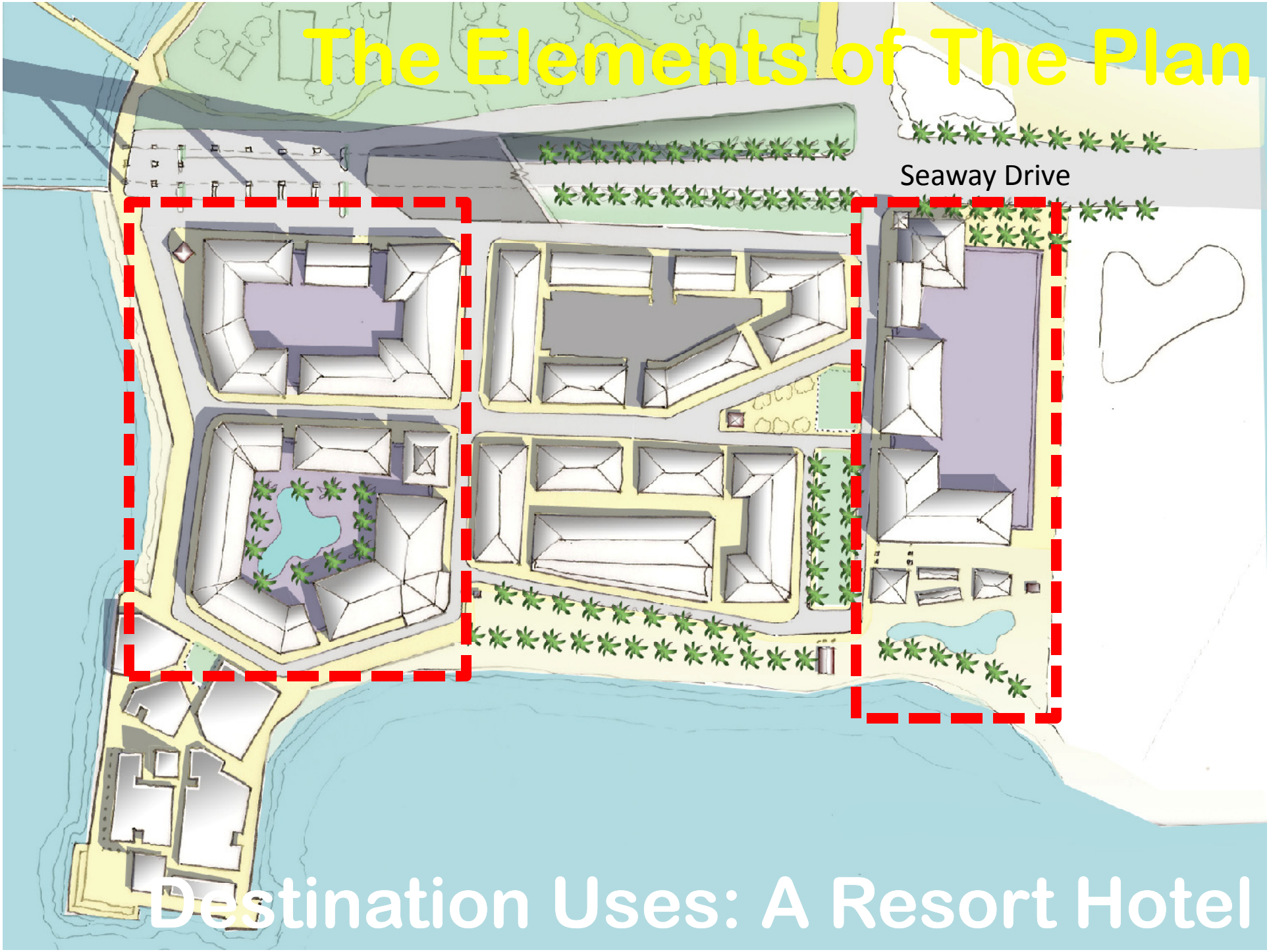
STOP

# The Elements of The Plan

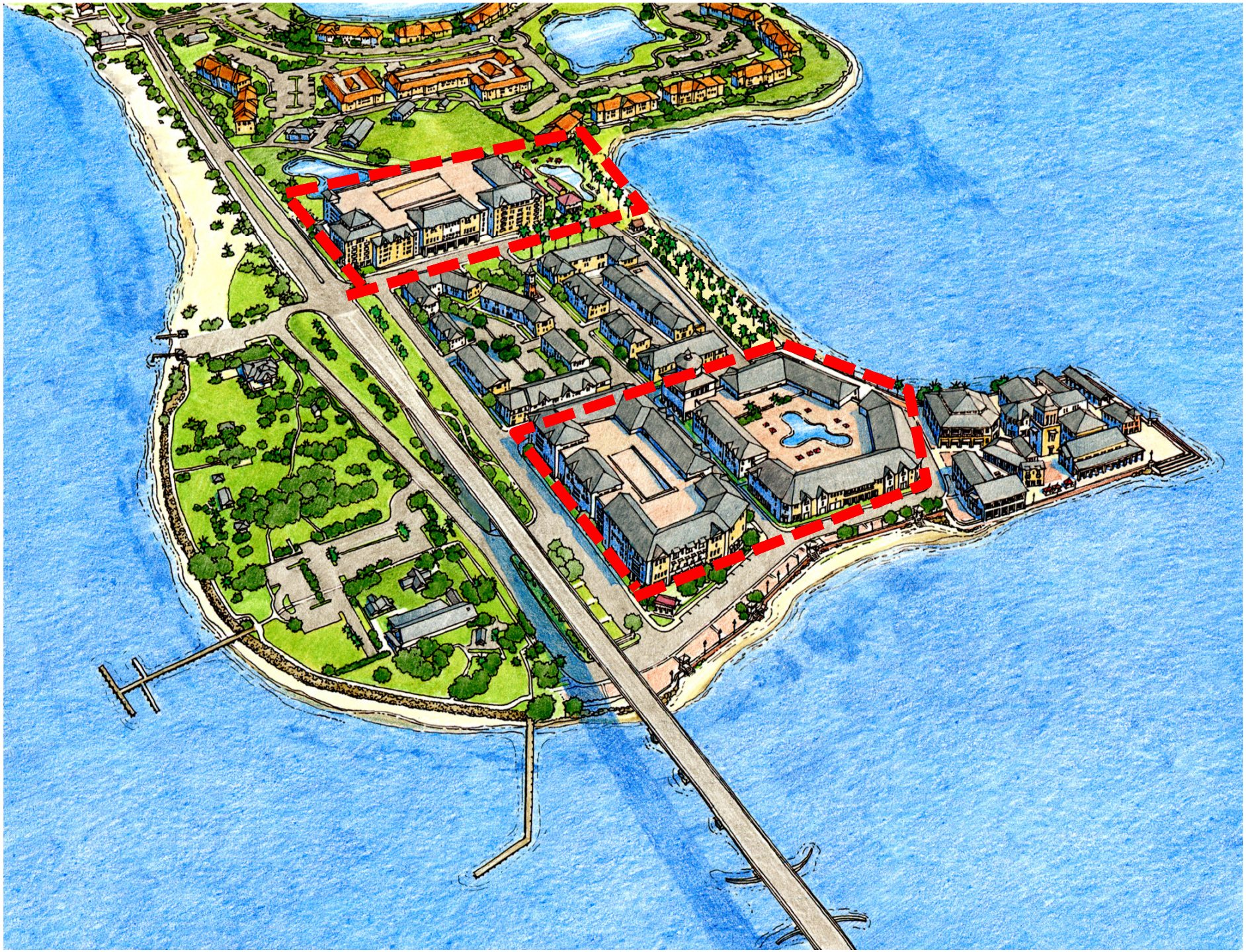
## A “Beach Market”:
## Complimentary Retail Uses

Insert Master Plan
A “Beach Market”:
Complimentary Retail Uses

# The Elements of The Plan




## Destination Uses: A Resort Hotel

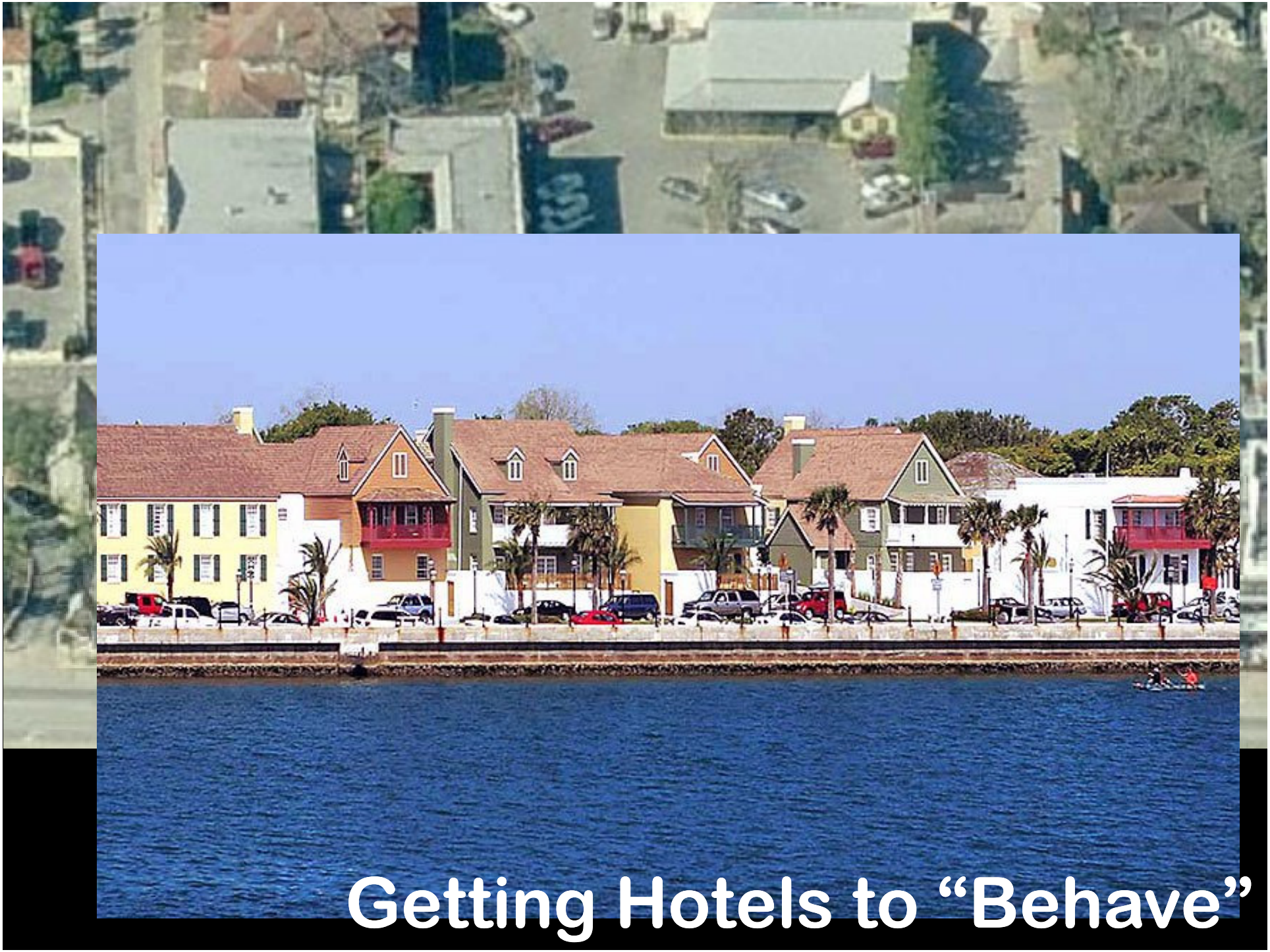


Scale Comparison

# Scale Comparison

Getting Hotels to “Behave”

# Getting Hotels to “Behave”



# Getting Hotels to “Behave”

# Research & Education Facilities

2404
3007
Sailing Center

Water Sports

# Sea Port (The “Big Idea”)

# Choose Your Future

*Provide Flexibility to Attract What You Really Want*

# Fort Pierce is Not YET Established as a Sought After Resort Destination

- Pristine Environment
- Unique Beach and Park Conditions
- Impressive Civic Destinations
- A World-Class *(still untapped)* Downtown
- An Authentic "Beach Town"
- The Best Inlet in the Region
- A Strong Vision
- LEADERSHIP

## Value And Bonus Matrix

| Added Value | Description | Bonus Factor | Height Increase |
|---|---|---|---|
| Publicly Accessible Waterfront | - Minimum 50%<br>- Every Addt'l 10% | 1.75<br>1.1 | Yes, **up to** 1 addtl' story |
| Parks and Public Open Spaces | - Within fabric<br>- Waterfront | 1.1<br>1.25 | No |
| Resort Hotel | - With public ground level that engages the street | 2 | Yes TBD |
| Blueway | - Within fabric<br>- Waterfront | 1.5 | No |
| Civic Buildings and Infrastructure | - Within fabric<br>- Waterfront | 1.5<br>1.75 | Yes, **up to** 1 addtl' story |
| Public Parking (shielded) | - Surface<br>- Structured | 1.1<br>1.75 | No |

*NOTE: The bonus factors shown here are merely depicted as examples. Actual bonus factors need to be determined at the time of either amending entitlements (preferred) or creating specific development regulations for this area. Also note that height increases are offered "across the board". Extense of height increments shall be determined in accordance to the value added.*

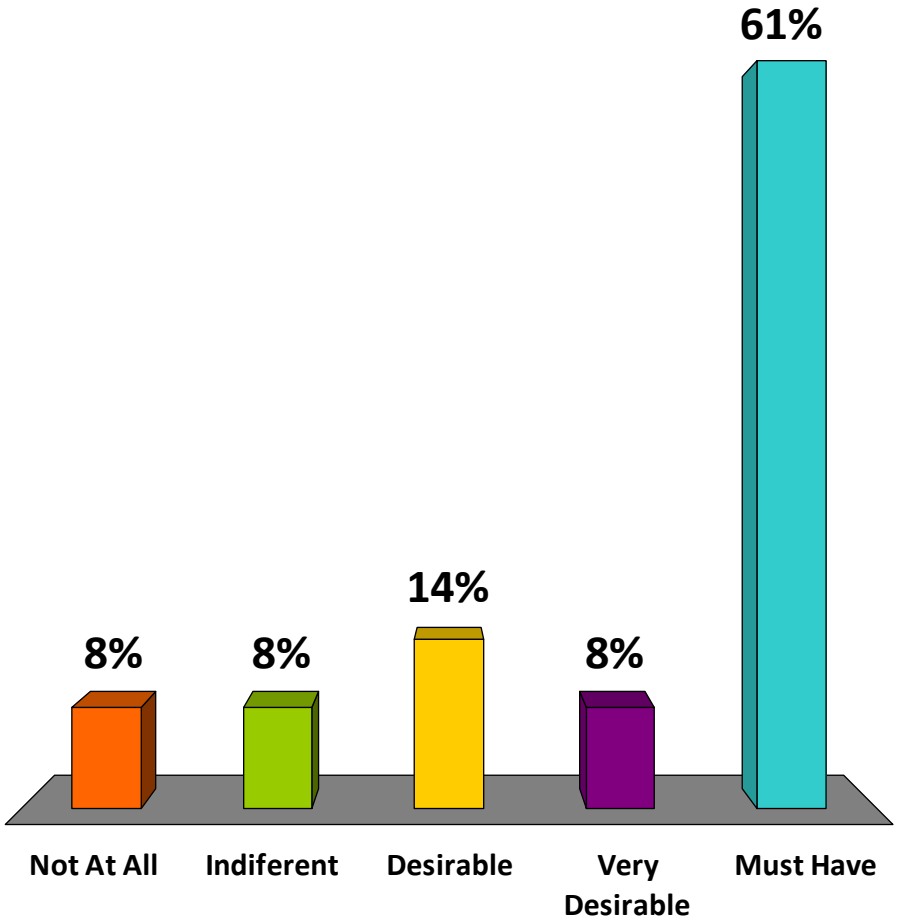
# The Vision Cannot Be Implemented Under Today's Regulations

# Choosing Your Future

# On A Scale of 1 to 5 , with 1 being Not Desirable and 5 being Highly Desirable, Please Rate How Important the Elements of the Plan Are to You

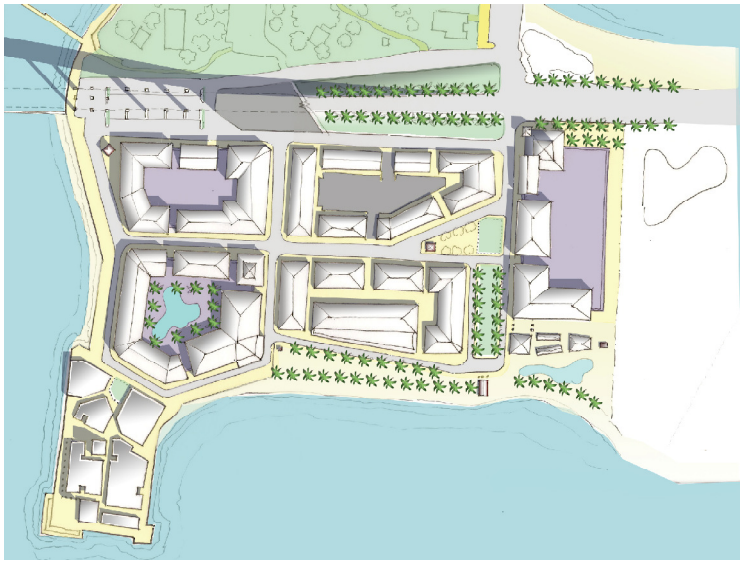
# Public Access to the Waterfront

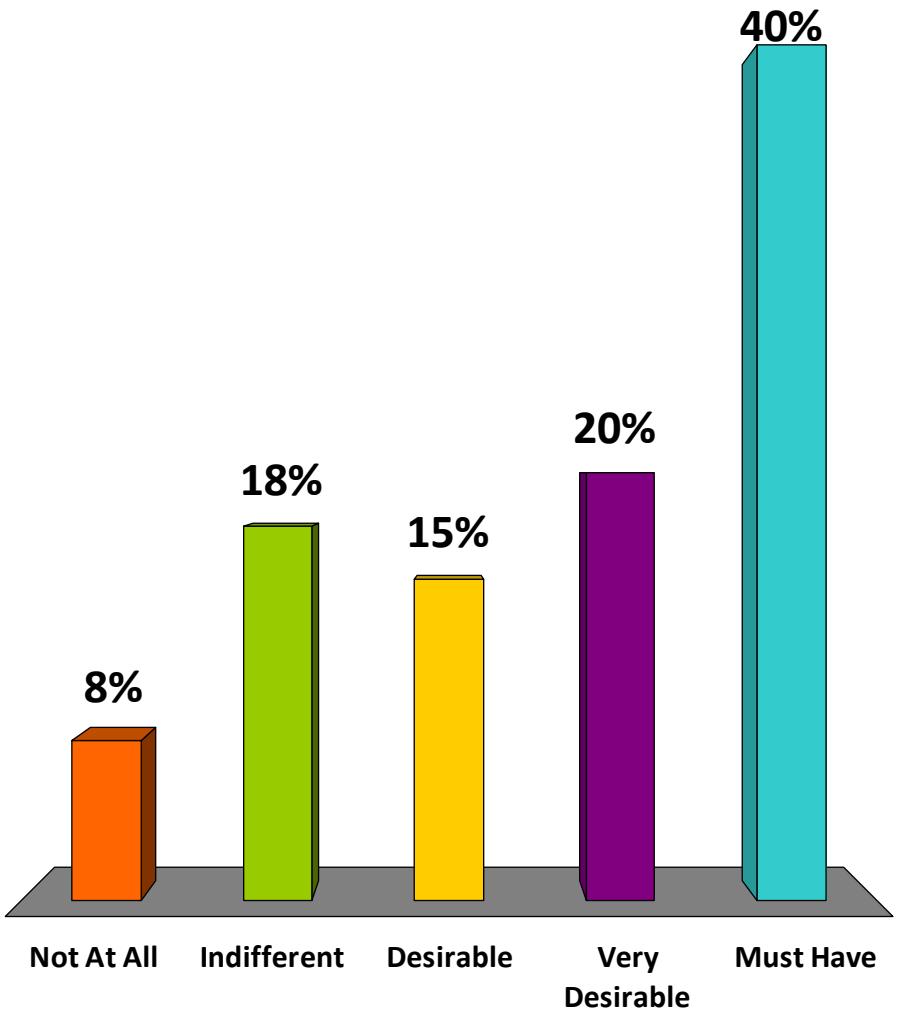
1. Not Desirable at all
2. Indifferent
3. Desirable
4. Very Desirable
5. Must Have!



# Interconnected, Open Network of Streets

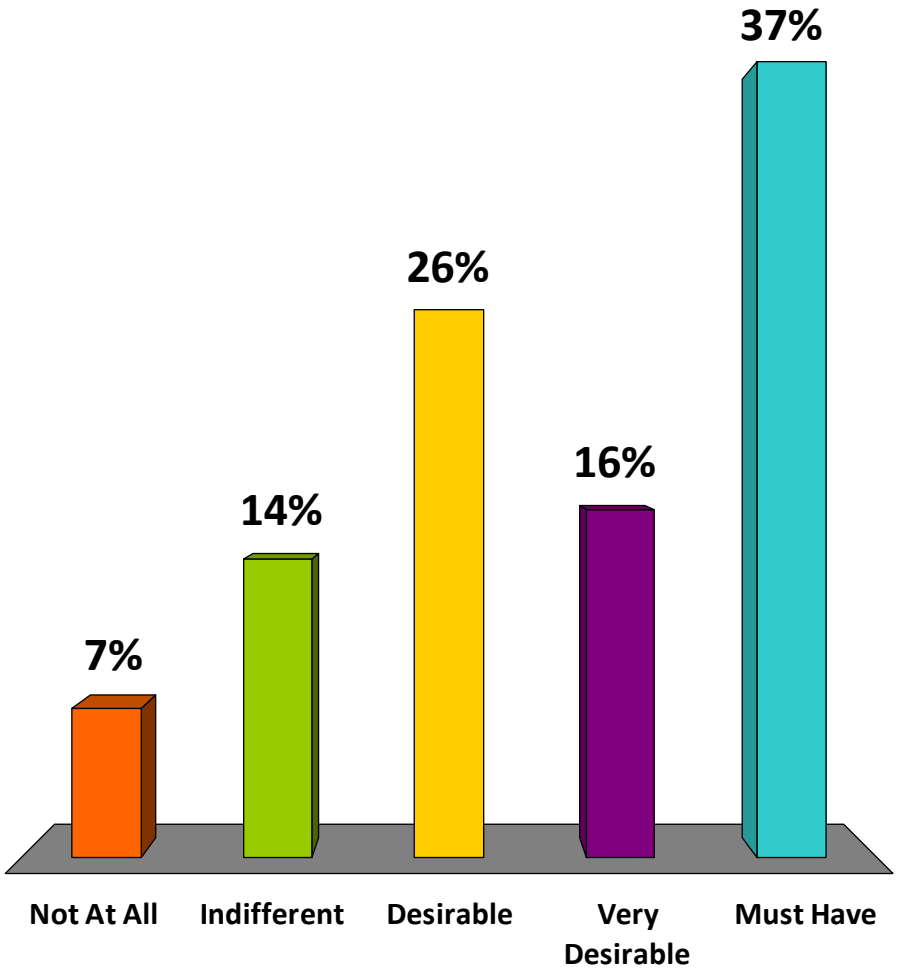
1. Not Desirable at all
2. Indifferent
3. Desirable
4. Very Desirable
5. Must Have!





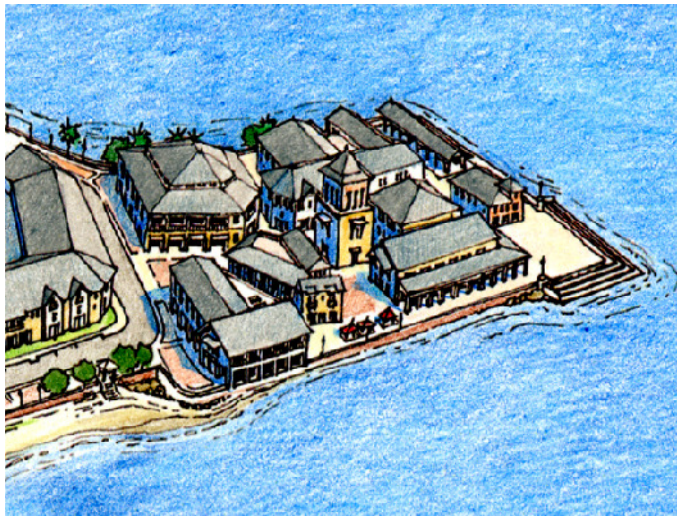
# A Local & Regional Blueway

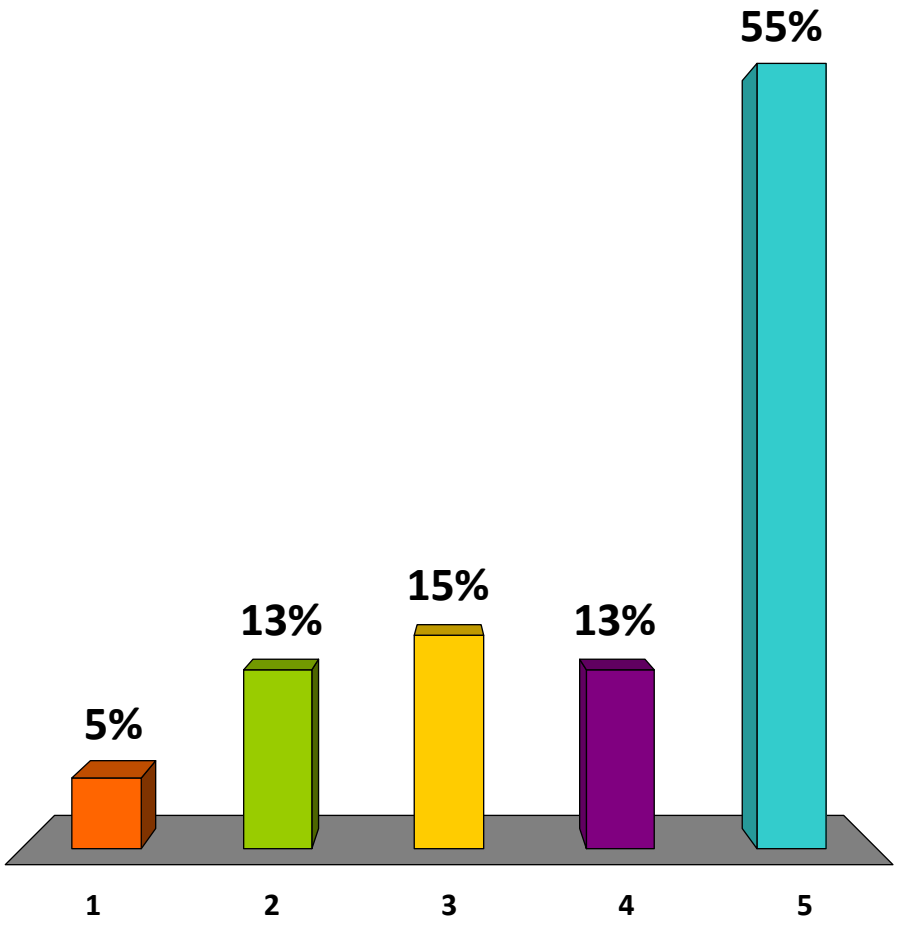
1. Not Desirable at all
2. Indifferent
3. Desirable
4. Very Desirable
5. Must Have!



# Destination Restaurants & Retail

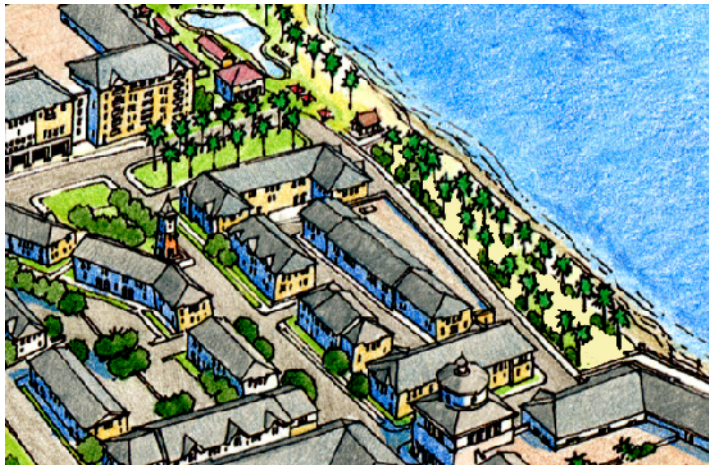
1. Not Desirable at all
2. Indifferent
3. Desirable
4. Very Desirable
5. Must Have!

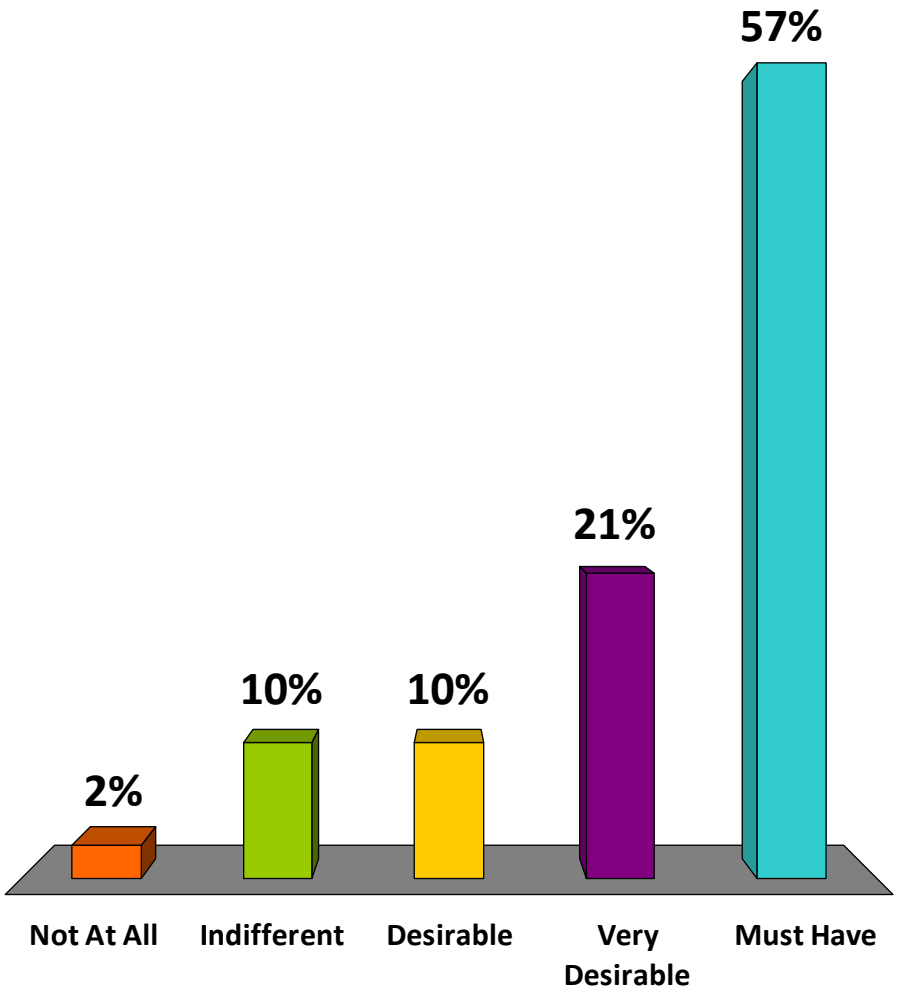




# A Balanced Mix of Uses

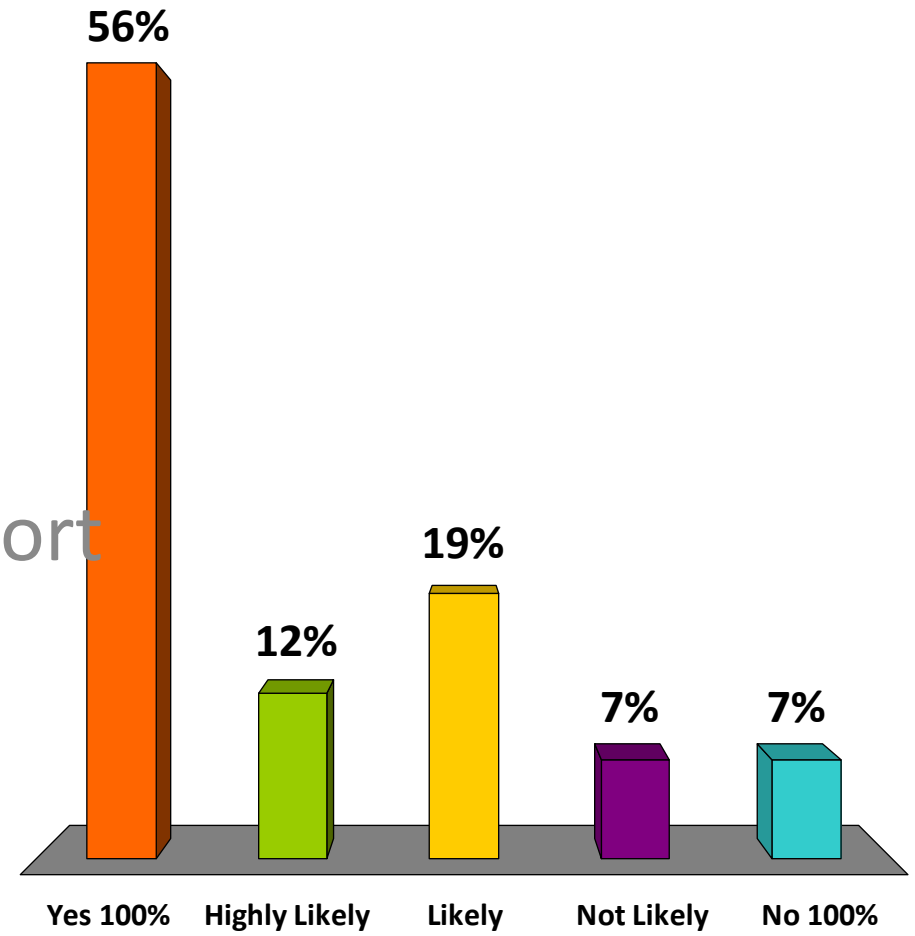
1. Not Desirable at all
2. Indifferent
3. Desirable
4. Very Desirable
5. Must Have!





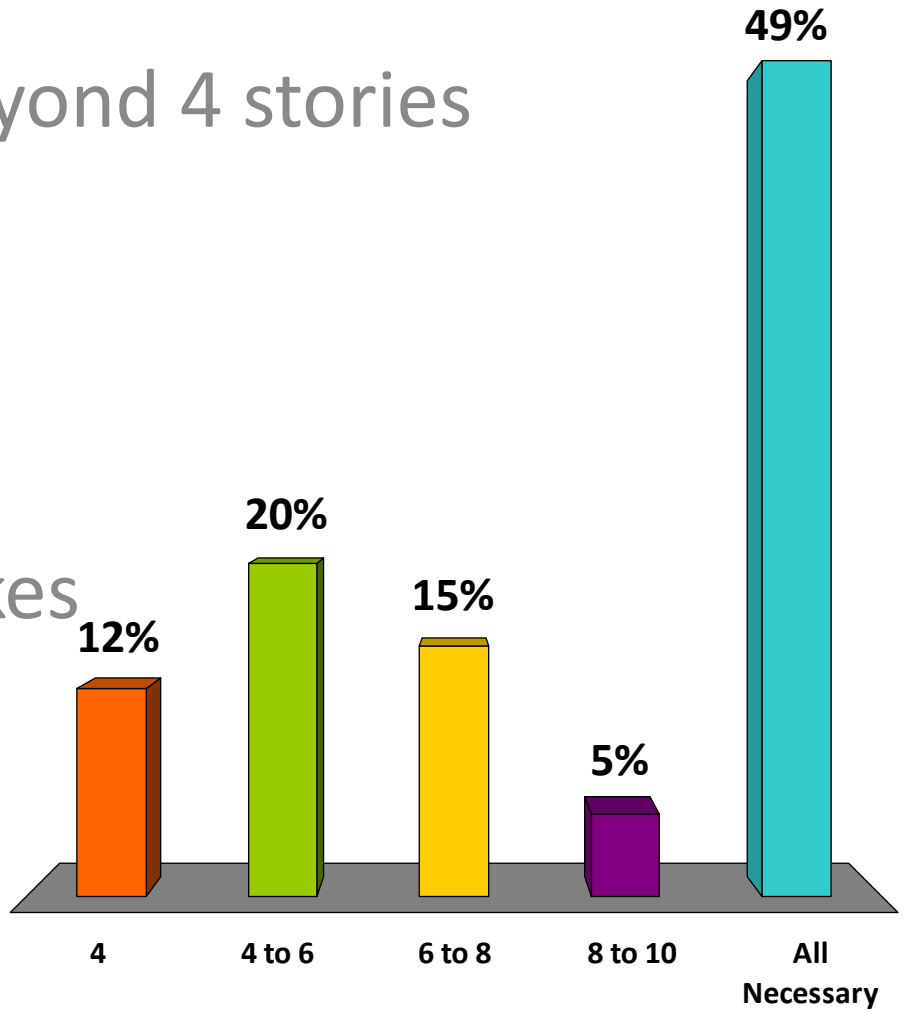
# How likely Are You to Support Additional Height to Attract a Resort Hotel?

1. Would Support 100%
2. Highly Likely
3. Likely
4. Not Likely
5. Absolutely Won't Support



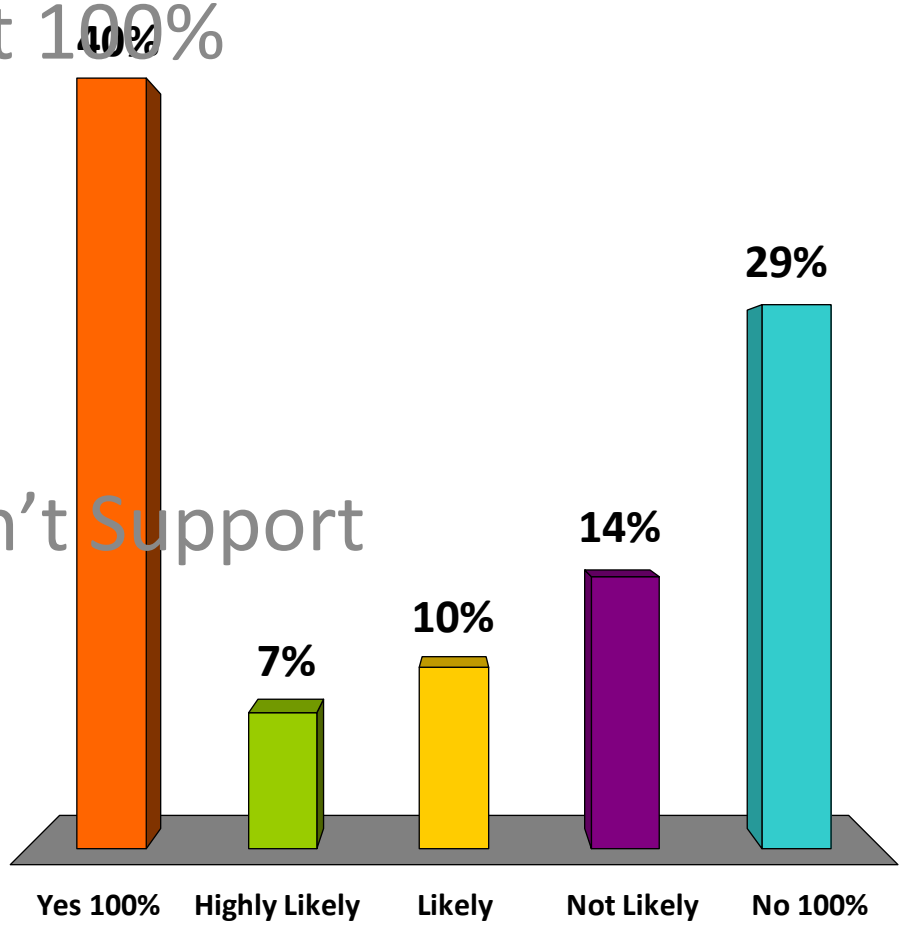
# How Much Height Could You "Live" With? (for a Specific Hotel Use)

1. No Increase beyond 4 stories
2. 4 to 6 Stories
3. 6 to 8 Stories
4. 8 to 10 Stories
5. Whatever it takes



# How likely Are You to Support Additional Height to Residential Uses?

1. Would Support 100%
2. Highly Likely
3. Likely
4. Not Likely
5. Absolutely Won't Support



# About $

## Current Condition Analysis
## Waste Water Treatment Plan Site

| | |
|---|---|
| Total Acreage (WWT) | 18.7 acres (814,572sf) |
| FAR | 1 |
| Developable area | 814,572sf |
| Commercial area | 20% (162,914sf) |
| Maximum Height | 45' |
| Density | 8du/ac |
| Projected Relocation Cost | $100,000,000.00 |
| Cost Incidence per acre | $5,347,593.00 |
| Cost incidence per unit | $668,500.00 |
| Cost incidence per hotel room | $63,100 |
| Millage rate (2011) | 5.7384 |

*Under current regulations, only 20% of the development may be dedicated to commercial uses (e.g. hotel/resort). This number reflects an 80% residential 20% commercial program split.*

## Current Condition Analysis
## Privately Owned Site

| | |
|---|---|
| Total Acreage | 17.43 acres (+ submerged lands) |
| Developable area | 759,250sf |
| Commercial area | 151,850sf (20%) |
| Maximum Height | 45' |
| Density | 8du/ac |
| Cost Incidence per acre | $ Solely dependent on the cost of land and hard and soft development soft costs. |

- Current commercial allocation does not contemplate hotel needs.
- FAR is such that it is possible to increase density from 8du/ac to an average of 23du/ac without changing the overall built area currently permitted (i.e. without changing size of buildings allowed).
- If the site is to be developed on its own, (i.e. without any financial assistance, an FAR of 7.5 (equal to half of Manhattan's) would be necessary.

**If the cost of relocating the plant is not addressed independently from development on the site, development will very likely be improbable.**

# Proposed Development Program (Land-Cost-Only Scenario ) Consistent with the Community's Vision:

- Residential uses of up to 23du/ac
- Four-story height for residential uses
- Retail/Commercial uses in the form of a Neighborhood Center (per the industry's definition), of up to 45,000sf. This Neighborhood Center contemplates the demand for the entire Master Plan as proposed. This is proposed independently and in addition to hotel uses.
- Up to two Hotels (limiting form, not intensity or height)

## Value And Bonus Matrix

| Added Value | Description | Bonus Factor | Height Increase |
|---|---|---|---|
| Publicly Accessible Waterfront | - Minimum 50%<br>- Every Addt'l 10% | 1.75<br>1.1 | Yes, **up to** 1 addtl' story |
| Parks and Public Open Spaces | - Within fabric<br>- Waterfront | 1.1<br>1.25 | No |
| Resort Hotel | - With public ground level that engages the street | 2 | Yes TBD |
| Blueway | - Within fabric<br>- Waterfront | 1.5 | No |
| Civic Buildings and Infrastructure | - Within fabric<br>- Waterfront | 1.5<br>1.75 | Yes, **up to** 1 addtl' story |
| Public Parking (shielded) | - Surface<br>- Structured | 1.1<br>1.75 | No |

*NOTE: The bonus factors shown here are merely depicted as examples. Actual bonus factors need to be determined at the time of either amending entitlements (preferred) or creating specific development regulations for this area. Also note that height increases are offered "across the board". Extense of height Increments shall be determined in accordance to the value added.*

# Financial Strategy

Relocation cost estimated between
**$70,000,000 and $110,000,000***

1) Exact relocation cost will be determined by many factors, (e.g. economic environment at the time of construction). More accurate estimates cannot be exacted until an official decision to move the plant is made, a “relocation committee” or similar body is appointed and established, and an independent or public bidding process is entered into.

2) The cost to relocate the Waste Water Treatment Plan cannot be fully absorbed (i.e. recovered) by a simple land-sale transaction.

3) In order for to attract cost-feasible development (whether residential, commercial, or mixed), the land on which the Plant sits needs to be sold at its assessed value based and be based on actual development potential.

4) Based on the different development scenarios and relocation cost estimates, to position the City in a competitive negotiating process, ideal land value should range between 15% and 25% of the total estimated relocation costs (between $16,500,000.00 and $17,500,000.00). It is recommended that land value in the current market should not exceed $21,000,000.00

5) Cost of relocation will only increase with time (given the particular economic climate at the time this plan is being prepared).

6) The proposed program anticipates recovering relocation costs in 16 to 20 years.

# Funding

- Land sale revenues - 15% to 25% (*2)
- Bond Financing (FPUA) (up to 60%)
- Regional, State and Federal Funding and
- Grants
- City/County/FPUA earmarked (current or future) funds
- TIFF funds (CRA)
- Special District and Plan Area Development
- Impact Fees
- Revenue from utilities
- Cash Reserves (if any)
- TPO funding (general transportation funds)
- EPA grants
- Brownfield funds
- Impact Fees, and
- Public-Private Partnerships
- Drinking Water State Revolving Fund, Water Infrastructure Trust Fund Legislation; Climate Ready Estuaries Program

• Adopt The Citizens' Vision
• Establish a "Plant Relocation Committee"
• Hire a Retail/Marketing Specialist
• Amend Current Regulations
• Enter into and Agreement with Adjacent Property Owner
Next Steps

Questions/
Comments

The next item on the Agenda was City Engineer update on **City Marina** Reconstruction Project.

Mr. Ed Seissiger, Engineering Project Coordinator, said Lucas Marine continues to move forward with their in-water work. (Mr. Seissiger displayed slides.) They are still doing geo-textile tube operations, working on forming all the perimeters to Tern Island, which is the largest of the islands. These connection tubes go between the T-groins to form the basic dyke of the largest island. The large armor stone is for the tops of the T-groins. This mat they see hanging is about 9 tons. That is their base protection before they put the armor rock on. Lucas Marine is trying to form the westernmost portion of Tern Island, which encompasses T-groins #4, #5, and #6, and use that to start some interim filling operations to start building the basis of the island itself.

Mayor Benton said he would like to take some people out there with a mask and snorkel and show them the marine life that is already there.

Mr. Seissiger said as a matter of fact, they had a regulatory visit today with DEP. They were absolutely amazed at all the marine life they were seeing.

---

The next item on the Agenda was Director of Planning submit **South Beach Western Peninsula Charrette** Report prepared by Marcela Camblor & Associates Inc.

Mr. Matthew Margotta, Director of Planning, said they colloquial call this the South Beach Charrette; but it is the relocation of the Fort Pierce Utilities Authority Wastewater Treatment Plant plan that they are talking about. They went through a public process to get the ideas, get those molded into a concept for how to develop this area, to create the City's vision in order to improve this area. The location is along Seaway Drive, the south side of the western peninsula. There were quite a few comments made which were associated with the private property owner. He believes the Mayor fairly well set the matter straight. But if they have some specific questions about how this was handled or how staff communicated with the stakeholders, feel free to ask. Marcela Camblor and her associates completed this report and will make the presentation. One thing he needs from them tonight, he needs them to tell Staff to go forth to adopt the plan, or let them know if they have some issues with it. The formal adoption as far as the Comprehensive Plan, that goes through the Planning Board and the City Commission as a whole another public review. This report is intended strictly for the City Commission so they know where they are in the process.

**Ms. Marcela Camblor,** Marcela Camblor & Associates Inc., Consultant, said she got to listen to the adoption earlier of the form-based code for Edgartown. That was a charrette she directed by in 2008 for the City; and she had the pleasure to see that go through the entire implementation process. Hopefully they are at the stage with this charrette that they were back in 2009 and will see it go through the process as successfully. Mr. Margotta explained the study area of the project and also mentioned the intense participation they had throughout this process. Not only was it discussed for over a year by this Commission, but they had a public charrette that over 200 participants attended from everywhere in the city, it was a very diverse crowd. They had an intense back

and forth process with property and business owners during that day. Interestingly enough, on August 1st they did something they hadn't done before in the City of Fort Pierce with a charrette. When they brought the report back to the community for a formal final presentation, they used a polling tool to see if those that were present... It allowed them to participate a little more and kind of check to see if what they were presenting was what in fact the community had expressed was their desire during the charrette and during the public process. About 60% of the people in that room had attended the charrette. Full-time residents were the vast majority of those present in the group. When they added up those that had been residents of Fort Pierce for over 10 years, it was over 70% of those present in the room, people that were highly invested and very familiar with the City. Then they went through a series of pollings of the key elements of the plan. They talked and tested the desire of those present about having public access to the waterfront, having an interconnected open network of streets - these are all elements and issues and constants that came out during the public process - the importance of having what they had been calling a local and regional blueway, destination restaurants, and retail. A lot of these elements were not just something that was desired, but for the most part what the community called a "must have". They also polled those present on issues that had been discussed during the charrette, some of which had not been addressed in too much detail by those present. They went back through the tapes several times and even through the plans, and a lot of these issues hadn't been addressed. The support for a resort hotel type of use that would attract not only tourism - one of the State's major industries - but also jobs to the area, was supported across the board during the charrette. What was not discussed in depth at the charrette was how much height was the community willing to support or to accept in order to attract a hotel. Not that the question was not posed, but it didn't seem like a great concern so long as the flexibility was there in the plan to make sure they weren't planning themselves out of the possibility of having this type of use. So when they added up those that would 100% support additional height to attract a resort hotel, highly likely and likely, it was close to 85% of those present that would support that. How much height was a question that was asked on August 1st, simply because the community didn't seem to have too much of a concern for that during the charrette. The question was, would you not increase it beyond 4 stories, 4 to 6 stories, 6 to 8 stories, 8 to 10 stories, or whatever it takes? The majority of those present were responding - whatever it takes. She believes this is in the sense not of going 200-feet, but in providing the flexibility in the plan to make sure that they leave the door open to attract the kind of resort hotel that the community needs. When the same question was asked regarding residential uses, the numbers fell quite a bit. About 40% of those present on August 1st would support additional height for residential uses beyond what is allowed today. The percentages here were a little split. The general consensus of the whole public process and the conclusions that are embedded in the report, she thinks one that is key is that the community is ready for the Wastewater Treatment Plant to be moved. They understand it is going to take a very long time, it is a process that will be very costly; but they also understand that if they don't start planning now, it will never happen. So the question is not if the wastewater plant should move, it is a matter of when will the wastewater plant move and how they are going to do it.

Commissioner Becht asked has she received any communication from Mr. DePeyster in writing?

Ms. Camblor said she has extensive documentation of not only the meetings she has had with Mr. DePeyster, she has seen the letters he has sent. She is a little confused about the statements she heard from his representative here earlier tonight (Comments from the Public), because Mr. DePeyster appointed Ramon Trias as his representative throughout the design process. From the day of the charrette she has communicated extensively with Mr. Trias, copying Mr. DePeyster every time. She has shared the reports with him. So she was surprised. But she will be happy to make all this communication available to him if he needs that.

Commissioner Becht said no, where he is going is, the gentleman makes a pretty bold statement here... He has worked with Ms. Camblor before and found her to be professional, and she gave a professional response. But the letter he got tonight says the report has numerous significant factual errors; but yet the letter doesn't point out even one significant factual error. Has he given her anything in writing detailing this pretty bold allegation of numerous significant factual errors?

Ms. Camblor said no, that is the same language she has received.

Commissioner Becht asked so he makes the allegation but doesn't give her the specifics?

Ms. Camblor said that is correct.

Mr. Margotta said whether it is in writing or not, he does not recall, however Mr. DePeyster pointed out things like the estimates for the cost as being factual errors and a few other things. Generally speaking, he had different findings than their consultant had on certain things, and he considers that to be a factual error as well.

Commissioner Becht said if Mr. DePeyster is going to make a statement like that, he would like for him... Numerous and significant errors, he would have thought at this late date they would have had some communication from him. He has had no communication from Mr. DePeyster directly citing specific numerous significant factual errors. If Mr. DePeyster wants to make an allegation like that, he would expect him to back it up, particularly at this late date. He has seen the report and he didn't see any significant factual errors, much less numerous ones. If Mr. DePeyster wants to talk about the cost of relocating the wastewater treatment plant, they are probably on the same page because he saw numbers from $350 million down to $50 million, so he doesn't know if anybody can pin a number on that. There are so many variables in that, it would be silly to try to pin a number on it at this point. But he wanted to get it in the record that Mr. DePeyster has not given her a list of the numerous significant factual errors; he has made the statement, insulted her, but has not backed it up with a detailed list of bullet points where this report has significant factual errors.

Commissioner Sessions asked has Staff or Ms. Camblor taken upon themselves to find out what actually Mr. DePeyster meant in terms of the factual errors? Because it appears, as it says, a statement that would perhaps turn off potential investors. And if that is in fact the case - not saying that it will or will not - he thinks it

is incumbent to initiate some discussions with the most significant key player of this project, because they are talking about Mr. DePeyster's property. He does not want to find themselves in a situation where they say he made a statement but yet he hasn't backed it up. He thinks it warrants looking into it so they can initiate some conversation so they can get this resolved.

Ms. Camblor said she has had extensive and documented communications throughout the entire design process with Mr. DePeyster's representative, Mr. Ramon Trias. On two separate occasions, the report was sent to him. The response she got was, everything is great. They had a couple of meetings with other business owners - at least, this is what was communicated to her. She did not hear that there were factual inconsistencies or problems until August 1st when a letter was read into the record. She has previously, prior to starting the charrette, talked to Mr. DePeyser. She thinks one of the things that the report makes very clear is that it is very important for every property in the area to work together, because it would position the City better. Not every property in that area is created equal. A vacant piece of property doesn't have the same constraints as a piece of property that has a wastewater treatment plant on it - one could be developed tomorrow, one has a lot of work to be done prior to development. The fact that the City is putting these two properties together if anything is benefitting the property owner directly to the east because it directly impacts and if as an overlay they elect to move forward with this increases his intensity/density/height rights. But personally she thinks the criticism stems out of the fact that it may not increase it to the levels that Mr. DePeyster was expecting. And that is a result of going through a community-based process, and applying this type of process and implementation that the City has gone through for other parcels in the area. She thinks that is where all of this stems from.

Mr. Margotta said he has another way of explaining that from his memory of a conversation with Mr. DePeyster. He believes the findings of the report are different than what his findings are, he believes that whatever occurred during the charrette is not accurately showing the amount of intensity that is needed in order to meet the expectation of however he is crunching his numbers. He believes one of the things Mr. DePeyster is calling a factual error is... He does not know whether he just plain disagrees or does not see that the public process came to a different result maybe than what he expected, perhaps that is the factual error.

Commissioner Alexander asked what is he expecting?

Ms. Camblor said she could speculate, based on conversations she had very early on with Mr. DePeyster prior to the charrette; but she thinks that he is the best person to answer that question.

Mr. Margotta said Mr. DePeyster also wants to partner with the City, he wants to be part of a development occurring there, that is how he comes across. He is not trying to put words into his mouth, Mr. DePeyster needs to speak for himself on some of these issues; but he wants to see whatever occurs here to be a public/private partnership, something large that occurs that is something big for the City. He believes that whatever vision he has for that area meets that goal.

Commissioner Alexander asked when is their expectation of removal of that plant? Are they expecting this gentleman to sit here for...? When he first came here, they put five years on it, and that was eleven years ago. Are they expecting that person to wait ten years for the removal of that plant?

Mayor Benton said he has been in office for 17 years. It was his top priority when he came on board. But unfortunately, because of the cost... The downturn in the economy literally put capacity issues on that plant. The cost, especially at a time when the ratepayers are paying exorbitant numbers with a utility bill, to put that on the back of the ratepayers... When there was interest, they did get funding from the State, a grant to look into moving it. But unfortunately they never got an accurate number. But to change the direction of the flow of the sewage and build a plant to the south or to the north, which is planned in the future for cooling water for the power plant, is going to be a burden unless development does take place. He had pushed for a mandate of 10 years when he became a member of the U.A. Board. Unfortunately that is not going to happen because of the cost. But to him, that should be a priority of everyone that sits here in the future, because one day there could be an environmental disaster. He knows Mr. DePeyster, he has been in his office with plans many years ago; and at that time he was looking for 700-plus units on his property alone. So he thinks to combine the two one day, hopefully it will be a way to get that plant out of there. But right now there is not an overwhelming interest.

Ms. Camblor said this plan and anything that is proposed in this report does not hinder Mr. DePeyster's ability to move forward if he wishes to, with one or 700 units. Quite frankly, what hinders his ability to develop is being the neighbor of a wastewater treatment plant.

Commissioner Becht said he wants to hit a couple of points. This has gotten hijacked. This is not the DePeyster Charrette. In actuality, he thinks the County owns more property there than Mr. DePeyster, particularly if they consider the possibility of the reverter on the wastewater treatment plant property. The County owns from Chuck's and the Fire Station, so public entities own a huge chunk of that property around there. There are a lot of different reasons and a lot of people claiming credit for moving this thing forward. But one of the reasons they moved forward on this was... The new guys that come in have the green naivety to think it is possible to relocate the Wastewater Treatment Plant. He went through that green process, as the Mayor did when he was new. He and County Commissioner Craft explored with the grant from the State to come up with reasons. They hit a hurdle. There are many hurdles to this. One of the hurdles was, what are they going to do with the property if they relocate the Wastewater Treatment Plant? So that hurdle has now been addressed by this charrette as to what the public would buy into on the Wastewater Treatment Plant property. Now they have a feel for what they can do with that property. Mr. DePeyster's property is a tag-along. It wasn't the focus of the charrette. The focus was, what will the public buy into on that property if they can relocate the Wastewater Treatment Plant. So the charrette has accomplished something major with just that. The connection of all of this property which is waterfront... Several real estate brokers have come before them and said this is the most valuable land in the County. The idea that they were able to get a community group focused on what their vision was for connecting these properties in some kind of

harmonious development is special and not to be diminished by one property owner's questions about the end product. He would love for Mr. DePeyster to buy into it. He has met with him before and he will meet with him again. But he would prefer that Mr. DePeyster not be allowed to hijack what, in his opinion, is a worthwhile effort toward a worthwhile goal - what will the public tolerate on the Wastewater Treatment Plant property if they are able to relocate it.

Mayor Benton said something else needs to be addressed. The City owns everything where the Wastewater Treatment Plant is on that side. The County only owns to the gate of the parking lot there. This will revert back to the City, the peninsula where the Wastewater Treatment Plant is. But something to think about, which maybe should be added to this report - as they found out with the King Power Plant property, after that many years and some of the spills over there, maybe they should be looking at a brownfield site now, so they don't find out after the fact. If they want to build a hotel, it could take years. Maybe they should have somebody come in and take a look at that, or maybe the FPUA could. He does not think that question has come up yet; but the sooner they address it, if there is a problem, then the quicker it will be dealt with.

Commissioner Perona said over the years the Utilities Authority has dealt with moving the plant many times. They purchased property, they had plans drawn, they even started a permitting phase. Every developer that came in, they made them oversize pipe and move pipe in a direction that anticipated the move of the plant. It is unfortunate right now that the FPUA offers the lowest wastewater rates because that plant has existed for so long with small maintenance. It is not state of the art, but it gets the job done, and in competition with all the other utilities. That is one of the responsibilities of the Utilities Authority, to offer the most economical rates they can; and they definitely do in wastewater. He thinks the public process has really given him marching orders. They don't know when this thing is going to happen. He is looking into a crystal ball, and regardless if it is $50 million or $300 million, he has heard all those numbers too. In fact, the Utilities Authority hired a study to be done on it and it moved as they were getting the presentation. He thinks if they had the ability to move that plant tomorrow, they wouldn't have these discussions with Mr. DePeyster; Mr. DePeyster would be sitting right out there holding up signs and saying let's move forward, because they would be talking about real issues and not fantasy issues that may or may not happen in the next ten years. His hopes are that they can move forward with something in this direction. A grant, some movement by the federal government, something like this can at least start them moving forward towards that. But the FPUA is ready, they own the property, they actually have a use for the waste as part of the Treasure Coast Energy Center. Right now they are having to pull groundwater up to cool it and go through their functions. This was part of the usage of their wastewater product. He thinks the system is ready for this, they just have to find the funding source to be able to move it forward. If they had the funding source tomorrow, he is sure they would all be holding hands and working it out. That drawing Ms. Camblor has and the intentions of everybody that participated in that charrette would be coming to fruition, it would be coming true. Everybody in this community would like to see something like this happen. But the key is the Wastewater Treatment Plant. And he just can't see that moving tomorrow. But they are looking every day, hopefully they

can find a funding source, find a reason to do this quicker than 10 or 15 years from now.

Mr. Camblor said she thinks what the charrette process has done is number one establish consensus, they all understand this eventually is going to move, not a matter of if, but when. Second, they have a community that understands that it will take relaxing regulations and relaxing intensities and densities that they would not accept in other areas of their city, to make up for the cost of that relocation. Once they decided they are going to move it and understand they have the community's support, it is looking for the funding. It is clear that is not going to be able to happen without external funding that will be recouped, even if it is bonds or some sort of other funding or a combination over a long period of time. But a couple of things they need to be aware of, at least they will be prepared, they will have a plan should a hurricane happen, this is something Floridians need to be ready for. But at the same time, there are a lot of things coming up now, state and federal funding, particularly in line with climate resilience, sea level rise in a lot of areas that are going to be affected by rising water tables, issues with roads. If they are prepared and ready, if they have a plan, those are the elements that will put them ahead of the line when those grants and monies become available. That is the purpose of this process essentially, to be ready when that becomes available.

Commissioner Becht asked what do they need to do?

Mr. Margotta said he is looking for direction from the City Commission to go forth with the formal adoption; or, if they have some amendments or something else they should consider, let them know what that is.

Commissioner Becht asked is this a one step process?

Mr. Margotta said this is a report. The whole public adoption process for this to tie it to their Comp Plan, it is supposed to go through the Planning Board and the City Commission as a Resolution.

Commissioner Sessions asked do they feel comfortable with moving forward, asking for a formal adoption, without at least entertaining the issues that have been addressed by the owner? He does not want to set them up to fail here, that's his concern. Because bottom line again, he just keeps reiterating and talking about this, Mr. DePeyster is the property owner. Whether they like, dislike, or indifferent about what he is suggesting here in terms of his issues, does she feel comfortable with that? She is the professional.

Ms. Camblor said she can answer from the consultant side. As Commissioner Becht mentioned, the issues that are brought up are not specific. She has read in the letter issues about the data, the costs not being accurate. The report not only uses their own data, the FPUA's data on those numbers, but actually adjusts them based on the current market. But also it very clearly says this is going to change because either the economy is going to be in a better position or a worse position or whatever that may be, so this cannot be determined until the City adopts and decides to move forward; and at that point is the number they are going to have. But everything is going to vary proportionally. The second thing she has read is, who is going to do a hotel that has no water views? Number one, that is not the case. Number two, it also

states very clearly in the report that this is a scaled comparison to show that the footprint of hotels that are in other international destinations can very well fit in here. As a matter of fact, they could fit up to four hotels. Any one of those blocks could house the type of resort hotel that they want here. So, in her professional opinion, that is an inaccurate statement. She does not know what his other facts are because those have not been brought to her attention. If there are any other issues, they have plenty of time to address those at the time of creating the final plan. The other and last statement that is very important in the report is that all this is about is a list of key elements - access to the waterfront, an interconnected network of streets that bounds mixed uses. The plan could be designed a hundred different ways. It doesn't mean this is the plan they have to do. It just means that this is what the community found was important for this property. Design it however they want, just follow these principles. That is really how they should do town planning.

Commissioner Sessions said he understands what she is saying; but the reason behind the logic is that it is harder to undo something that has already been done. And if a simple initiation of some discussion to address his concerns will alleviate undoing something that perhaps they may find themselves in a world of doing where this project may come into existence not in his lifetime but the generation after that, he thinks again they may need to look at this and revisit this and at least give him some consideration so that they can avoid potential problems that may hang this project up. He hates to keep talking about it, but he just does not want to have the same thing to happen to this project that happened to the Bell project. He has been there and done that. He started off with this at the age of 27 and he is 47 now and nothing is happening. He just does not want that to happen here. If they can avoid it, he doesn't see what a simple conversation or engagement in some dialog with the owner, how that is going to hold up or hurt this process, he just feels it may help them. He is not trying to put her in a position where she is trying to sell someone's concept from a political standpoint, but just to sit down and talk with the key players here - and he is the key player in making this a reality - then what do they have to lose?

Mr. Margotta said there are different points of view for who they are representing. It is very important for the City to have public input. Public input isn't just one person with an interest in the property. There is a whole city that has an interest in this property. He absolutely agrees with him that Mr. DePeyster has a key piece of land within this grouping of properties, some developed, some not. But what is the impact to this community of how this gets developed? He will be glad to continue to talk to Mr. DePeyster to see if they can work through any more of his issues. But some of the disagreements may not be overcome at this level. This is not a site plan. They are not going to approve this plan and tomorrow show up with bulldozers and do something. What they are talking about is the concept of what to do with that property, what can fit in this bag, what can this community stand. Mr. DePeyster is one of the people in the community who happens to be a property owner there. He absolutely thinks Mr. DePeyster is part of the continuing conversation; but his is not the only opinion. He is trying to consider the entire city, that is where he is coming from as a public planner that works for the City of Fort Pierce.

Commissioner Sessions said there is nobody here that can appreciate the public opinion other than him, he represents the public. But he also knows that the will of the public will never be done if there is just one caveat; and that is, the owner saying no.

Ms. Camblor said at least on her behalf, she has been open to communicating with the owner every time he has requested that and with his representatives, so the doors have not been closed. She would be happy to sit with him again, if this is what he wants. Let her tell them a little bit about the history of that area. Her understanding is that the last project that was approved in that vicinity is the parcel that is directly east of that, the development with the four story condominiums (Harbour Isle), which was approved at the density and intensity that is mandated by the Comprehensive Plan for that area. It is 8 units to the acre and 4 stories, which is what Mr. DePeyster would have today because he is under that Comprehensive Plan area. If this charrette had not happened, that is what Mr. DePeyster has and what he can do. Because of this process, what this report is saying is intensity increased however much he needs to get a hotel - because he can't get it with the intensity as it is right now. Density increased by at least 300%, or else they can't pay for the relocation of the Wastewater Treatment Plan. Mr. DePeyster is not kicking into the additional cost of the relocation of the Wastewater Treatment Plant. Height, the community says whatever is needed to get the hotel. This is unusual for the beach area, it is unusual for anywhere else in their city where they have those limitations in the Comp Plan. It is because of the fact that everybody understands the need to move this facility. So that is also something to keep under consideration. This city does not have a track record of just giving density and intensity just because someone shows up and knocks at the door. Her understanding, the community is supporting them doing it at this point because of this unique condition. So it is important to keep in mind that this offers an incredible amount of increase in density, intensity, and height over what anybody else has been able to do in the area.

Motion was made by Commissioner Becht, seconded by Commissioner Perona, to adopt the South Beach Western Peninsula Charrette Report prepared by Marcela Camblor & Associates Inc.

Commissioner Becht said he wants to thank Staff, the public, and everybody for their participation, including Mr. DePeyster. Had Mr. DePeyster identified any specific factual errors, he would have tried to fold those in. But without having that from either him or Mr. Trias, who was involved with the process before it actually started, he is not going to make any recommendations for changing it.

Commissioner Sessions asked after the adoption, where do they go?

Mr. Margotta said the Planning Staff will create a Resolution and bring this plan, with their analysis of it, to the Planning Board and then to the City Commission for formally adopt it as part of their Comp Plan.

Commissioner Alexander asked they are going to try to implement a partnership with the private citizen?

Mr. Margotta said it is a must.

Commissioner Alexander said because that is something that is going before the legislation this year and he thinks there is going to be a great deal of partnership with private and citizens.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Perona, Sessions, and Benton. Those opposed: None.

---

The next item was the **Consent Agenda**. Mayor Benton asked does any Commissioner wish to remove an item for discussion? Commissioner Alexander said he would like to pull Items 23c, 23d, and 23e (Code Enforcement Liens).

Motion was made by Commissioner Perona, seconded by Commissioner Alexander, that the following items on the Consent Agenda be approved:

a. Accept Agreement between the State of Florida Office of the Attorney General and the Fort Pierce Police Department for **Victims of Crime Act (VOCA) Grant** for Fiscal Year 2012-2013 for a full-time victim advocate to provide assistance to crime victims.

b. Approve Additional Services Specific Authorization #4 to the Agreement for Professional Engineering Services with **Engineering Design & Construction Inc.** in the amount of $8,400, for additional surveying and design services for Garden Avenue Sidewalk and Pedestrian Bridge. Ref. RFQ No. 5833

f. Waive interest, penalties, and fees for Demolition Lien in the amount of $2,660.96 against **604 South 6th Street**, owned by Robert Cameron, contingent upon payment of $1,804.00 within 60 days.

g. Waive interest, penalties, and fees for Lot Clearing Lien in the amount of $1,494.71 against **604 South 6th Street**, owned by Robert Cameron, contingent upon payment of $212.43 within 60 days.

---

The next item considered was Item 23c and Item 23d, which had previously been removed from the Consent Agenda: Reduce Code Enforcement Lien in the amount of $90,330.00 against **429 North 14th Street**, owned by Sutherland REO LLC, to $4,500.00, contingent upon payment within 60 days; and Reduce Code Enforcement Lien in the amount of $123,030.00 against **124 North 14th Street**, owned by Sutherland REO LLC, to $6,500.00, contingent upon payment within 60 days.

Commissioner Alexander said he doesn't know if this LLC is some type of bank or so forth. They say buyers beware. Are these by any chance bank-owned properties?

Ms. Peggy Arraiz, Code Compliance Manager, said yes, these were foreclosure properties. One of the properties, the violations were corrected prior to them taking ownership of it; the other one they did the rehabilitation on it. These properties are actually combined together into one. After the foreclosure, after all the fees and everything were paid, they were offering 50%, or $11,000, to resolved the matter. Staff is acceptable to that, it is a little larger than they normally get.

Commissioner Alexander said but it is over $200,000.

**City Commission Regular Meeting** **13. b.**

**Meeting Date:** 07/20/2020

**Re:** Resolution No. 20-R33 Building Department Fee Schedule

**Submitted For:** Paul Thomas, Building Official, Building

**SUBJECT:**

Resolution 20-R33 establishing Building Department fees.

**SUMMARY:**

In conjunction with the City's recodification project, attached is Resolution number 20-R33 establishing Building Department fees. There are not any changes to the fees previously established by City Ordinance.

**RECOMMENDATION:**

Adopt Resolution.

**ALTERNATIVES:**

Do not adopt at this time.

**RESPONSIBLE STAFF:**

Paul Thomas, CBO, CFM, Building Official
Shaun Coss, CFM, Building Department Coordinator

**COORDINATED WITH:**

Pete Sweeney, City Attorney

## Fiscal Impact

**OTHER INFORMATION:**

None at this time.

## Attachments

R20-33

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| Building | Paul Thomas | 07/07/2020 03:19 PM |
| City Manager | Karen Murphy | 07/15/2020 12:00 PM |
| Building | Paul Thomas | 07/15/2020 01:16 PM |
| City Manager | Nick Mimms | 07/15/2020 02:30 PM |

Form Started By: Karen Murphy Started On: 07/07/2020 10:36 AM

Final Approval Date: 07/15/2020

**RESOLUTION NO. 20-R33**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **ESTABLISHING PERMIT AND PLAN REVIEW FEES, INCENTIVE AND OPTIONAL SERVICE FEES, PENALTY FEES, CONTRACTOR LICENSING FEES AND MISCELLANEOUS SERVICE FEES**; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the City Commission of the City of Fort Pierce, Florida adopted Ordinance No. 20-014 amending sections of the Code of Ordinances removing fees from the code and referencing fees by resolution; and

**WHEREAS,** the Building Department's Fee Schedule is referenced by Resolution in order to provide for a simplified approach to update fees.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Fort Pierce, Florida as follows:

**Section 1.** The City Commission establishes the following Fee Schedule attached as Exhibit A.

**Section 2.** This Resolution shall take effect immediately upon adoption.

**IN WITNESS WHEREOF,** this Resolution has been duly adopted this 20th day of July, 2020.

_____
Linda Hudson, Mayor Commissioner

**ATTEST:**

_____
Linda W. Cox, City Clerk

(SEAL)

**APPROVED AS TO FORM AND CORRECTNESS**

_____
Peter J. Sweeney, City Attorney

**Exhibit A**
**Building Department Fees**

| Permit Fees | | |
|---|---|---|
| Permits based on valuation: | | Fee: |
| (1) | Additions, new buildings, manufactured buildings, mobile homes: | |
| | (a) Commercial: | Fee is calculated by multiplying the valuation times .0125 |
| | (b) Residential: | Fee is calculated by multiplying the valuation times .005 |
| (2) | After the fact permit (work already started or completed): | Double the fee, calculated by multiplying the fee determined by this resolution times two |
| (3) | All other construction except flat rate permits as noted below: | Construction valuation under $8,000.00—Flat fee of $100.00; Or,<br>Construction valuation $8,000.00 or more—The fee is calculated by multiplying the valuation times .0125 |
| Flat rate permits: | | Fee: |
| (4) | Demolitions: | |
| | (a) Single family or one and two family structures: | $300.00 |
| | (b) Miscellaneous residential demolition-including but not limited to interior demolition, fences, outbuildings, pools, other attached structures: | $150.00 |
| | (c) Commercial structures: | $500.00 |
| | (d) Miscellaneous commercial demolition—Including but not limited to: interior demolition, fences, outbuildings under 500 square feet, pools, signs, other attached structures: | $250.00 |
| (5) | Development permit: | $100.00 for values under $5,000.00<br>$200.00 for values $5,000.00 or more |
| (6) | Moving of structure(s): | $500.00 per structure |
| (7) | Residential flat fee permits:<br>(Regulated by the Florida Residential Code.) | |
| | (a) Electric (not including photovoltaic): | $100.00 |
| | (b) Fence: | $75.00 |
| | (c) Mechanical (a/c change out only): | $150.00 |
| | (d) Plumbing (water heater or re-pipe only): | $100.00 |
| (8) | Temporary construction trailer: | $250.00 per six months<br>(Upon approval by all required departments) |
| (9) | Temporary power pole: | Residential: $100.00<br>Commercial: $250.00 |
| (10) | Temporary tent: | $100.00 per tent |
| (11) | Temporary miscellaneous permit with an inspection: | $75.00 |
| **Plan Review Fees** | | |
| Plan Review Type: | | Fee: |
| (1) | First plan review: | |
| | (a) New residential construction or addition: | The fee is calculated by multiplying the valuation times .003; Minimum fee of $75.00 |
| | (b) All other permit types: | The fee is calculated by multiplying the valuation times .005; Minimum fee of $75.00 |
| | Note: plan review fee for single opening replacement in a multi-family dwelling: | When only one opening (window or door) is being replaced in a multi-family building or development of ten units or more, only one plan review fee will be charged for a state product approval or Miami-Dade Notice of Acceptance. Each different PA/NOA will have a separate plan review fee. |
| (2) | Flood review fee for structures over 50 percent substantial improvement, substantial damage, new construction or additions within the SFHA: (This fee will still be charged if an initial determination of substantial damage or substantial improvement is made and the scope of work is reduced, or an alternate source of market value is provided to remove the | The fee is calculated by multiplying the valuation times .0025 |

| | | |
|---|---|---|
| | determination of substantial damage or substantial improvement.) | |
| (3) | Revised plan review: | |
| | (a) 1st revision: | Valuation under $5,000.00: $25.00 per page<br>Valuation $5,000.00 or more: $50.00 per page |
| | (b) 2nd revision: | Valuation under $5,000.00: $50.00 per page<br>Valuation $5,000.00 or more: $100.00 per page |
| | (c) 3rd or subsequent revision:<br>(Unless 3rd revision is to correct the same deficiency. | Valuation under $5,000.00: $100.00 per page<br>Valuation $5,000.00 or more: $200.00 per page |
| **Miscellaneous Service Fees** | | |
| Type of service or fee: | | Fee: |
| (1) | Appeal or variance request of floodplain management ordinances: | $500.00 |
| (2) | Building code surcharge per F.S. §§ 468.631 and 553.721: | A total of 2.5 percent on all plan review and permit fees. Minimum fee of $4.00 |
| (3) | Business tax inspection: | Inspection: $75.00<br>Re-inspection(s): $75.00 |
| (4) | Certificate of occupancy (CO) or certificate of completion (CC): | $50.00 |
| (5) | Change of contractor: | $50.00 |
| (6) | Change of subcontractor: | $25.00 |
| (7) | Completion of DBPR probation forms: | $50.00 per request |
| (8) | Conversion of paper plans to other format: | $25.00 per hour, $25.00 minimum fee |
| (9) | Electronic building permit processing fee: | $5.00 |
| (10) | Expired permit inspection to confirm that no work was performed and to close the permit: | $75.00<br>If it is found that work was done, the renewal fee shall apply in addition to this fee. |
| (11) | Flood zone verification letter: | $25.00 |
| (12) | Liens and permits—Summary of search and findings: | $25.00 per parcel requested for the first ten addresses or units. $10.00 for each additional ten addresses or units within the same parcel. |
| (13) | Moving of Structure Application Processing | $50.00 |
| (14) | Permit extension:<br>(Justifiable cause must be demonstrated for each request.): | $100.00 for 1st 30 day extension.<br>$250.00 for 2nd 30 day extension (or renewal fee, whichever is less).<br>$500.00 for 3rd and each subsequent 30 day extension (or renewal fee, whichever is less). |
| (15) | Permit renewal (First):<br>(Justifiable cause must be demonstrated for each request.) | ½ of the permit fee using current fee schedule plus $50.00 renewal fee plus state surcharge (based on permit fee only); Or,<br>$75.00 permit fee plus $50.00 renewal fee plus $4.00 minimum state surcharge; Whichever is greater (minimum fee of $129.00). |
| (16) | Permit renewal (Second):<br>Justifiable cause must be demonstrated for each request.) | Permit fee using current fee schedule plus $50.00 renewal fee plus state surcharge (based on permit fee only). |
| (17) | Permit renewal (third and each subsequent):<br>(Justifiable cause must be demonstrated for each request.) | Permit fee using current fee schedule plus $100.00 renewal fee plus state surcharge (based on permit fee only). |
| (18) | Permit to comply condemnations: | Permit fee using current fee schedule plus $250.00 rehabilitation fee plus state surcharge (based on permit fee only); Or, Permit fee using current fee schedule plus $500.00 demolition fee plus state surcharge (based on permit fee only). |
| (19) | Pre-application meeting: | $100.00 |
| (20) | Pre-construction meeting: | $100.00 |
| (21) | Re-issuance of certificate of occupancy (CO) or certificate of completion (CC): | $50.00 per page |
| (22) | Re-issuance of permit card: | $25.00 per card |
| (23) | Re-stamping of plans: | Residential—$75.00 plus cost of copies<br>Commercial—$150.00 plus cost of copies |
| (24) | Routing fee: | $15.00 per review—(planning and zoning, engineering, solid waste, fire department, urban forester, flood zone review). |

| | | |
|---|---|---|
| (25) | Subcontractor agreements: | $25.00 Residential per agreement<br>$50.00 Commercial per agreement |
| (26) | Special inspector/Threshold inspector required: | $50.00 |
| **Incentive & Optional Service Fees** | | |
| Type of service or fee: | | Fee: |
| (1) | After-hours inspections—Other than during regular working hours: | Residential: Fee is $100.00 per hour, minimum of two hours per permit, per trade<br>Commercial: Fee is $250.00 per hour, minimum of two hours per permit per trade |
| (2) | Early start request for construction: | Valuations under $5,000.00: $100.00<br>Valuations $5,000.00 or more: $500.00 |
| (3) | Expedited plan review: | Valuation under $200,000: $500.00 for the 1st hour. $250.00 for each additional hour<br>Valuation $200,000 or more: $1,000.00 for the 1st hour. $250.00 for each additional hour |
| (4) | Stocking permit: | $500.00 |
| (5) | Temporary use agreement: | $500.00 |
| (6) | Temporary use agreement change or extension: | $750.00 |
| **Penalty Fee Schedule** | | |
| Type of service or fee: | | Fee: |
| (1) | Hazardous condition on construction site: | $500.00 |
| (2) | No construction toilet on site 72 hours after NTC: | $100.00 |
| (3) | No trash container on site 72 hours after NTC: | $100.00 |
| (4) | Re-inspection: | |
| | (a) 1st re-inspection: | Residential: $50.00 per permit, per trade<br>Commercial: $100.00 per permit, per trade |
| | (b) 2nd and subsequent re-inspection to correct the same deficiency in the 1st inspection and 1st re-inspection: | Residential—$200.00<br>Commercial—$400.00 |
| (5) | Revised plan review—3rd or more plan revision to correct the same code violation noted in previous plan review rejections: | four times (x) the plan review fee assessed |
| (6) | Stop work order: | $100.00 before any further work may commence |
| (7) | Uncontained trash and debris on construction site: | 1st offense—$125.00<br>2nd offense—$250.00<br>Additional offenses—$500.00 |
| (8) | Unlawful continuance after SWO: | $500.00 before any further work may commence |
| **Contractor Licensing Fees** | | |
| Type of service or fee: | | Fee: |
| | | |
| (a) | Certificate of competency fees: | |
| (1) | Application for certificate of competency: | $125.00 |
| (2) | Initial issuance of a certificate of competency: | $50.00 |
| (3) | Certificate of competency renewal on or before renewal date: | $75.00 |
| (4) | Replacement competency card: | $20.00 |
| (b) | Change in status of certificate of competency: | |
| (1) | Placement of certificate of competency into inactive status: | $25.00 |
| (2) | Return inactive status to active: | $50.00 |
| (3) | Change from one business entity to another: | $60.00 |
| (4) | Amend filed business organization name: | $50.00 |
| (5) | Change from individual to qualifying business: | $75.00 |
| (6) | Change from qualifying business to individual: | $75.00 |
| (7) | Business name change: | $100.00 |
| (8) | Qualify an additional business entity | $100.00 |
| (c) | Miscellaneous Fees: | |
| (1) | Service user fee: | $25.00 |
| (2) | Letters of reciprocity: | $35.00 |
| (3) | Temporary certificate of competency: | $50.00 |
| (4) | Emergency certificate of competency: | $250.00 |
| (5) | Sponsorship fee per exam: | $150.00 |

**City Commission Regular Meeting** **13. c.**

**Meeting Date:** 07/20/2020

**Re:** Resolution No. 20-R34 Planning Department Fee Schedule

---

**SUBJECT:**

Resolution 20-R34 establishing Planning Department fees.

**SUMMARY:**

In conjunction with the City's recodification project, attached Resolution No. 20-R34 establishing Planning Department fees.

**RECOMMENDATION:**

Adopt Resolution.

**ALTERNATIVES:**

Do not adopt at this time.

**RESPONSIBLE STAFF:**

Rebeca A. Guerra, AICP, LEED-AP, CPD, Assistant Planning Director

**COORDINATED WITH:**

Pete Sweeney, City Attorney

---

**Fiscal Impact**

**OTHER INFORMATION:**

N/A

---

**Attachments**

Draft Resolution

---

**Form Review**

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Rebeca Guerra | 07/08/2020 04:53 PM |
| City Manager | Nick Mimms | 07/15/2020 02:33 PM |

Form Started By: Rebeca Guerra Started On: 07/08/2020 03:25 PM

Final Approval Date: 07/15/2020

**RESOLUTION NO. 20-R34**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; ESTABLISHING BY RESOLUTION THE **PLANNING DEPARTMENT FEES**; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the City Commission adopted Resolution No. 09-33 on July 20, 2009, establishing Fees by Resolution; said Fee Schedule amended by Resolution No. 10-35 adopted on July 19, 2010; said Fee Schedule amended by Resolution No. 11-02 adopted on January 18, 2011; said Fee Schedule amended by Resolution No. 11-37 adopted on November 21, 2011; said Fee Schedule amended by Resolution No. 12-02 adopted January 3, 2012; said Fee Schedule amended by Resolution No. 12-24 adopted April 2, 2012; said Fee Schedule amended by Resolution No. 12-34 adopted June 18, 2012; said Fee Schedule amended by Resolution No. 12-52 adopted November 5, 2012; said Fee Schedule amended by Resolution No. 13-12 adopted April 1, 2013; said Fee Schedule amended by Resolution No. 15-R11 adopted March 16, 2015; said Fee Schedule amended by Resolution No. 16-R37 adopted August 15, 2016;

**WHEREAS**, on June 15, 2020, the City Commission adopted Resolution No. 20-R29, providing for certain temporary fees, effective through November 30, 2020;

**WHEREAS**, the City's Fee Schedule is referenced by resolution in order to provide for a simplified approach to update fees; and

**WHEREAS,** as part of the 2020 Code of Ordinances rewrite for the City of Fort Pierce, all Planning Department fees shall be established by resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the City Commission of the City of Fort Pierce, Florida as follows:

**Section 1.** The City Commission adopts the Planning Department Fee Schedule set forth in the attached Exhibits “A” and “B.” Exhibit “A” shows the fee schedule in final form, and Exhibit “B” shows temporary fees. The temporary fees set forth in Exhibit “B” will be effective through November 30, 2020.

**Section 2**. This Resolution shall take effect on July 20, 2020.

**IN WITNESS WHEREOF,** this Resolution has been duly adopted this 20th day of July, 2020.

_____
Linda Hudson
Mayor Commissioner

**ATTEST:**

_____
Linda W. Cox
City Clerk

**APPROVED AS TO FORM**
**AND CORRECTNESS**

_____
Peter J. Sweeney
City Attorney

**Exhibit A**

**Planning Department Fees**

| APPLICATION TYPE | FEES |
|---|---|
| | |
| **Non-Residential Site Plan** | |
| Conceptual Site Plan | $500 |
| 4,001 – 10,000 sq. ft. | $1,890 |
| 10,000 – 30, 000 sq. ft. | $3,775 |
| 30,000 sq. ft. or greater | $6,995 plus $95 each 1,000 additional sq. ft. |
| Minor Site Plan | $250 |
| **Residential Site Plan** | |
| Conceptual Site Plan | $500 |
| 21 – 50 Units | $1,645 |
| 51 – 300 Units | $3,775 |
| 300 units or greater | $3,775 plus $455 each additional unit |
| Minor Site Plan | $250 |
| **Conditional Use** | |
| Conditional Use, no new construction<br>Conditional Use, with new construction | $100<br>$250 |
| **PD/PUD/PUR** | |
| PD / PUD / PUR Zoning Change & Plan Approval | $3,960 plus $40 per acre |
| **Subdivision** | |
| Final Plat | $500 |
| Preliminary Plat | |
| 3 – 5 Lots | $945 |
| 5 – 50 Lots | $1,635 |
| Greater than 50 Lots | $3,535 |
| Replat | $1,000 |
| Subdivision Chapter Change | $25 |
| **Amendment** | |
| Zoning Text Amendment | $3,980 |
| Zoning Map Amendment | |
| Multi-family and Non-Residential | $2,115 plus $40 per acre |
| Single-Family Dwelling | $100 |
| Comprehensive Plan Map Amendment | |
| Multi-family and Non-Residential | $3,960 plus $40 per acre |
| Single-Family Dwelling | $100 |
| Comprehensive Plan Text Amendment | $3,960 |
| Major Amendment to Site Plan | $1,000 |
| Minor Amendment to Site Plan | $500 |
| Minor Amendment to Design Review | $100 |
| Site Plan Extensions | ½ Original Fee |

| | |
|---|---|
| **Landscaping** | |
| Landscape Permit | $50 |
| Land Clearing Permit < 2 acres | $100 |
| Land Clearing Permit > 2 acres | $25 for each acre above 2 acres |
| Tree Removal Permit | $35 |
| Tree Mitigation Per Inch DBH | $250 |
| **Adult Entertainment** | |
| Adult Bookstore / Video Store | $800 |
| Adult Performance Establishment/Dance | $2,000 |
| Adult Theatre | $40 per booth, $5 per seat, $5 for each parking space for viewing outside in vehicle |

| | |
|---|---|
| Commercial Physical Contact Parlor | $800 |
| Escort Service | $578 |
| Motel | $800 |
| **Miscellaneous** | |
| Abandonment | $400 plus 100% of appraised value |
| Address Assignment / Change | |
| Non-Residential | $50 |
| Residential | $25 |
| Advertising** | |
| Conditional Use | $100 |
| FLUMA – Large Scale | $945 |
| FLUMA – Small Scale | $630 |
| Plat (Preliminary / Final / Replat) | $125 |
| Rezoning (including PD) | $150 |
| Site Plan (residential & non-residential) | $100 |
| After the Fact Development Application | Double Fee |
| Appeal of Administrative Officer | $500 |
| Appeal of Historic Preservation Board | $25 |
| Appeal of City Commission decision to circuit court regarding Historic Preservation Board | $200 |
| Annexation Agreement | $1,000 |
| Arcade | |
| Amusement Arcade (3 – 49 machines) | $87 per machine |
| Arcade Amusement Center (50+ machines) | $50 per machine |
| Arcade Background Check (Police Department) | $100 |
| Certificate of Appropriateness | $10 |
| Compiling Mailing List and Prepare Notice | $35 |
| Concurrency Appeal | $500 |
| Concurrency Review / Certificate | $2,000 |
| Concurrent Staggered Review | $1,285 |
| Copies | Contact City Clerk |
| Design Review | |
| Building Permit | $100 |
| Site Plan | $515 |
| Development of Regional Impact, New ADA or Substantial Development (DRI) | $10,000 |
| Development Agreement | $1,000 |
| Dog Friendly Outdoor Dining | |
| Annual Permit | $50 |
| Additional Inspections | $30 |
| Failure to Renew / Late Fee | $25 |
| Field Inspection / CO or Final Inspection | $100 |
| Handling and Mailing of Notification | $2.50 plus cost of postage per address |
| Liquor License Signoff | $25 |
| Maps / Documents | |
| Copy of Comprehensive Plan | $85 |
| Copy of Zoning Code or (LDR's) | $35 |
| Future Land Use Map | $25 |
| Zoning Map | $25 |
| Nonconforming Structure Special Exception | $300 |
| News Rack | $18.75 per news rack |
| News Rack Impoundment & Storage | $10 per day-max 30 days |
| Parking Space, Fee-in-Lieu | $6,000 per space |
| Plan Assembly and Collation | $50 |
| Plan Review Resubmittal | 25% of initial fee after 1st resubmittal |
| Planning Director Opinion Letter | $480 |
| Posting of Property Signage | $40 |

| | |
|---|---|
| Pre-Application Meeting | $250 |
| Research Records & Permits Per Hour | Contact City Clerk |
| Sidewalk, Fee-in-Lieu | $16.46 per linear foot |
| Sidewalk Café Permit | $50 |
| Sign Permit (per sign, not including building permit fees) | $65 |
| Street Name Change | $500 plus cost of sign |
| Telecommunications Towers | $5,000 |
| Temporary Use | $500 |
| Variance | $1,000 |
| Waiver of Distance – Alcoholic Beverage | $100 |
| Zoning Verification Letter | $100 |

*Development applications tabled by either the applicant, Technical Review Committee, Planning Board or City Commission, and are inactive for three (3) months and have failed to provide the necessary changes or information, will be charged a new fee to be processed for review. Items withdrawn or tabled (at any stage of the development review process) can be reactivated within three (3) months at no charge. After three (3) months the application is considered to have expired and a new review fee is required.

Applications that do not obtain approval by the final required board or commission within 12 months from the date of the initial submittal shall be required to pay a new application fee. This fee is the full application fee identified by the application category.

**Applications that have expired, been tabled / continued, or otherwise require additional advertisements and / or mailed notifications shall be obligated to pay said fees in their entirety by the applicant / representative of record.

**Exhibit B**

**Temporary Planning Department Fees**

| APPLICATION TYPE | TEMPORARY FEES (THRU 11/30/2020) |
|---|---|
| | |
| **Non-Residential Site Plans** | |
| Conceptual Site Plan | $500 |
| 4,001 – 10,000 sq. ft. | $1,000 |
| 10,000 – 30, 000 sq. ft. | $2,000 |
| 30,000 sq. ft. | $3,000 + $50 each 1,000 additional sq. ft. |
| | |
| **Residential Site Plans** | |
| Conceptual Site Plan | $500 |
| 21 to 50 Units | $1,000 |
| 51 to 300 Units | $2,000 |
| 300 units | $3,000 + $200 each additional unit |
| | |

| MISCELLANEOUS APPLICATIONS | TEMPORARY FEES (THRU 11/30/2020) |
|---|---|
| Sidewalk Café Permit | $0 |
| Sign Permit (per sign, not including building permit fees) | $0 |
| Pre-Application Meeting | $0 |
| | |

**City Commission Regular Meeting** **13. d.**

**Meeting Date:** 07/20/2020

**Re:**

---

**SUBJECT:**

Resolution 20-R35 appointing members to the Civil Service Appeals Board following a vote.

**SUMMARY:**

The terms of existing members J. Gaines, Commission appointee and Chair of the CSAB, and Frank Amandro as the Commission Alternate #1, both expire on July 31, 2020.

**RECOMMENDATION:**

Review applications submitted.

**ALTERNATIVES:**

Continue to seek applications.

**RESPONSIBLE STAFF:**

Linda W. Cox, City Clerk

**COORDINATED WITH:**

n/a

---

**Fiscal Impact**

**OTHER INFORMATION:**

No fiscal impact.

---

**Attachments**

20-R35
Amandro, Frank
Gaines, J
Gillette, Ellen
Mancini, Ellen
Meely, Dee
Williams, Harry

---

**Form Review**

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 06/29/2020 02:30 PM |

Form Started By: Linda Cox Started On: 06/17/2020 03:05 PM

Final Approval Date: 07/08/2020

**RESOLUTION NO. 20-R35**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **CERTIFYING THE APPOINTMENT OR REAPPOINTMENT OF MEMBERS TO THE CIVIL SERVICE APPEALS BOARD**; PROVIDING FOR AN EFFECTIVE DATE.

**BE IT RESOLVED** by the City Commission of the City of Fort Pierce, Florida, in accordance the Fort Pierce City Charter, Article VII, Sec. 82, that the following be and are hereby appointed and/or reappointed as members of the Civil Service Appeals Board; said term to commence upon adoption of this resolution, and to expire as shown below, or when a successor has been duly appointed:

| Name | Seat | Term Expires |
|---|---|---|
| _____ | Commission Regular | July 31, 2022 |
| _____ | Commission Alternate #1 | July 31, 2022 |

**BE IT FURTHER RESOLVED** that this Resolution shall become effective on August 1, 2020.

**IN WITNESS WHEREOF**, this Resolution has been duly adopted this 20th day of July, 2020.

_____
LINDA HUDSON, MAYOR COMMISSIONER

ATTEST:

_____
LINDA W. COX, CITY CLERK

(CITY SEAL)

APPROVED AS TO FORM
AND CORRECTNESS:

_____
PETER J. SWEENEY, CITY ATTORNEY

# CITY OF FORT PIERCE

100 NORTH US HWY 1
FORT PIERCE, FLORIDA 34950
(772) 467-3065 FAX (772) 467-3841

## APPLICATION FOR APPOINTMENT/REAPPOINTMENT

**Name of Board or Boards for which you are applying:** Civil Service Appeals

| | |
|---|---|
| Name: Frank J. Amandro [redacted] | Phone: (772) 579-1852 |
| Home Address [redacted] City/Zip Code: | How long at this address? 13 years |

Are you a citizen of the United States? ■ Yes ☐ No

Occupation: Emergency Management

Do you own a business that operates within the City of Fort Pierce? ☐ Yes ■ No
If yes, list the address and nature of said business:

Do you now or in the future plan to do business with the City of Fort Pierce? ☐ Yes ■ No
If yes, in what capacity?

Are you employed by a business that is located within the City of Fort Pierce? ■ Yes ☐ No
If yes, state the business and location:
St. Lucie County Board of County Commissioners - Public Safety Department

Do you have special training or knowledge in the area of:
Architecture: ☐ Yes ☐ No Engineering: ☐ Yes ☐ No Real Estate Brokering: ☐ Yes ■ No
Contracting: ☐ Yes ☐ No Land Development: ☐ Yes ■ No Other:
Describe your education, background, training and knowledge (feel free to attach a resume):
I have a Master's Degree in Public Administration. Retired Deputy Chief of Police after 25 years of service, of that time, spent 15 years in a senior executive position. I am currently the Assistant Director for the Public Safety Department for St. Lucie County - 1.5 years of service. I am the father of two beautiful children.

Are you currently a member of a Commission-appointed board/committee? ■ Yes ☐ No
If yes, please specify:
Civil Services Appeals Board

Have you ever been convicted of a felony? ☐ Yes ■ No
If yes, what was the nature of the crime(s) you were convicted of:

Referred by: Thomas Perona Applicant Email Address: amandrof@stlucieco.org

Date: 6/05/2020 Applicant's Signature [signature]

**APPLICATIONS EXPIRE 6 MONTHS FROM THE DATE OF SUBMISSION. PLEASE REAPPLY AS OFTEN AS DESIRED.**
**Please return form to: City Clerk's Office – 100 North US Hwy 1, Fort Pierce, Florida 34950**
**fax (772) 467-3841 or via email at lcox@cityoffortpierce.com**

# CITY OF FORT PIERCE

100 NORTH US HWY 1
FORT PIERCE, FLORIDA 34950
(772) 467-3065 FAX (772) 467-3841

## APPLICATION FOR APPOINTMENT/REAPPOINTMENT

**Name of Board or Boards for which you are applying:** Civil Service Appeals

| | |
|---|---|
| Name: J W Gaines | Phone: 772-461-1155 |
| Home Address: 9528 Laurelwood Ct<br>City/Zip Code: | How long at this address? 30 years |
| Are you a citizen of the United States? ■ Yes ☐ No | |
| Occupation: Certified Public Accountant | |
| Do you own a business that operates within the City of Fort Pierce? ■ Yes ☐ No<br>If yes, list the address and nature of said business:<br>600 Citrus Ave, Ste 200; CPA Firm | |
| Do you now or in the future plan to do business with the City of Fort Pierce? ☐ Yes ■ No<br>If yes, in what capacity? | |
| Are you employed by a business that is located within the City of Fort Pierce? ■ Yes ☐ No<br>If yes, state the business and location:<br>Berger Toombs Elam Gaines & Frank CPAs, PL; 600 Citrus Ave, Ste 200 | |
| Do you have special training or knowledge in the area of:<br>Architecture: ☐ Yes ☐ No Engineering: ☐ Yes ☐ No Real Estate Brokering: ☐ Yes ☐ No<br>Contracting: ☐ Yes ☐ No Land Development: ☐ Yes ☐ No Other:<br>Describe your education, background, training and knowledge – (feel free to attach a resume):<br>Bachelor of Business Administration, Major-Accounting<br>Served as Chairman Ft Pierce Budget Advisory Committee<br>I have owned a CPA Firm in Ft Pierce since 1979<br>Served as Chairman of CSAB last 4 years | |
| Are you currently a member of a Commission-appointed board/committee? ■ Yes ☐ No<br>If yes, please specify:<br>Civil Service Appeals Board | |
| Have you ever been convicted of a felony? ☐ Yes ■ No<br>If yes, what was the nature of the crime(s) you were convicted of: | |
| Referred by: Tom Perona | Applicant Email Address: jgaines@bted-cpas.com |
| Date: 6/9/2020 | Applicant's Signature |

**APPLICATIONS EXPIRE 6 MONTHS FROM THE DATE OF SUBMISSION. PLEASE REAPPLY AS OFTEN AS DESIRED.**
**Please return form to: City Clerk's Office – 100 North US Hwy 1, Fort Pierce, Florida 34950**
**fax (772) 467-3841 or via email at lcox@cityoffortpierce.com**

# CITY OF FORT PIERCE

100 NORTH US HWY 1
FORT PIERCE, FLORIDA 34950
(772) 467-3065 FAX (772) 467-3841

## APPLICATION FOR APPOINTMENT/REAPPOINTMENT

**Name of Board or Boards for which you are applying:** Civil Service

| | |
|---|---|
| Name: Ellen Gillette | Phone: 910-890-2839 |
| Home Address: 859 Noa Street, Fort Pierce, FL 34982<br>City/Zip Code: | How long at this address? 7 years |

Are you a citizen of the United States? ■ Yes ☐ No

Occupation: freelance writer/editor/illustrator; substitute teacher

Do you own a business that operates within the City of Fort Pierce? ☐ Yes ■ No

If yes, list the address and nature of said business:

Do you now or in the future plan to do business with the City of Fort Pierce? ☐ Yes ■ No

If yes, in what capacity?

Are you employed by a business that is located within the City of Fort Pierce? ■ Yes ☐ No

If yes, state the business and location:

I substitute teach with John Carroll High and St. Anastasia Catholic schools on Delaware Avenue in Ft. Pierce and write for the Indian River Magazine family of publications, whose office is on Avenue A in Ft. Pierce.

Do you have special training or knowledge in the area of:

Architecture: ☐ Yes ☐ No Engineering: ☐ Yes ☐ No Real Estate Brokering: ☐ Yes ■ No

Contracting: ☐ Yes ■ No Land Development: ☐ Yes ☐ No Other:

Describe your education, background, training and knowledge – (feel free to attach a resume):

AA degree; classroom & sub teacher; dental office manager (past); member & president-elect of Ft. Pierce Toastmasters (leadership and communication skills); former board member, Pineapple Playhouse; authored/edited/illustrated multiple books. Volunteer with Main Street (ghost tour) & FPPD. (It's my understanding that if selected for Civil Service board, I will no longer volunteer for the department.)

Are you currently a member of a Commission-appointed board/committee? ☐ Yes ■ No

If yes, please specify:

Have you ever been convicted of a felony? ☐ Yes ■ No

If yes, what was the nature of the crime(s) you were convicted of:

| | |
|---|---|
| Referred by: | Applicant Email Address: ellengillette22@gmail.com |
| Date: 6/18/2020 | Applicant's Signature Laura Ellen Gillette |

**APPLICATIONS EXPIRE 6 MONTHS FROM THE DATE OF SUBMISSION. PLEASE REAPPLY AS OFTEN AS DESIRED.**

**Please return form to: City Clerk's Office – 100 North US Hwy 1, Fort Pierce, Florida 34950**

**fax (772) 467-3841 or via email at lcox@cityoffortpierce.com**

# CITY OF FORT PIERCE

100 NORTH US HWY 1
FORT PIERCE, FLORIDA 34950
(772) 467-3065 FAX (772) 467-3841

## APPLICATION FOR APPOINTMENT/REAPPOINTMENT

**Name of Board or Boards for which you are applying:** Community Redevelopment Advisory, Civil Service Appeal

| | |
|---|---|
| Name: Ruth Faye-Ellen Mancini | Phone: 772-532-0096 |
| Home Address: 20 Orange Ave, #402<br>City/Zip Code: Fort Pierce 34950 | How long at this address? 8 yrs |
| Are you a citizen of the United States? ☒ Yes ☐ No | |
| Occupation: Retired (Former Assistant State Attorney) | |

Do you own a business that operates within the City of Fort Pierce? ☐ Yes ☒ No
If yes, list the address and nature of said business:

Do you now or in the future plan to do business with the City of Fort Pierce? ☐ Yes ☒ No
If yes, in what capacity?

Are you employed by a business that is located within the City of Fort Pierce? ☐ Yes ☒ No
If yes, state the business and location:

Do you have special training or knowledge in the area of:
Architecture: ☐ Yes ☒ No Engineering: ☐ Yes ☒ No Real Estate Brokering: ☐ Yes ☒ No
Contracting: ☐ Yes ☐ No Land Development: ☐ Yes ☒ No Other:
Describe your education, background, training and knowledge – (feel free to attach a resume):
BA - Education
MS. Ed - Guidance + Counseling
JD - Legal Services (Kentucky) Asst State Attorney - Ft Pierce

Are you currently a member of a Commission-appointed board/committee? ☐ Yes ☒ No
If yes, please specify:
Have served in the past and would happily do so again

Have you ever been convicted of a felony? ☐ Yes ☒ No
If yes, what was the nature of the crime(s) you were convicted of:

| | |
|---|---|
| Referred by: Self | Applicant Email Address: alwaysask4@gmail.com |
| Date: 10 June 2020 | Applicant's Signature [signature] |

**APPLICATIONS EXPIRE 6 MONTHS FROM THE DATE OF SUBMISSION. PLEASE REAPPLY AS OFTEN AS DESIRED.**
**Please return form to: City Clerk's Office – 100 North US Hwy 1, Fort Pierce, Florida 34950**
**fax (772) 467-3841 or via email at lcox@cityoffortpierce.com**

# CITY OF FORT PIERCE

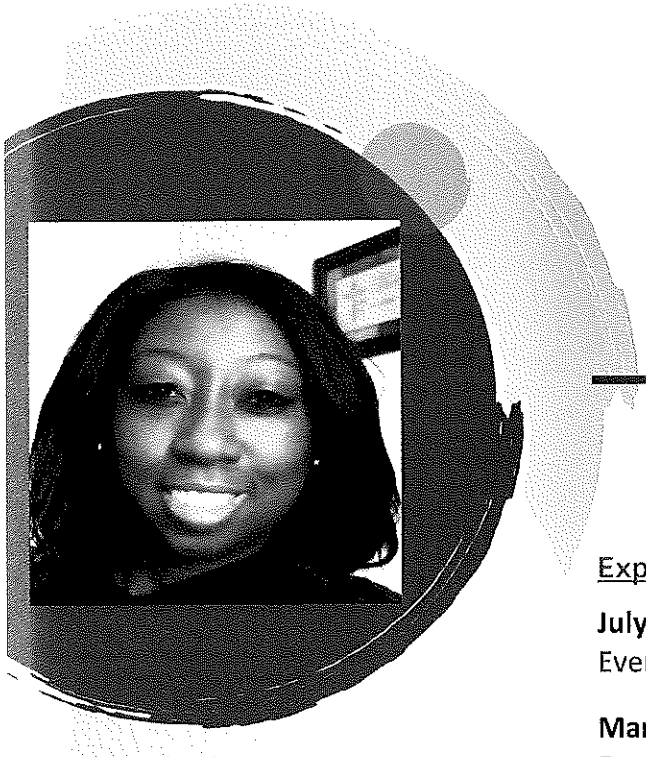
100 NORTH US HWY 1
FORT PIERCE, FLORIDA 34950
(772) 467-3065 fax (772) 467-3841

## APPLICATION FOR APPOINTMENT/REAPPOINTMENT

**Name of Board or Boards for which you are applying:** Civil Service Appeals Board

| | |
|---|---|
| Name: Decreta(Dee) Meely | Phone: 202-460-5668 |
| Home Address: 2610 Bennett Drive<br>City/Zip Code: Fort Pierce, FL 34946 | How long at this address? 20 yrs-childhood home/ return home 3 yrs ago |
| Are you a citizen of the United States? ☒ Yes ☐ No | |
| Occupation: Event Specialist for St. Lucie County | |
| Do you own a business that operates within the City of Fort Pierce? ☐ Yes ☒ No<br>If yes, list the address and nature of said business: | |
| Do you now or in the future plan to do business with the City of Fort Pierce? ☐ Yes ☒ No<br>If yes, in what capacity? | |
| Are you employed by a business that is located within the City of Fort Pierce? ☐ Yes ☒ No<br>If yes, state the business and location: | |
| Do you have special training or knowledge in the area of:<br>Architecture: ☐ Yes ☒ No Engineering: ☐ Yes ☒ No Real Estate Brokering: ☐ Yes ☒ No<br>Contracting: ☐ Yes ☒ No Land Development: ☐ Yes ☒ No Other:<br>Describe your education, background, training and knowledge – (feel free to attach a resume):<br>Education:<br>AA degree in Accounting & AAS in Hospitality Management, currently pursuing BS in Public Safety specializing in Emergency Management<br>Background/Training:<br>12 years of Banking/ Customer Service, 3 years of Local government as Event Specialist, 2 years as a Facilitator at the Special Needs Shelter(at activation), Currently Emergency Management as Logistic Section Assistant during the Pandemic, Various certifications from FEMA Emergency Management Institute<br>Volunteer/ Community Service: Treasure Coast Food Bank - as Food sorter and Food distributor<br>Sheraton Plaza Community Association Member<br>St. Lucie County Safety Committee Board Member | |
| Are you currently a member of a Commission-appointed board/committee? ☐ Yes ☒ No<br>If yes, please specify: | |
| Have you ever been convicted of a felony? ☐ Yes ☒ No<br>If yes, what was the nature of the crime(s) you were convicted of: | |
| Referred by: Johnna Morris | Applicant Email Address: deemel0295@msn.com |
| Date: 06/12/2020 | Applicant's Signature |

**APPLICATIONS EXPIRE 6 MONTHS FROM THE DATE OF SUBMISSION. PLEASE REAPPLY AS OFTEN AS DESIRED.**
**Please return form to: City Clerk's Office – 100 North US Hwy 1, Fort Pierce, Florida 34950**
**fax (772) 467-3841 or via email at lcox@cityoffortpierce.com**



# Decreta Q. Meely
## "Dee"


2610 Bennett Drive
Fort Pierce, FL 34946

202-460-5668

meelyd@stlucieco.org
deemel0295@msn.com


## Experience

**July 2018–present**
Event Specialist• Parks & Special Facility • St. Lucie County

**March 2017–July 2018**
Event Specialist • Hospitality/ Park & Recreations • City of Port St. Lucie

**September 2015–February 2017**
Operation Specialist• Lockbox Department • M&T Bank- Baltimore, MD

## Education

**Prince George Community College, Largo, MD**

- AA Hospitality Service Management
  Graduated May 26, 2016

**Indian River State College, Fort Pierce, FL**

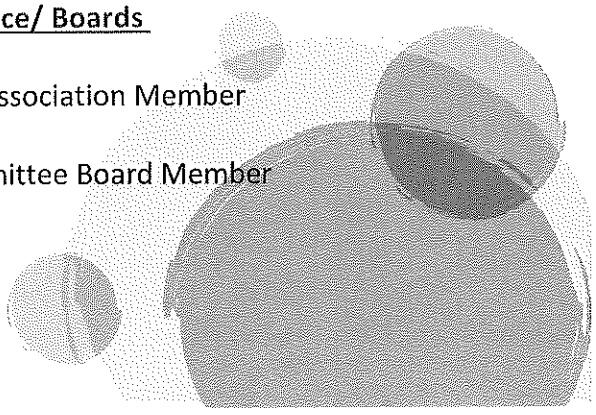
- currently pursuing BS in Public Safety specializing in Emergency Management

## Professional Profile/ Skills

12 years of Banking & Customer Service
3 years of Local government
2 years as a Facilitator at the Special Needs Shelter(at activation),
Currently Emergency Operation Management Team Member as Logistic Section Assistant during the Pandemic
Various certifications from FEMA Emergency Management Institute

## Volunteer/ Community Service/ Boards

Treasure Coast Food Bank
Sheraton Plaza Community Association Member
Fort Pierce Citizens Academy
St. Lucie County Safety Committee Board Member



# CITY OF FORT PIERCE

100 NORTH US HWY 1
FORT PIERCE, FLORIDA 34950
(772) 467-3065 fax (772) 467-3841

## APPLICATION FOR APPOINTMENT/REAPPOINTMENT

**Name of Board or Boards for which you are applying:** Community Wide Council / Community Redevelopment Agency / Civil Service Appeals Board / Advisory Committee

| | |
|---|---|
| Name: Harry L. Williams | Phone: 772-834-5559 |
| Home Address: 1532 SW Crater Avenue<br>City/Zip Code: Port St. Lucie, FL 34953 | How long at this address? 10 years |
| Are you a citizen of the United States? ☑ Yes ☐ No | |
| Occupation: Data Quality Audit Analyst | |
| Do you own a business that operates within the City of Fort Pierce? ☐ Yes ☑ No<br>If yes, list the address and nature of said business: | |
| Do you now or in the future plan to do business with the City of Fort Pierce? ☐ Yes ☑ No<br>If yes, in what capacity? | |
| Are you employed by a business that is located within the City of Fort Pierce? ☐ Yes ☑ No<br>If yes, state the business and location: | |
| Do you have special training or knowledge in the area of:<br>Architecture: ☐ Yes ☑ No Engineering: ☐ Yes ☑ No Real Estate Brokering: ☐ Yes ☑ No<br>Contracting: ☐ Yes ☑ No Land Development: ☐ Yes ☑ No Other: Healthcare / Social / Human Services<br>Describe your education, background, training and knowledge – (feel free to attach a resume): Please See attached Resume. - Bachelor of Science in Healthcare Administration<br>- Masters in Public Health w/ concentration in Health Promotion and Disease Prevention | |
| Are you currently a member of a Commission-appointed board/committee? ☐ Yes ☑ No<br>If yes, please specify: | |
| Have you ever been convicted of a felony? ☐ Yes ☑ No<br>If yes, what was the nature of the crime(s) you were convicted of: | |
| Referred by: Website | Applicant Email Address: williamsharryg@hotmail.com |
| Date: 3-7-2020 | Applicant's Signature Harry L. Williams |

**APPLICATIONS EXPIRE 6 MONTHS FROM THE DATE OF SUBMISSION. PLEASE REAPPLY AS OFTEN AS DESIRED.**
**Please return form to: City Clerk's Office – 100 North US Hwy 1. Fort Pierce. Florida 34950**

**CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)**, Atlanta, GA **2010 – 2012**
**Public Health Associate Program Fellowship**
Stationed at Palm Beach County Health Department
Received leadership training directly from CDC headquarters semiannually to gain knowledge and skills to better help guide local health department.

- Served as Project Manager over various Communicable Disease Initiatives to assist in meeting outcomes defined by the Centers for Disease Control and Prevention while reducing spread of STD/HIV/AIDS by 15%.
- Worked with gathering data for Population Health to analyze, interpret and create trends to demonstrate the socioeconomic needs of different cultural of individuals. Worked in conjunction with risk management to ensure safety measures were implemented and followed in rendering care for patients.

**KEISER UNIVERSITY**, West Palm Beach, FL **2009 – 2010**
**Health Services Administration Adjunct Professor**
Taught Medical Office Administration and Billing, Healthcare Medical Terminology, Principles of Health Services Administration and Healthcare Computer Applications to students seeking Bachelor's degrees in Health Services Administration.

## ADDITIONAL RELATED EXPERIENCE

**MARTIN COUNTY HEALTH DEPARTMENT**, Stuart, FL **Disease Intervention Specialist**
**SAINT LUCIE COUNTY HEALTH DEPARTMENT**, Fort Pierce, FL **Master of Public Health Internship/Project Manager**
**AMERICA'S HEALTH CHOICE MEDICARE HMO** – Vero Beach, FL **Social Services Supervisor**
**FAMILY PRESERVATION SERVICES, INC.** – Fort Pierce, FL **Dependency Case Manager**
**Project Response, Inc.** – Fort Pierce, FL **AIDS Insurance Continuation Program Coordinator/HOPWA Case Manger**

## EDUCATION / CERTIFICATION

**Master of Science (MS), Public Health, Focus: Health Promotion and Disease Prevention**
**Bachelor of Science (BS), Healthcare Administration**
Florida Atlantic University, Boca Raton, FL

**Certified Nursing Assistant**, Paramount Training Services

**Certified Grant Writer**, American Grant Writer's Association

**Assisted Living Facility Administrator,** University South Florida

**Health Information Technology for Economic and Clinical Health**
Broward Community College (HITECH)

## KNOWLEDGE / SKILLS / ABILITIES

FACETS
JIVA
NPPES
Medical Investigations
Disease Management
Substance Abuse Knowledge
Medicaid and Medicare Insurance
HEDIS metrics
Medical Records Auditing

Microsoft Office Suite
Emdeon / WebMD
MedDirect
Prism
EpiInfo
SQL
EPIC
Grant Writing
Electronic Medical Records Mgt

CAHPS survey
Healthcare Compliance
Mental Health Knowledge
Research Analysis
HIPAA and Privacy Knowledge
Regulatory Accreditation
Policies and Procedures Writing
Quality Improvement
Health Promotion

# HARRY WILLIAMS, JR.

Port St. Lucie, Florida **772.834.5559**

Highly skilled Health Care Administrator professional with extensive experience in Disease Prevention, Health Promotion, Communicable Disease Education, Policy Management, Quality and Risk Management. Key strengths include:

- Investigative Researcher
- Human Services & Disability Coordinator
- Analyzing Data & Program Evaluation
- Interviewing Skills
- Emergency Preparedness/Response
- Subject Matter Expert with HIPAA
- Project and Program Management
- Quality Improvement
- Budget Management
- Financial Reporting
- Case Management
- Policy and Procedure Management

**PROFESSIONAL EXPERIENCE**

**INDIAN RIVER STATE COLLEGE**, Fort Pierce, FL **2017 – Present**
**Healthcare Management Adjunct Professor**

Teach Intro to Health Care Management Concepts to students seeking to obtain their Associate and Bachelor in Health Care Management. Assist students by providing counseling, orientation and real-life scenarios to understand the qualities and traits needed to be a Healthcare Administrator. Serve as part of the Health Care Administration staff to determine new policies and procedures to better serve the Health Care Administration students in having a valuable college experience.

**AMERIHEALTH CARITAS**, Palm Beach Gardens, FL **2012 – Present**
**Quality Specialist**
Participate on Quality Improvement committees structured to achieve target outcome success and complete committee documentation that is consistent in meeting the State of Florida AHCA Medicaid requirements.

- Oversaw completion and analysis of annual Healthcare Effectiveness Data and Information Set (HEDIS) results and works with all areas to integrate results into departmental goals.
- Collaborates with both regulatory compliance and risk management programs to ensure the plan is providing effective quality, cost-effective services for plan members.
- Help the health plan organization prepare through providing internal and external audits to become accredited through the Accreditation Association for Ambulatory Health Care (AAAHC) and National Committee for Quality Assurance (NCQA).

**Provider Network Analyst** (2013 – 2014)
Researched State Rules and Regulations, surrounding CMS Programs and ensures Claims system is configured accurately to include State fee schedules, GME, DRG changes.

- Participated with Corporate Operations Team to provide research and resolution to issues.
- Obtained and requested queries to identify root causes of claim denials, incorrect payments and claims that were not correctly submitted for payment.
- Investigated medical fraud, waste and abuse Medicaid payment reimbursement related to medical claims.

**Care Connector** (2012 – 2013)
Supported daily operations of the integrate care management program.

- Coordinated medical evaluations for at risk members in the maternal health program. Supported health plan by providing care authorizations.
- Completed Screening Assessments via telephone to assist member with appropriate care assistance. Ensured compliance with healthcare laws while helping to link members to effective quality of care services.

**City Commission Regular Meeting** **13. e.**

**Meeting Date:** 07/20/2020

**Re:** Changing meeting times

**Submitted For:** Linda Cox, City Clerk, City Clerk

**SUBJECT:**

Resolution 20-R36 modifying the meeting times of City Commission meetings and establishing a 3rd meeting to accommodate any unfinished business continued from a meeting earlier in the month.

**SUMMARY:**

At the July 13, 2020 City Commission Conference Agenda, consensus of the Commission was to modify meeting times to begin earlier in the day.

**RECOMMENDATION:**

Adopt Resolution 20-R36

**ALTERNATIVES:**

Adopt with modifications.

**RESPONSIBLE STAFF:**

Do not adopt.

**COORDINATED WITH:**

Pete Sweeney, City Attorney

## Fiscal Impact

**OTHER INFORMATION:**

No fiscal impact.

## Attachments

20-R36

## Form Review

| Inbox | Reviewed By | Date |
|---|---|---|
| City Manager | Nick Mimms | 07/15/2020 02:34 PM |

Form Started By: Linda Cox Started On: 07/15/2020 10:58 AM

Final Approval Date: 07/15/2020

**RESOLUTION NO. 20-R36**

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **SETTING THE TIME OF CITY COMMISSION MEETINGS**; SCHEDULING A THIRD MEETING EACH MONTH; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Resolution 18-R04 adopted February 5, 2018, set the time of City Commission meetings at 6:30 p.m. on the first and third Monday of each month, unless that Monday falls on a holiday; and

**WHEREAS**, at the Conference Agenda on July 13, 2020, the consensus of the City Commission was to modify the meeting times to begin earlier in the day.

**NOW THEREFORE, BE IT RESOLVED** by the City Commission of the City of Fort Pierce, Florida:

**SECTION 1.** The City Commission does hereby resolve that the meeting held of the first Monday of each month will begin at 6:00 p.m. The meeting held on the third Monday of each month will begin at 4:30 p.m. In the event that the first or third Monday falls on a recognized holiday, the Commission will meet on Tuesday of that week at the same time as if the meeting were held on Monday.

**SECTION 2.** The City Commission does hereby resolve that a third meeting will be scheduled to be held on the last Monday of each month at 6:00 p.m. to complete unfinished business continued from either meeting held earlier in the month; in the event there is no unfinished business, the meeting shall be cancelled.

**SECTION 3.** This resolution shall become effective September 1, 2020.

**IN WITNESS WHEREOF,** this Resolution has been duly adopted this 20th day of July, 2020.

_____
Linda Hudson, Mayor Commissioner

**ATTEST:**

_____
Linda W. Cox, City Clerk

**APPROVED AS TO FORM**
**AND CORRECTNESS**

_____
Peter J. Sweeney, City Attorney

**City Commission Regular Meeting** **15.**

**Meeting Date:** 07/20/2020

**Re:**

**SUBJECT:**

**COMMENTS FROM THE CITY MANAGER**

## Attachments

City Manager Coronavirus Report Update July 20, 2020

## Form Review

Form Started By: Jennifer Robinson Started On: 07/20/2020 02:36 PM

Final Approval Date: 07/20/2020

THE SUNRISE CITY
FORT PIERCE
CITY MANAGER'S OFFICE
Florida

TO : The Honorable Mayor and Members of the City Commission

FROM : Nicholas C. Mimms, P.E., ICMA-CM, City Manager NCM

RE : CITY MANAGER CORONAVIRUS REPORT UPDATE

DATE : July 20, 2020

The following report is provided to apprise the members of the City Commission of the current actions of the City of Fort Pierce in response to the impact of the coronavirus to our citizens and visitors. Updated information is highlighted in yellow.

## 1. COVID-19 RECOVERY GRANT PROGRAM

- $852,985
- (CARES Act -$355,045, SHIP - $270,440, CDBG - $237,500, FPRA - $150,000)
- On April 28, 2020, the Fort Pierce City Commission approved the COVID-19 Recovery Assistance Plan which includes a series of grants supporting residents, businesses, and community-based efforts. Pre-screening and applications began Monday, May 4, 2020.
- The COVID-19 Recovery Grant Program has been extraordinarily successful in that 1,453 businesses and residents were pre-screened for program participation.
- For residents, the City of Fort Pierce offered Mortgage and Lease Assistance Grants of 2 months' rent not to exceed $3,000.
  - Pre-Screened - 1,093
  - Applications Approved - 36 - $62,687.96

| Rental Assistance | | | |
|---|---|---|---|
| **Hardship** | **Address** | **Income Requirement** | **Amount** |
| Complete Loss of Income | 1209 N 23rd Street | Extremely Low | $800.00 |
| Complete Loss of Income | 1440 N Lawnwood Cir | Moderate | $2,000.00 |
| Complete Loss of Income | 4599 Whispering Pines Lane | Very Low | $1,654.00 |
| Disabled Child | 2519 Wilkens Avenue | Very Low | $1,150.00 |
| Complete Loss of Income | 803 S 12th Street | Very Low | $1,900.00 |
| Reduction of Hours | 2905 Avenue D #A | Very Low | $1,600.00 |
| Reduction of Hours | 410 Palm Ave #E | Very Low | $2,100.00 |
| Reduction of Hours | 705 S 29th Street | Low Income | $2,010.00 |
| Disabled Child | 2905 Avenue D #B | Extremely Low | $1,500.00 |
| Complete Loss of Income | 1118 Raymond Avenue | Very Low | $2,000.00 |
| Complete Loss of Income | 462 Granada Street | Very Low | $2,400.00 |

| | | | |
|---|---|---|---|
| Complete Loss of Income | 1411 Havana Avenue #D | Extremely Low | $1,600.00 |
| Other/Health | 1812 E Royal Tern Lane | Low Income | $1,900.00 |
| Complete Loss of Income | 1826 Grand Club Blvd | Low Income | $1,570.00 |
| Complete Loss of Income | 1201 Grand Club Blvd | Very Low | $1,554.00 |
| Complete Loss of Income | 1108 Easter Avenue | Low Income | $1,600.00 |
| Complete Loss of Income | 4060 Oleander Avenue | Very Low | $1,750.00 |
| Complete Loss of Income/ Disabled Child | 1206 N 16th Street | Low Income | $1,600.00 |
| Complete Loss of Income | 813 Mades Drive | Very Low | $1,950.00 |
| Complete Loss of Income | 1111A North 16th Court | Low Income | $1,600.00 |
| Reduction of Hours | 2909 Avenue D | Very Low | $1,550.00 |
| Reduction of Hours | 2401 S 14th Street | Low Income | $2,200.00 |
| Complete Loss of Income | 2510 Atlantic Avenue | Very Low | $1,400.00 |
| Complete Loss of Income | 2401 S 25th Street | Extremely Low | $1,580.00 |
| Complete Loss of Income | 1412 N 16th Street #B | Low Income | $1,650.00 |
| Reduction of Hours | 907 S 27th Street #-208 | Low Income | $1,720.00 |
| Reduction of Hours | 1402 Havana Avenue | Extremely Low | $1,000.00 |
| Complete Loss of Income | 109 Virginia Park Blvd | Extremely Low | $1,860.00 |
| Complete Loss of Income | 709 Windsor Avenue | Low Income | $1,900.00 |
| Reduction of Hours | 225 Grand Club Place | Low Income | $1,554.00 |
| Reduction of Hours | 3250 Vernon Street #A | Very Low | $1,500.00 |
| Reduction of Hours | 1339 Seaway Drive #4 | Extremely Low | $1,980.00 |
| Reduction of Hours | 5523 Entertainment Way | Very Low | $2,400.80 |
| Complete Loss of Income | 2606 Creekside Drive | Extremely Low | $2,400.00 |
| Reduction of Hours | 647 N 2nd Street | Low Income | $1,750.00 |
| Reduction of Hours | 1104 Apple Street | Moderate | $2,005.16 |

- For businesses, the City offered two Small Business Relief Grants. Businesses with 25 employees or less who experienced a loss of revenue due to COVID-19 may apply for a one-time grant of $3,000. Businesses with 26 to 100 employees may be eligible for $7,500.
  - Pre-Screened - 360
  - Applications Approved - 36 - $108,000

| Working Capital Assistance | | | |
|---|---|---|---|
| **Hardship** | **Applicant/Business Name** | **Industry** | **Employees** |
| Ordered to Close Business | Rosslow's | Retail | 9 |
| Reduced Business Hours | Dino's Family Restaurant | Restaurant | 13 |
| Ordered to Close Business | Madison Estate Gallery | Retail | 3 |
| Ordered to Close Business | A Hand of Time HandSpa | Beauty | 1 |
| Ordered to Close Business | Hairstyling By Tangie, | Beauty | 1 |
| Ordered to Close Business | Her Glory Dolls & Divas | Beauty | 1 |
| Ordered to Close Business | Huck's Catering | Catering / Rest | 1 |
| Ordered to Close Business | Relentless Salon LLC | Beauty | 4 |
| Ordered to Close Business | Dermatech Day Spa, Inc | Beauty | 5 |

| | | | |
|---|---|---|---|
| Ordered to Close Business | Costa Azul Restaurant & Catering | Restaurant | 5 |
| Reduced Business Hours | DLN Group LLC | Restaurant | 10 |
| Ordered to Close Business | Island Girl Pilates | Personal Service | 1 |
| Ordered to Close Business | Palm Health & Wellness LLC | Personal Service | 2 |
| Reduced Business Hours | TAPS Multi Services | Personal Service | 2 |
| Ordered to Close Business | Rebecca's Organics | Beauty | 1 |
| Other | Florida Coast Marine, Inc | Retail | 1 |
| Ordered to Close Business | Chic and Shore Things LLC | Retail | 1 |
| Ordered to Close Business | The Cabin LLC | Retail | 2 |
| Other | Dora's Center of Learning | Personal Service | 6 |
| Ordered to Close Business | The Gin Mill | Restaurant | 8 |
| Other | Maktrade Inc | Retail | 1 |
| Ordered to Close Business | Lisa Jill Allison | Retail/Art | 1 |
| Ordered to Close Business | Ellie's House of Hair | Beauty | 5 |
| Ordered to Close Business | First Appearance Salon | Beauty | 1 |
| Ordered to Close Business | Jarvis Treasures | Retail | 3 |
| Ordered to Close Business | La Familia Salon | Beauty | 2 |
| Ordered to Close Business | All About You Salon | Beauty | 1 |
| Ordered to Close Business | Lori Q Reyes | Beauty | 1 |
| Ordered to Close Business | Special Occasion Hair Salon | Beauty | 1 |
| Ordered to Close Business | Ola's Hair Parlor | Beauty | |
| Ordered to Close Business | Imelda Lopez/Las Gardenias | Retail | |
| Other | Indian River School of Real Estate | School | 1 |
| Reduced Business Hours | A+ Occupational Therapy Professionals | School | 14 |
| Other | Mr. Suds | Personal Service | 1 |
| Ordered to Close Business | Best Pro Nails, Inc. | Personal Service | |
| Reduced Business Hours | The Cake Lady Custom Cakes LLC | Retail | 4 |

- As of July 20, 2020, this program has closed and the distribution of the remaining funds will be revised to include job creation, additional food distribution/support, mask distribution/manufacturing support, and other social distancing support

## 2. COVID-19 TESTING FOR COMMUNITY

- $85,000 (CARES Act Program - $60K, Allegany Franciscan Ministries - $25K)
- The City of Fort Pierce is conducting free testing in partnership with Dynix Diagnostix, Allegany Franciscan Ministries, the Department of Health, and Indian River State College.
- The initial testing event was held at Ilous Ellis Park from May 11 through May 15. A total of 1006 tests were administered yielding the following statistics:
  - Number of Swabs tested: 334 - Positive: 4 (1.2%)
  - Number of Antibodies tested: 672 - Number of positive: 13 (2%)
- The second community testing event was held at Ilous Ellis Park on June 6, 2020. A total of 310 tests were administered yielding the following statistics:
  - Number of Swabs tested: 110 - Positive: 12 (10.9%)
  - Number of Antibodies tested: 200 - Number of positive: 4 (2%)
- City representatives are currently working with Saint Lucie County Emergency Operations staff to schedule and provide additional free testing services for the community

## 3. COVID-19 FOOD DISTRIBUTION PROGRAM

- $75,000 (General Fund - $25K, CARES Act Program - $50K)
- The City of Fort Pierce has embarked on a food distribution program that includes partnerships with several entities throughout our community to include the following:
  - The Boys & Girls Club of Saint Lucie County
  - Grace Way Village
  - Treasure Coast Food Bank
  - Farm Share
  - Saint Matthews Missionary Baptist Church
- City of Fort Pierce Staff delivered 2000 prepared meals to the public at Ilous Ellis Park during the coronavirus testing event held May 11-15, 2020.
- Operation Dinner Table with the Boys & Girls Club launched May 2, 2020. Members of the City Commission assisted with the preparation and delivering of the prepared meals. To date, Operation Dinner Table has provided over 100,000 meals to our community. This program included a massive food distribution event on May 30, 2020 at Percy Peek Gymnasium. At this event over 1100 grocery packs were distributed to our community.
- Grace Way Village launched a collaborative program with the City of Fort Pierce that provides prepared meals to seniors and the disabled residents of Lawnwood Terrace. A total of 200 meals were delivered over the weekend of May 16-17, 2020. This program continued through Mid-July 2020. Grace Way Village

prepared and delivered an additional 2,000 meals to the community in partnership with the City of Fort Pierce.

- The City of Fort Pierce has hosted two (2) "Pop-Up" food distribution events with the Treasure Coast Food Bank. The first was on May 22, 2020 at Percy Peek Gymnasium. The second was on June 16, 2020 at Ilous Ellis Park. These events have provided over 400 grocery packs to the community.
- The City of Fort Pierce hosted a food distribution event with Farm Share at the Percy Peek Gymnasium on July 10, 2020. This event provided 260 grocery packs to the community.
- A recurring food distribution program has been initiated in partnership with Saint Matthews Missionary Baptist Church. This program launched at Ilous Ellis Park on July 17, 2020 with 442 families receiving grocery packs.

## 4. SPECIAL EVENTS

- The City Commission approved the relaunching of special events and facility rentals at their June 15, 2020 meeting.

## 5. CITY FACILITY PUBLIC ACCESS

- Internal access to municipal facilities is currently granted for those that have pre-scheduled appointments and must have temperatures readings below 100.4 degrees Fahrenheit.
  - City Hall – Open to the public for appointment access only.
  - Sunrise Theatre – Open with limited programming. Next event is scheduled for July 25, 2020 in the Black Box
  - Police Department Main Station and Substation – Open to the public for appointment access only.
  - City Marina – Open to the public and practicing social distancing.
  - Indian Hills Golf Course – Open to the public and practicing social distancing.
  - Beaches – Open
  - Parks – Open
  - Boat Ramps – Open.

## 6. CITY COMMISSION MEETINGS

- The City Commission continues to hold its regularly scheduled meetings.
- Public Hearings resumed June 15, 2020.
- Public may attend City Commission meetings in person or submit comments in writing to City Clerk.

- All meetings are broadcast live on TV Channel 27 and streamed online at: www.cityoffortpierce.com.
- City Commission appointed Board & Committee meetings have resumed based on critical need, and all such meetings are held in the Commission Chambers to ensure social distancing and telecommunications provisions.

## 7. COMMUNICATIONS

- Routine Press Releases
- Community Text Messages to recently expanded list of subscribers
- Visiting businesses to urge them to follow social distancing protocols
- Responding to phone calls and emails from citizens, businesses
- A total of (89) See-Click-Fix requests received from April 1 to July 1, 2020. The current average acknowledgement time is approximately 2.5 days.
- Video conferencing apps have been deployed and made available to employee mobile devices to enhance communications abilities.

## 8. EMPLOYEE STATUS (as of 7/20/2020)

- Eight (8) employees are currently out of the office due to various situations involving the Coronavirus.
- Six (6) employees have tested positive for COVID-19. Immediate contact tracing, notification, intensified sanitization, and testing have been completed in response to this situation.
- Senior and impaired employees have been given option to work from home, if possible.
- Four (4) employees are currently utilizing intermittent FFCRA Leave to care for their children
- Working from home (teleworking) shall be considered for future departmental schedules when applicable.

## 9. BUDGET

- The proposed operating budget for Fiscal Year 2021 has been drafted and presented to the City Commission utilizing the static 6.9000 millage rate and a 6.1% property valuation increase.
- Refunded Capital Debt to create annual savings
- Hiring Freeze for all positions except Police and Public Works Departments
- General Fund Budget Reduction Strategies
  - Effective April 1, 2020 - (2.5% Spending Plan Reduction)
  - Created $1 Million Contingency Fund for FY 21
- Sunrise Theatre Budget Reduction Strategies
  - Two (2) week staff furlough in May 2020

- Recurring weekly furlough for all Sunrise Theatre staff through August 2020
- Holding small scale events at Black Box
- Departmental restructuring of staff to reduce overhead to include lay offs
- Reduction of contractual staff and services
- Maintaining only minimal required services through August 2020

## 10. ECONOMIC RECOVERY STRATEGY

- Downtown Parklets
  - In an effort to help businesses expand capacity while abiding by the Governor's reopening restrictions, the City is allowing businesses to utilize the on-street parking spaces in front of their establishment for additional seating, shopping, or curbside pickup space. The City provides barriers needed to separate pedestrian and vehicular traffic.
  - At this time 22 businesses are signed up for the Downtown Parklet Program
  - The parklet program is envisioned to run concurrently with statewide reductions on business capacity.
- Development Fees
  - The City Commission approved development fee reductions and waivers for a period of six (6) months beginning June 15, 2020 to include the following:
    - Pre-Application Fee
    - Sidewalk Café Fee
    - Sign Permit Fee
    - Site Plan Fee

Please contact me if you have any questions or need additional information.

NCM:jdr

Attachment

c: City Clerk
City Attorney
Department Heads

July 17, 2020

## COVID-19 Situation Report #19

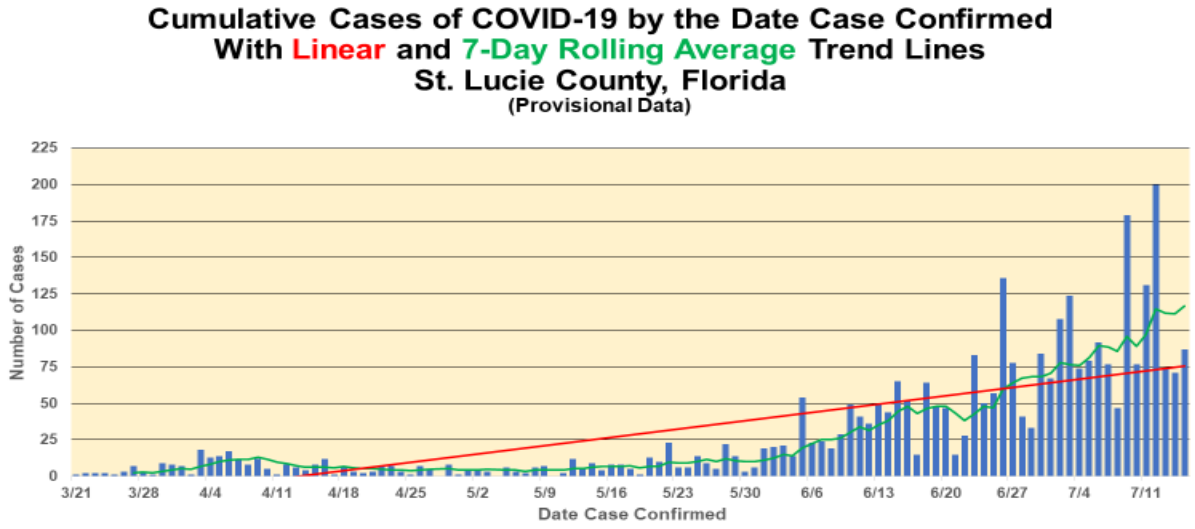
### Current St. Lucie COVID-19 Activity:

As of July 17, there were currently 3,434 confirmed cases (3,418 residents and 16 Non-Florida residents), and 78 deaths associated with COVID-19. The Health Department continues to interview new cases in order to investigate and conduct contact tracing.

You may find the most current information on Florida's COVID-19 Data and Surveillance Dashboard that contains LIVE COVID-19 case information.
https://fdoh.maps.arcgis.com/apps/opsdashboard/index.html#/8d0de33f260d444c852a615dc7837c86

### St. Lucie COVID-19 Outbreak Overview: Current and Past Activity

This graph shows the date that the person became a case of COVID-19 from the beginning of the COVID-19 outbreak in St. Lucie County. It tells us that COVID-19 infections decreased in April after the COVID outbreak began in early March. Since mid-May cases have increased steadily in June to the highest levels so far. COVID-19 Cases continue to remain at highest levels than have been seen before in St. Lucie County.

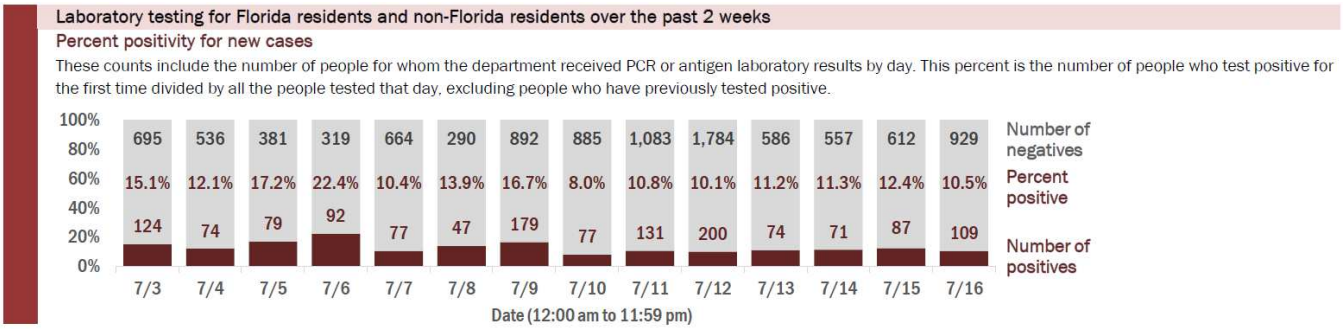


# Current Testing Activity:

**Testing Initiative:** The May2day initiative will continue indefinitely to be certain that people have access to COVID-19 testing. The goal continues to reach 2% or more of the population of St. Lucie County for COVID-19 per month

| County | Total Population | Number of Tests Required Monthly for 2% of Population | Tests Provided in July, up to July 11, 2020 | * % Total Population Tested in July, up to July 11, 2020 | Year to Date, Total Tests Provided | Year to Date, % Total Population Tested | Year to Date Positivity Rate |
|---|---|---|---|---|---|---|---|
| St. Lucie | 314,382 | 6,288 | 7,652 | 2.43% | 28,842 | 9.17% | 9.87% |

This table below shows the daily number and percent of the COVID Positive labs for St. Lucie County from 7/3-7/16. **Positivity rates declined slightly over the past seven days but remain above 10%.**




**Why is Testing and knowing your COVID status so important?**

1) **Protecting Yours**: If you know you are currently infected with COVID you can protect your family, friends and community by isolating yourself and reduce the spread of COVID.
2) **Medical Help Early:** If you or other family members are ill, you can get the help you need medically to prevent the potential negative consequences of COVID, such as serve illness or death.
3) **Helping to Prevent COVID:** Knowing how many people have COVID tell us how well we are containing the COVID virus by using Masks, Social Distancing and Personal Hygiene.

**The Health Department (FDOH) and Testing of Vulnerable Populations: Nursing Homes and Assisted Living Facilities:**

Per AHCA, staff will be required to be tested every two weeks to prevent spread of COVID-19 in nursing homes and assisted living facilities. Agency resources related to COVID-19 can be accessed on the Agency's COVID-19 alerts for facilities and Medicaid providers website: http://ahca.myflorida.com/covid-19_alerts.shtml .

**Get Ready for School**
**See the U-Tube Video clip from CDC Director Dr. Redfield below:**
https://www.youtube.com/watch?v=zi-I0NlKKI8

**School starts on August 10.** Many childhood and public health advocacy groups have recommended that it is best for children to safely physically attend school with an in-person teacher due to the negative impacts on children when not attending school.

The decision to reopen schools is in direct response to the Florida Department of Education's Emergency Order 2020-ED-06 (http://www.fldoe.org/core/fileparse.php/19861/urlt/DOE-2020-EO-06.pdf) and is made at the local level with each school district.

**Safe Reopening of Schools recommended by the CDC due to the negative effects on children and families:**

- Child is safe while parents are working
- Children receive free lunch and breakfast; access to other feeding programs
- Children who are abused or neglected are in a safe environment where abuse may be detected
- Educational regression especially in math
- Social interaction with others
- Children may feel socially isolated, anxious or depressed
- Normalcy important in disasters or situations like COVID-19 where routines have been disrupted.
- The importance of in-person learning is well documented (American Academy of Pediatrics)

**American Academy of Pediatrics (AAP)**
**COVID-19 Planning Considerations: Guidance for School Re-entry** (Full Guidance https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-planning-considerations-return-to-in-person-education-in-schools/ )
With the above principles in mind, **the AAP strongly advocates that all policy considerations for the coming school year should start with a goal of having students physically present in school**.

**What are the potential impacts of COVID-19 on Children?**

- While children do become infected with COVID-19, they are less likely to have severe disease this is because they have robust immune systems and fewer respiratory receptors for SARS-CoV-2, the virus that causes COVID-19.
- There is growing evidence that unlike influenza, children are not the Super-spreaders that was originally thought. Parents are more likely to infect their children than the other way around.
- All persons regardless of age with underlying medical conditions are more likely to have severe infection with COVID-19.
- There is a very rare condition that can occur following COVID-19 called Multisystem inflammatory syndrome in children (MIS-C). It is a condition where different body parts can become inflamed, including the heart, lungs, kidneys, brain, skin, eyes, or gastrointestinal organs. We do not yet know what causes MIS-C. However, many children with MIS-C had the virus that causes COVID-19, or had been around someone with COVID-19. **Florida has had less than 20 cases of MIS-C and there have been no cases in St. Lucie County.**

## How is COVID-19 different in children compared to Influenza?

- The CDC reported in May 2020 that, "Children are important drivers of influenza virus transmission in the community. For COVID-19 virus, initial data indicates that children are less affected than adults and that clinical attack rates in the 0-19 age group are low."
- The Pan American Health Association reports that**…"** preliminary data from household transmission studies of COVID-19 in China suggest that children are infected from adults, rather than vice versa".
- There is a great deal of evidence that school-aged children are important spreaders of Influenza.
- A comparison of COVID-19 and Influenza can be found here from **Johns Hopkins:** https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-disease-2019-vs-the-flu

### Similarities:

Both influenza and COVID-19 have similar symptoms and both are transmitted by droplets. Both are prevented by similar prevention methods. And both can cause complications and death.

### Differences:

COVID-19 and Influenza are different viruses and COVID-19 may be transmitted via airborne transmission route as well as by droplets. Currently both a vaccine and treatments exist for Influenza. While there are vaccine trials happening currently, there is no vaccine nor a simple treatment for COVID-19. While both can cause severe complications and deaths, COVID-19 has caused more deaths than influenza, especially in those with chronic conditions and the elderly. Influenza is more contagious than COVID-19 due to its shorter incubation period (it can infect more people in a shorter period of time).

## What has been the impact of COVID-19 on St. Lucie County Children so far?

| Age group | All cases | | New cases (7/16) | | Hospitalizations | | Deaths | |
|---|---|---|---|---|---|---|---|---|
| 0-4 years | 60 | 2% | 1 | 1% | 3 | 1% | 0 | 0% |
| 5-14 years | 129 | 4% | 4 | 4% | 3 | 1% | 0 | 0% |
| 15-24 years | 464 | 14% | 14 | 13% | 5 | 2% | 0 | 0% |
| 25-34 years | 616 | 18% | 22 | 20% | 13 | 5% | 1 | 1% |
| 35-44 years | 556 | 16% | 12 | 11% | 24 | 9% | 1 | 1% |
| 45-54 years | 574 | 17% | 22 | 20% | 38 | 15% | 2 | 3% |
| 55-64 years | 431 | 13% | 14 | 13% | 40 | 16% | 4 | 5% |
| 65-74 years | 296 | 9% | 12 | 11% | 47 | 18% | 14 | 18% |
| 75-84 years | 159 | 5% | 5 | 5% | 45 | 17% | 22 | 28% |
| 85+ years | 103 | 3% | 3 | 3% | 40 | 16% | 34 | 44% |
| Unknown | 7 | 0% | 0 | 0% | 0 | 0% | 0 | 0% |
| Total | 3,395 | | 109 | | 258 | | 78 | |

Nearly 6% of all COVID-19 cases in St. Lucie are 14 years old or younger and 14% of all cases were older children or young adults between 15-24 years of age. Of those less than 25 years old, 4% of cases were hospitalized and there were no deaths in any person less than 25 years old.

**What is the role of the Health Department?**

**Partnership:**

The Florida Department of Health is working in partnership with the School District and many community partners to provide guidance, resources and current data related to COVID-19, however, the Florida Department of Health in St. Lucie County does not have the authority to determine when and how students will return to class. St. Lucie Public Schools has outlined the plan, with various options, that can be viewed here https://www.stlucie.k12.fl.us/.

**School Health Nursing:**

- Working with School District for investigations and contact tracing to identify students and/or employees who should stay home to control spread inside the schools.
- Monitor for trends or outbreaks to implement prevention/control measures
- Sharing latest science regarding COVID-19 and children
- Working with the School Board and the Administration provide the latest recommendations for putting plans in place
- Working with School District PIO to distribute important public health information
- Take necessary and appropriate measures to prevent the spread of any infectious disease in the school setting by maintaining tracking logs of students and staff who present to the clinic with COVID-19 symptoms or any other communicable disease.
- Isolate students and staff that present to the clinic that are COVID + and/or symptomatic. Place a mask on the student/staff. Call the parent/guardian to pick up the student from school.

## Get in Control of Your Health

**Masks and Face Coverings: Help others and yourself**

The use of cloth face-coverings/masks is an important tool to help us control COVID-19 in our community. Airborne transmission of COVID-19 is the most efficient way to transmit COVID-19 from one person to another.

The face mask is worn to protect others from your aerosols and droplets. If others are not wearing masks or face coverings your face covering/mask does not protect you from aerosols/droplets they generate, through coughing, sneezing, laughing or talking. **Protection from asymptomatic or pre-symptomatic increases when all people are wearing face coverings/masks in situations where social distancing is not possible or in addition to social distancing.**

**How to properly wear a face covering or mask:**

https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/when-and-how-to-use-masks

https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-wear-cloth-face-coverings.html

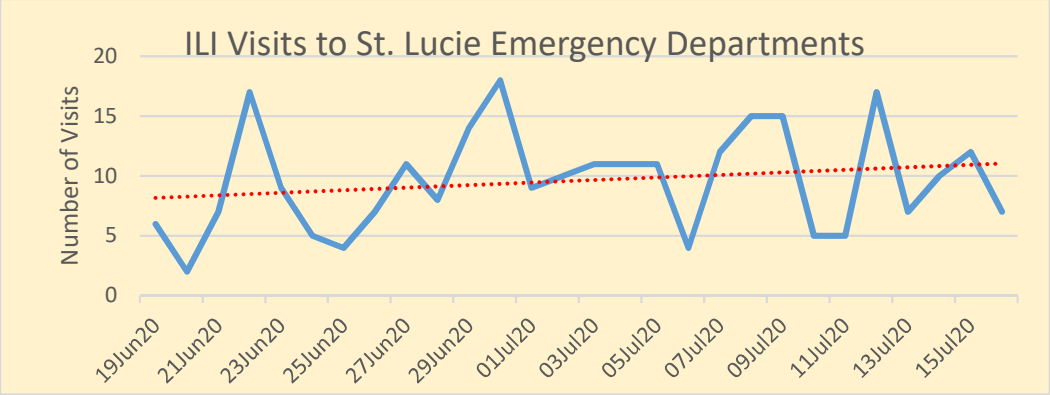
# Governor's Benchmarks or Gating Criteria

Governor's Benchmarks (Federal Gating Criteria) is the criteria used to determine the level of COVID-19 in the Community to help guide Community Leaders in community prevention activities.

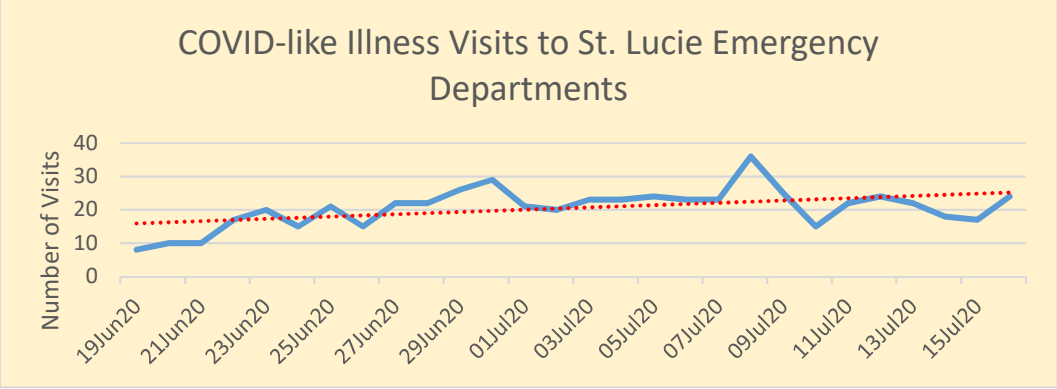
**Current Situation: Phase Two of Governor's Recovery Plan: *Plan for Florida's Recovery Safe. Smart. Step-by-Step*** https://www.flgov.com/wp-content/uploads/covid19/Taskforce%20Report.pdf

1. **Criteria: Syndromic Surveillance:**

   **A. Downward trajectory of influenza-like illness (ILI)**



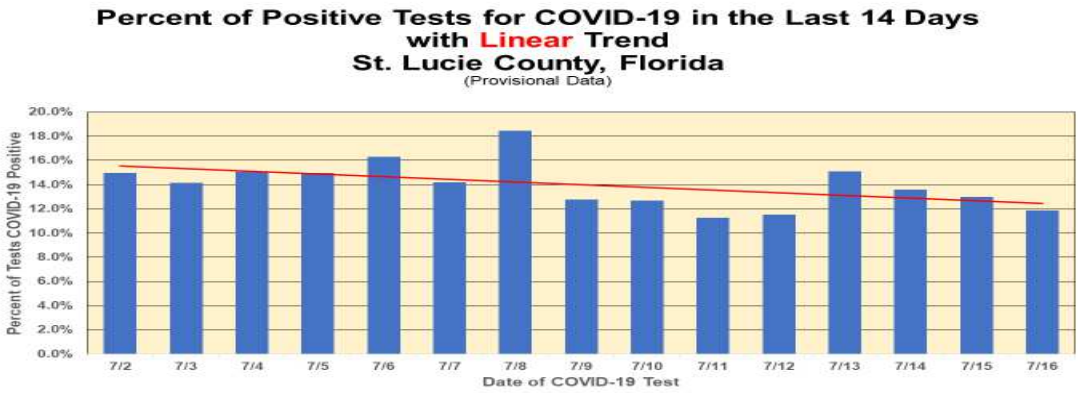

   **B. Downward trajectory of COVID-like illness (fever, cough, shortness of breath**




**Criteria Not Met:** Neither Syndromic Surveillance Criteria is going down. Trends in both Criteria have been steadily rising since the beginning of June.

2. **Criteria: Lab and Case Data:**

**A. Downward trajectory of positive tests as a percent of total tests (flat or increasing volume of tests)**




**B. Downward Trajectory of documented COVID-19 Cases (see initial graph of case onsets on Page 1).**

**Criteria Partially Met:** COVID-19 Cases are rising while the percent of positive tests are decreasing. However, there has been a decrease in testing. Because of lags in testing results, shortages of testing supplies and laboratory capacity, it is unclear if trends are current.

**3) Criteria: Hospital and Public Health Capacity:**

**A: Capability to treat all patients without triggering surge capacity:**

The Health Department, County Leadership and Emergency Management communicate regularly with area hospitals. Currently, hospitalizations are increasing to levels and have reached a plateau. Hospitals have made accommodations to care for COVID-19 patients. Hospitals still have capacity and equipment to care for cases of COVID-19, However, area hospitals are limiting elective surgeries to accommodate increases in COVID-19 patients.

**B: Robust testing program in place for at-risk healthcare workers, including emerging antibody testing.**

The Health Department has the capability to test at-risk healthcare workers and other high-risk and vulnerable populations.

**Criteria Partially Met**: Both the capacity of the hospitals and the Health Department are currently able to meet the criteria. However, hospital capacity and testing capabilities are stretched at this time.

# What You Should Know

***COVID-19 is currently circulating at high rates in St. Lucie County. COVID-19 is not just a "bad flu", it is more contagious, has a higher death rate than influenza and can cause long-term health concerns. Humans have never been infected with this virus and we have no immunity to it.***

Simple prevention measures such **as wearing a face covering and maintaining 6 ft. between you and others** recommended by the CDC and other researchers to prevent the transmission of COVID. These measures are effective at preventing small droplets from entering your eyes, nose or mouth. Simple hygiene measures such as hand washing and cleaning of surfaces in your home are also recommended to prevent transmission of droplets from surfaces to the eyes, nose or mouth.

Primary symptoms of COVID-19 are fever, cough and shortness of breath. Symptoms may appear in as few as two days or as many as 14 days following exposure. The elderly and those with underlying medical problems like high blood pressure, heart problems and diabetes are more likely to develop serious illness. There is currently no vaccine to prevent COVID-19. Current evidence indicates that COVID-19 causes milder symptoms in younger people and children and they are less infectious to others as originally thought.

**The best way to prevent illness is to avoid being exposed to the virus.** The Department recommends:

- Using a mask or face covering in public to protect others should you be asymptomatic yet infectious to others. (asymptomatic infections have been associated with COVID transmission)
- Maintain 6 feet between you and others-close proximity to infected people increases your chances of contracting COVID-19.
- Avoiding close contact with people who are sick;
- Staying home when you are sick and avoiding contact with persons in poor health;
- Avoiding touching your eyes, nose and mouth with unwashed hands;
- Covering your cough or sneezing into a tissue, then disposing of the tissue;
- Washing your hands often with soap and water for at least 20 seconds, especially after going to the bathroom, before eating, after blowing your nose, coughing or sneezing;
- If soap and water are not readily available, use an alcohol-based hand sanitizer with at least 60% alcohol. Always wash hands with soap and water if hands are visibly dirty; and
- Cleaning and disinfecting frequently touched objects and surfaces using a regular household cleaning spray or wipe.

**Ongoing response and recovery actions**

- Protect the vulnerable
- Increase Testing and Monitoring Disease Trends
- Promote Social Distancing and face coverings/masks
- Support Hospitals and Protect Health Care Workers
- Help protect introduction of the virus into the community
- Monitoring, surveilling and reporting COVID disease in the County.
- Continue daily communication and follow up with long term care facilities, dialysis centers, rehabilitation centers, drug treatment centers and group homes.
- Coordinating with AHCA or the appropriate regulatory agency for joint inspections and testing.
- Work with Emergency Management and partners to reach vulnerable populations to assess unmet needs that may include access to meals, medicines and other essentials.

## Hot Topics

**AHCA: Long-term Care Testing Clarification - July 16, 2020:**
To prevent the spread of COVID-19 at long-term care and residential facilities, the Agency for Health Care Administration issued Emergency Rule 59AER20-6: https://f6299184-a3cb-4c34-bb57-9bbf5a2a4016.filesusr.com/ugd/8d7960_fcb77e2b5f6849949f48a302fbeffa76.pdf

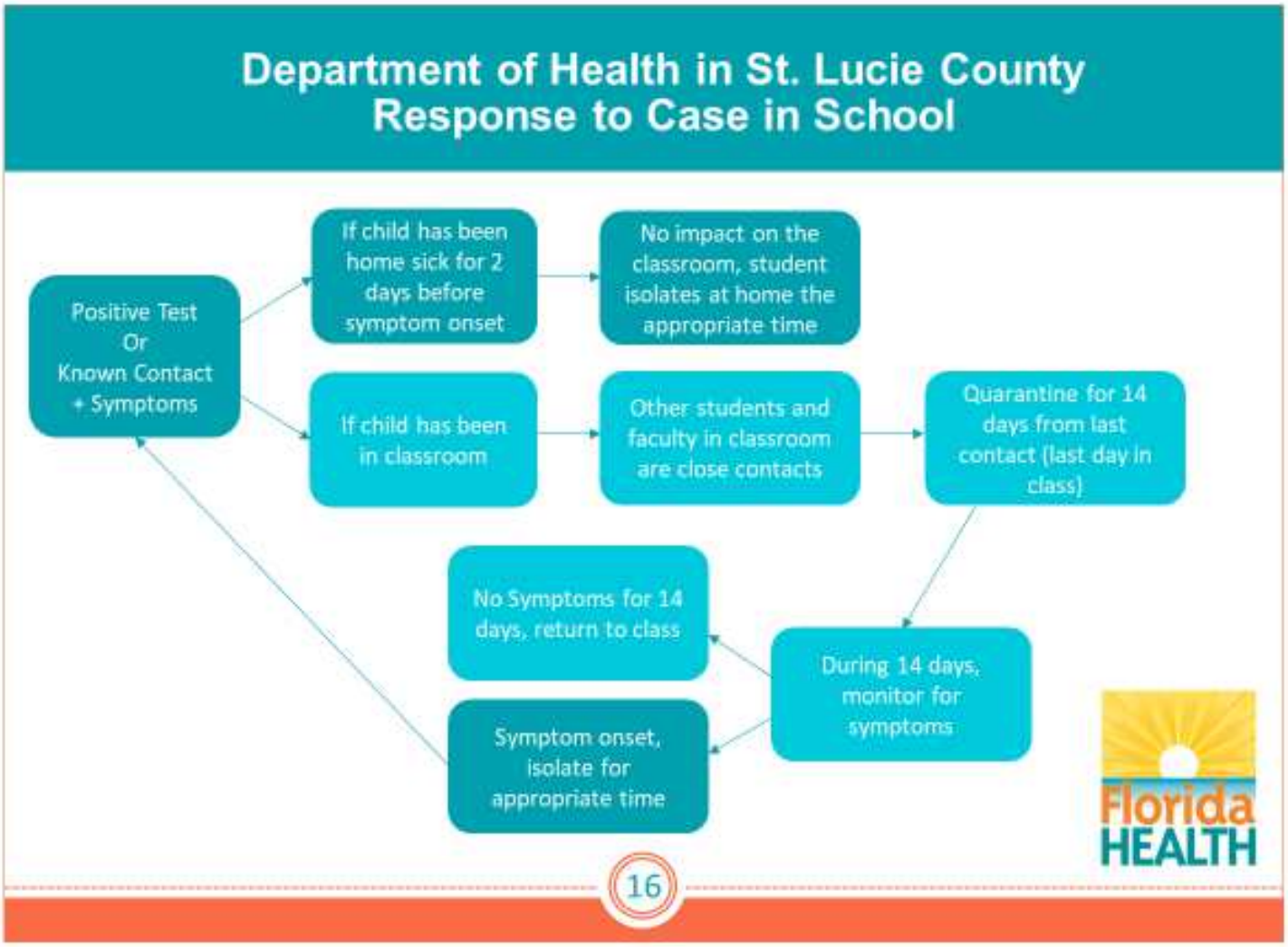
This rule replaces the previous Emergency Rule 59AER20-01 and provides further clarity to hospitals and long-term care facilities about clinical decision making during the discharge of residents. A hospital is prohibited from discharging any resident who has tested positive for COVID-19 or is exhibiting symptoms consistent with COVID-19 to any long-term care facility until the resident has been cleared for discharge using either a test-based strategy or a symptom-based strategy, unless the receiving facility has a dedicated wing, unit, or building with dedicated staff to accept the COVID-19 positive resident.

**Provision of Pediatric Immunization Services During the COVID-19 Pandemic: an Assessment of Capacity Among Pediatric Immunization Providers Participating in the Vaccines for Children Program — United States, May 2020**
https://www.cdc.gov/mmwr/volumes/69/wr/mm6927a2.htm?s_cid=mm6927a2_e&deliveryName=USCDC_921-DM32461

**OpenSAFELY: factors associated with COVID-19 death in 17 million patients**
https://www.nature.com/articles/s41586-020-2521-4_reference.pdf?fbclid=IwAR0L525v3nBTZlGoiwZk8068HsszN5gkdLAxCtX8-m8zZxjKUeFUPV1B3go

**Persistent Symptoms in Patients After Acute COVID-19**
https://jamanetwork.com/journals/jama/fullarticle/2768351?utm_source=silverchair&utm_campaign=jama_network&utm_content=covid_weekly_highlights&utm_medium=email

**Absence of Apparent Transmission of SARS-CoV-2 from Two Stylists After Exposure at a Hair Salon with a Universal Face Covering Policy — Springfield, Missouri, May 2020**
https://www.cdc.gov/mmwr/volumes/69/wr/mm6928e2.htm?s_cid=mm6928e2_e&deliveryName=USCDC_921-DM32906


Department of Health in St. Lucie County
Response to Case in School
Positive Test
Or
Known Contact
+ Symptoms
If child has been home sick for 2 days before symptom onset
No impact on the classroom, student isolates at home the appropriate time
If child has been in classroom
Other students and faculty in classroom are close contacts
Quarantine for 14 days from last contact (last day in class)
No Symptoms for 14 days, return to class
During 14 days, monitor for symptoms
Symptom onset, isolate for appropriate time
Florida HEALTH
16

Wear a Cloth Face Covering to Protect You and Your Friends
PUT ON
WASH YOUR HANDS
PLACE OVER NOSE AND MOUTH
MAKE SURE YOU CAN BREATHE EASILY
TAKE OFF
TAKE OFF YOUR FACE COVERING
FOLD OUTSIDE CORNERS TOGETHER
PUT ASIDE FOR WASHING
WASH YOUR HANDS
WASH YOUR HANDS OFTEN, WEAR A MASK, AND STAY 6 FEET FROM OTHERS.
CDC
cdc.gov/coronavirus

# St Lucie County Testing Sites

**Local COVID Testing Sites** Rev 7/17/20

*Please note that this list is a work in progress and information may change without any notice. It is not a complete list of available options. If shared outside of the organization, make sure to indicate that is may be out of date as information changes daily. If you find a need for corrections, please email Stefanie.Myers@flhealth.gov*

| | PCR (Nasal Swab) | Antibody | Rapid | By appt | Drive Through | Cost | Adults | Children | Days, Times | Address | Phone | Website |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Care Now** | x | x | No | x | | Self-pay - $150 for the exam plus $100 fee from the lab | x | Children 3mo+ | Mon-Fri 8 am - 6 pm<br>Sat-Sun 8 am - 2pm | 1730 SW St Lucie West Blvd, PSL | 772 873 8155 | https://www.carenow.com/covid-19/ |
| **Care Now** | x | x | No | x | | Self-pay - $150 for the exam plus $100 fee from the lab | x | Children 3mo+ | Mon-Fri 8 am - 6 pm<br>Sat-Sun 8 am - 2pm | 5550 S US Hwy 1, FP | 772 460 9227 | https://www.carenow.com/covid-19/ |
| **Care Now** | x | x | No | x | | Self-pay - $150 for the exam plus $100 fee from the lab | x | Children 3mo+ | Mon-Fri 8AM-7PM<br>Sat-Sun 8AM-1PM | 4007 SW Port St Lucie Blvd, PSL | 772 343 1774 | https://www.carenow.com/covid-19/ |
| **Care Now** | x | x | No | x | | Self-pay - $150 for the exam plus $100 fee from the lab | x | Children 3mo+ | Mon-Fri 8AM-7PM<br>Sat-Sun 8AM-1PM | 1900 SE Port St Lucie Blvd | 772 398 1588 | https://www.carenow.com/covid-19/ |
| **Care Spot** | x | | No | x | | | x | Children 6m+ | M-F 8 am-8 pm<br>Sat, Sun 8 am-8 pm | 784 E Prima Vista Blvd, PSL | 772 787 7311<br>772 236 4970<br>(772) 879-5286 | https://www.carespot.com/carespot-urgent-care/port-st- |
| **Cleveland Clinic drive through testing** | x | | No | x | x | | 16+ | | Testing Hours:<br>M - F 8:30 am-3:30 pm<br>Sat, Sun 9 am-1 pm | 10000 SW Innovation Way, PSL | (855) 697-3750 | https://www.martinhealth.org/new-coronavirus-covid-19-updates |
| **CVS - Minute Clinic** | x | | x | x | x | No out of pocket cost for insured. May be no cost for self pay with correct ID. | 18+ | | M-F 8:30am-1:30pm /2:29pm-7:30pm<br>Sat 9am-1:30pm /2pm-5:30pm<br>Sun 9am-1:30pm /2pm-4:30pm | 1300 SW St Lucie Blvd, PSL 34986 | (866) 389-2727 | https://www.cvs.com/minuteclinic/covid-19-testing?cid=poct-covid19-mc-clinicvisit |
| **Florida Community Health Center - Fort Pierce** | x | | No | x | x | $0 | x | x | M 8am-6pm<br>T-Friday 8am-8pm<br>Sat 8am-5pm (closed 12-1) | 1505 Delaware Avenue, FP | (772) 461-1402 | https://www.fchcinc.org/news/1079-coronavirus-screening |
| **Florida Community Health Center - Port St Lucie Children's Health Center** | x | | No | x | x | $0 | x | x | M&W 8am-6pm<br>T&Th 8am-5pm<br>F 8am-4pm | 1701 S.E. Hillmoor Drive, Suite 19, PSL | (772) 335-8455 | https://www.fchcinc.org/news/1079-coronavirus-screening |
| **Midway Specialty Diagnostics** | x | | | | | | x | 13+ | M-Th: 8:30 AM – 4 PM<br>Fri: 8:30 AM – 1 PM | 3255 S Federal Hwy | (772) 207-3756 | https://www.midwaycare.org |
| **One Blood - Port St Lucie Donor Center & Mobile Red Bus** | | x | | x | | $0 | x | | Check website for donation sites and times. | 7572 US Highway 1 Port Saint Lucie, FL 34952 - see other Big Red Bus locations on website. | (772) 344-6900 | https://www.oneblood.org/donate-now/donation-centers.stml |

# St Lucie County Testing Sites

**Local COVID Testing Sites** Rev 7/17/20

*Please note that this list is a work in progress and information may change without any notice. It is not a complete list of available options. If shared outside of the organization, make sure to indicate that is may be out of date as information changes daily. If you find a need for corrections, please email Stefanie.Myers@flhealth.gov*

| | PCR (Nasal Swab) | Antibody | Rapid | By appt | Drive Through | Cost | Adults | Children | Days, Times | Address | Phone | Website |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Publix at Verano** | x | | No | | | $0 | 18+ | | M-F 9-5 | 9335 SW, Commerce Centre Dr, Port St. Lucie, FL 34986 | | https://floridadisaster.org/globalassets/covid19/walk-in-test-sites/7.2.20-cbts-faq-walk-up.pdf |
| **Quest Diagnostics** | | x | No | x | | Test cost ($119) +$10.30 Fee without ins | x | | M-F 7am-4pm | 1803 S 25th Street, Ste 3, FP | 866 697-8378 (My Quest) | https://questdirect.questdiagnostics.com/products/covid-19-immune-response |
| **Quest Diagnostics** | | x | No | x | | | x | | M-F 7am-3pm | 2940 S US Hwy 1, FP | 866 697-8378 (My Quest) | https://www.carenow.com/covid-19/ |
| **Quest Diagnostics** | | x | No | x | | | x | | M-F 7am-3pm, Sat 7am-2pm | 1675 NW St Lucie West Blvd, PSL | 866 697-8378 (My Quest) | https://www.carenow.com/covid-19/ |
| **Quest Diagnostics** | | x | No | x | | | x | | M-F 7am-4pm | 1400 SE Goldtree Dr, Ste 106, PSL | 866 697-8378 (My Quest) | https://www.carenow.com/covid-19/ |
| **Quest Diagnostics** | | x | No | x | | | x | | M-F 6:30 am - 2:30 pm | 1010 SW St Lucie West Blvd, PSL | 866 697-8378 (My Quest) | https://www.carenow.com/covid-19/ |
| **State testing site in Palm Bay (Palm Bay Eastern Florida State College)** | x | | | | x | | x | | Sun-Sat 9 am-5pm | Eastern Florida State College, Palm Bay Campus, 250 Community College Parkway, Palm Bay, FL 32909 | (321) 637-6670 | |
| **Treasure Coast Community Health - Fellsmere** | x | | | | | not charging patients for COVID-19 testing during emergency. | | | T, F 2:30-4:30pm | 12196 CR 512 Fellsmere, FL 32948 | (772) 257-8224 | https://www.tcchinc.org/ |
| **Treasure Coast Community Health - Gifford Health Center** | x | | | | x | not charging patients for COVID-19 testing during emergency. | | | T, Sat 8:30-10:30 | 4675 28th Ct, Vero Beach | (772) 257-8224 | https://www.tcchinc.org/ |
| **Treasure Coast Community Health - Oslo** | x | | | | x | not charging patients for COVID-19 testing during emergency. | | | Wed & Fri 8:30-10:30 am | 1590 9th Street SW (Oslo Road) Vero Beach, FL. 32962 | (772) 257-8224 | https://www.tcchinc.org/ |

# St Lucie County Testing Sites

| **Local COVID Testing Sites** Rev 7/17/20 | *Please note that this list is a work in progress and information may change without any notice. It is not a complete list of available options. If shared outside of the organization, make sure to indicate that is may be out of date as information changes daily. If you find a need for corrections, please email Stefanie.Myers@flhealth.gov* | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | **PCR (Nasal Swab)** | **Antibody** | **Rapid** | **By appt** | **Drive Through** | **Cost** | **Adults** | **Children** | **Days, Times** | **Address** | **Phone** | **Website** |
| **Treasure Coast Urgent Care** | x | x | No | x | | Self Pay $199 | x | x | M-T, Th-F 8am -6pm*<br>W 8am-7pm*<br>SAT, SUN 8am-2pm* | 1050 SE MONTEREY RD. STE 101 STUART, FL 34994 | (772) 419-0560 | https://www.tcurgentcare.com/urgent-care/ |
| **Walgreens** | x - self administered | | No | | x | varies | x | | Call local site for details | | | https://www.walgreens.com/findcare/covid19 |
| **Walmart** | x - self administered | | No | x | x | | x | | T, Th 8-9am | 902 SW St Lucie West Blvd | 866-448-7719 | |
| **Walmart** | x - self administered | | No | x | x | | x | | T, Th 8-9am | 3045 SW Port St Lucie Blvd | 866-448-7719 | |
| **Whole Family Health Center** | x | | No | | | No out of pocket cost for insured; Sliding fee | x | x | M-Th : 7:30 am-6 pm<br>F 7:30 am-5 pm | 725 N US 1, FP | 877-345-9342 | https://www.wfhcfl.org/ |
| **Xpress Urgent Care** | x | | No | x | | $125 uninsured | x | 5+ | Mon-Sat open 8am-8pm<br>Sun 9am-4pm | 672 SW Prima Vista Blvd, Ste 102, PSL | 888-726-3020<br>772 905 2560 | www.xpressfl.com |