

**SATELLITE BEACH**  
**OFFICIAL CODE OF ORDINANCES**

**PART II. CITY CODE**  
**CHAPTER 30. LAND DEVELOPMENT**  
**REGULATIONS**

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**SATELLITE BEACH**  
**CHAPTER 30. LAND DEVELOPMENT REGULATIONS**

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# SATELLITE BEACH

## CHAPTER 30. LAND DEVELOPMENT REGULATIONS

### Article I. General Provisions

#### § 30-101. Title of chapter

This chapter shall be entitled the City of Satellite Beach Land Development Regulations.

#### § 30-102. General findings of chapter

(a) The provisions of F.S. § 163.3161, et seq., require the city to enact a unified land development code which implements the city comprehensive plan.

(b) Controlling the location, design, and construction of development within the city is necessary to maintain and improve the quality of life in the city.

#### § 30-103. General intent of chapter

The provisions of this chapter shall be construed and implemented to achieve the following intent:

(a) Foster the public health, safety, and welfare.

(b) Protect the Indian River Lagoon.

(c) Aid in the harmonious and orderly development of the city in accordance with the city comprehensive plan.

(d) Establish the regulations, procedures, and standards for review and approval of all proposed development in the city.

(e) Adopt an efficient, effective, and equitable development review process that addresses the natural-resource and public-facility implications of proposed development; and is consistent with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the city and its residents.

#### § 30-104. Specific findings and intent relating to various subject areas

With regard to the following specific subject areas regulated by this chapter, the city council finds, and intends this chapter to be construed and implemented to achieve, the following:

(a) *Signs.*

(1) The location, maintenance, and manner of erection of signs affect the public safety and welfare of the residents of the city.

(2) The safety of motorists, cyclists, and pedestrians is affected by the number, size, location, and appearance of signs that divert the attention of drivers.

(3) Large signs suspended from or placed on the tops of buildings, walls, or other structures constitute a direct danger to pedestrian and vehicular traffic, especially during periods of strong winds.

(4) Unlimited numbers and uncontrolled placement of signs degrade the aesthetic attractiveness of the natural and manmade attributes of the city, thereby undermining economic growth and the economic value of property.

(5) Due to the city's predominately residential character, billboards and other off-premises signs have an adverse impact on the aesthetics of the city. On-premises signs are sufficient to provide advertising for nonresidential uses within the city.

(6) It is important to create a comprehensive and balanced system of sign control which accommodates the need for both a well-maintained, safe, and attractive city and effective business promotion. To that end, signs shall be:

a. Designed, constructed, installed, and maintained in a manner which does not endanger public safety or unduly distract motorists; and

b. No larger than necessary to convey essential information about the subject business or activity.

(b) *Landscaping.*

(1) Landscaping and buffering with trees and other vegetation promote the public health, safety, and welfare.

(2) Landscaping and trees benefit the city by performing functions such as the following:

a. Absorb carbon dioxide, and return oxygen to the atmosphere.

b. Remove dust and other particulates from the air.

c. Provide wildlife habitat, particularly for birds which, in turn, help control insects.

- d. Provide soil stabilization, which reduces erosion and mitigates the effect of flooding.
- e. Provide shade to conserve energy, reduce glare, and make outdoor areas more comfortable during hot weather.
- f. Reduce ground-level wind speeds during tropical storms and hurricanes, thereby reducing danger to people and damage to property.
- g. Enhance the city's attractiveness.
- h. Provide attractive buffering between different land uses.
- i. Reduce noise and surface water runoff.
- j. Mitigate conflicts between adjoining land uses.

(3) Florida-friendly landscaping is preferable to other types of vegetation, as it is adapted to local diseases, pests, soils, and climate and is generally more economical and desirable than exotic species, which generally require more pesticide, fertilizer, and water.

(4) The use of exotic vegetation should be discouraged because it generally uses more water and damages the environment by increased use of fertilizers and pesticides. Invasive exotic vegetation should be prohibited because it crowds out native vegetation and disrupts natural habitats.

(5) Mangrove trees are especially valuable in stabilizing, building, and protecting the shoreline, providing for spawning and breeding grounds for marine organisms and other wildlife and serving as the basis for most of the estuarine food chains, which are critical to a substantial majority of those species considered important from a recreational or commercial standpoint.

(c) *Off-street parking.*

(1) Off-street parking and loading of vehicles promote public safety and welfare by reducing traffic congestion.

(2) Well-designed off-street parking and loading areas promote the safe and efficient storage, loading, and circulation of vehicles.

(3) Unpaved or otherwise porous parking areas aid the recharge of surficial aquifers, moderate the microclimate, and reduce the expense of controlling surface water runoff.

(4) It is important to ensure that all developments provide adequate and safe storage and movement of vehicles in a manner consistent with good engineering and site-design principles.

(d) *Surface water runoff management.*

(1) Surface water runoff erodes soil and pollutes underground water and surface waters.

(2) Surface water runoff often contains nutrients, especially phosphorus and nitrogen, which adversely affect flora and fauna by accelerating eutrophication of receiving waters.

(3) Erosion silts up water bodies, decreasing their capacity to hold and transport water, interfering with navigation, and damaging flora and fauna.

(4) Impervious surfaces increase the volume and rate of surface water runoff and decrease groundwater recharge.

(5) Excessive surface water runoff increases the incidence and severity of flooding, thereby endangering property and human life; alters the salinity of estuarine areas and diminishes their biological productivity; and adversely affects the drainage of off-site property.

(6) Eighty to 95 percent of the total annual loading of surface water pollutants discharged into receiving waters is concentrated in the flush created by the first one inch of rainfall (first flush) and carried off-site in the first one-half inch of runoff.

(7) Activities which adversely affect underground water and surface waters must be avoided.

(e) *Protection of environmentally-sensitive lands.*

(1) Protecting environmentally-sensitive lands, while also protecting the rights of property owners and the public's right to enjoy navigable waters and beaches, promotes the well-being of city residents.

(2) Shorelines and beaches serve the following beneficial functions:

a. Provide essential habitat for many plant and animal species, including endangered, threatened, and special-concern species;

b. Provide a recreation resource which must be protected.

(3) The dune system provides protection from wave erosion for oceanfront properties and protection from storm-surge flooding for the rest of the city. However, to be effective, the dune requires stabilization by establishing suitable vegetation and preventing disturbance from pedestrian traffic and construction.

(4) The biological integrity of natural habitats must be protected, and activities which adversely affect natural habitats and native flora and fauna must be prevented.

## § 30-105. Applicability of chapter

The provisions of this chapter shall apply to all development in the city occurring after the effective date of the ordinance from which this chapter is derived, and no development shall be undertaken after such date unless pursuant to this chapter. The only exceptions shall be development with unexpired approved site plans or unexpired lawfully-issued building permits.

## § 30-106. Interpretation of chapter

In interpreting and applying this chapter, all provisions shall be considered minimum requirements, liberally construed in favor of the city, and deemed neither to limit nor repeal any other powers granted under law.

## § 30-107. Definitions

When used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not defined in this section or in the comprehensive plan shall have the meanings in Webster's New Collegiate Dictionary, as revised.

*Accessory structure or use* means a structure or use of land or structure, or portion thereof, customarily incidental and subordinate to the principal structure or use and located on the same parcel with the principal structure or use.

*Alley* means a roadway dedicated to public use which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

*Armoring* has the same meaning as defined in Rule 62B-33, FAC, and includes any rigid or semi-rigid structure which, regardless of whether such structure is covered by sand, functions similarly to armoring.

*Arterial roadway* means a roadway designated as an arterial roadway in the city's comprehensive plan.

*Automobile fuel station* means a building or property where gasoline, diesel, propane, or other fuel is dispensed to the general public for any type of automotive vehicle.

*Auto, marine, or equipment repair shop* means a business where engines or other mechanical components are overhauled, repaired, or replaced.

*Beach-quality sand* means sand which is similar to the native beach sand in both coloration and grain size and is free of construction debris, rocks, clay, or other foreign matter.

*Breezeway* means a corridor across the full depth of all properties east of State Road A1A, which is reserved to ensure unrestricted movement of ocean breezes and visual access to the ocean. The corridor includes all land from the mean low-water line to State Road A1A.

*Building permit* means that official city document which authorizes the commencement of construction or land alteration in accordance with the State of Florida Building Code.

*Bulkhead* means any wall or structure designed to prevent the erosion of land by water action or acts of nature.

*Business vehicles* means any vehicle marked with any sign advertising a business and any vehicle used by employees.

*Coastal construction control line* means the most current coastal construction control line established by the State of Florida.

*Coastal construction protection zone* means that area which lies east of the coastal construction control line.

*Collector roadway* means a roadway designated as a collector roadway in the city's comprehensive plan.

*Commercial vehicle* means any truck, bus, trailer, portable equipment, machinery, or similar vehicle or combination thereof which is used or intended to be used in or for any commercial enterprise or business purpose or has more than six wheels, or more than two axles, or a height greater than eight feet, or an overall length of more than 22 feet, or a gross vehicle weight rating of more than 10,000 pounds.

*Conditional use* means a use that would not be appropriate without restriction throughout a zoning district, but which, if controlled as to number, size, location, relation to the neighborhood, or other relevant factors, would promote the public health, safety, convenience, or general welfare.

*Congregate living home* means a residence where housing, meals, and personal services, including limited nursing services, are provided on a continuing basis for four or more individuals not related by blood or marriage to the home's owner or administrator.

*Contractor's storage yard* means outdoor storage facilities operated by, or on behalf of, a contractor for the storage and/or maintenance of large equipment, commercial vehicles, and/or other materials commonly used in the individual contractor's type of business. This excludes temporary contractor's storage on the site of an on-going construction project where a building permit has been issued.

*Cultural facilities* means museums and art galleries.

*Davit* means a crane projecting over the water that is used to lift a boat.

*Detention* means the collection and storage of surface water runoff for gradual discharge into a receiving water body.

*Development* has the same meaning as that defined in F.S. ch. 380.

*Drug store* shall mean a retail pharmacy, with or without a drive-thru lane, unless otherwise specified in this Code.

*Dune* means a mound, bluff, or ridge of loose, usually sand-sized soil lying upland of the beach which may be bare or covered with vegetation.

*Dwelling, multifamily* means any residential building containing three or more separate dwelling units.

*Dwelling, single-family* means a detached residential building containing only one dwelling unit.

*Dwelling, two-family* means a duplex.

*Dwelling unit* means one room or any number of connected rooms which provide complete living facilities for one or more persons, are physically separated from any other dwelling units which may be in the same building, and contain independent provisions for living, sleeping, cooking, and sanitation.

*Environmentally-sensitive lands* means the wetlands, as defined by any regulatory agency having jurisdiction over such matters, and shorelines within the city.

*Erect* means to construct, attach, hang, or place, including the painting of wall signs.

*Estuarine shoreline protection zone* means that area extending from where estuarine water (i.e., navigable canals and the Banana River) is five feet deep at the mean low-tide of adjacent surface waters to either the mean high-tide line or the inland boundary of any conservation easement, as designated by any regulatory agency having jurisdiction over such matters, whichever is farther inland.

*Excused absence* means a city board member's non-presence at a board meeting due to unavoidable, essential business or personal reasons; personal illness; or a family emergency or bereavement. For such an absence to be excused, the board member shall, if possible, notify the board staff secretary of the anticipated absence prior to the meeting. The chair shall determine whether an absence is excused.

*Exotic vegetation* means non-native vegetation.

*Family* means an individual; any number of individuals related by blood, adoption, or marriage; or a maximum of four unrelated individuals who are residing in one dwelling unit.

*Fence* means an artificial barrier used to enclose or screen a yard or a swimming pool, usually made of masonry, wood, ultra violet resistant polyvinyl chloride (PVC), or chain link.

*Free-flowing* means discharge of water from an artesian well without first flowing through a functioning control device.

*Garage* means a fully-enclosed area of a building with minimum clear dimensions for the parking of vehicle(s), without any permanent structure (e.g., water heater, air-conditioning unit, workbench, et al.) encroaching upon the required clear dimension.

*Garage sale* means all general sales open to the public, from or on residential premises located in any zoning district of the city zoned residential, for the purpose of disposing of personal property, including "yard" sales. This definition shall not include a situation where no more than five specific items of personal property are held out for sale, none of the items, except for motor vehicles and vessels, are displayed outside of the residence, and all advertisement of such sale specifically names those items to be sold.

*Gazebo* means a roofed structure open, except for screening, on all sides.

*Gross floor area* means the area within the exterior perimeter of the exterior walls of a building, including all features present (such as corridors, stairs, closets, columns, thickness of walls, etc.), but excluding areas open to the sky.

*Hedge, established* means any hedge at least 30 inches high.

*Height of a building* means the vertical distance measured from base flood elevation or 18 inches above the crown of the road, whichever is higher, to the highest finished roof surface.

*Height of any other object* means the vertical distance measured from the finished ground surface to the highest point of the object.

*Home occupation* means any occupation conducted within a dwelling unit by an occupant thereof, which occupation is clearly secondary to the residential use of the dwelling and does not change its residential character. It includes a business activity related to a business located elsewhere, but does not include a business located elsewhere which has only call-forwarding service to the residence.

*Impervious surface* means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay or marl, as well as most conventionally-surfaced streets, roofs, sidewalks, parking lots, and other similar structures. Swimming pools are exempt from the requirements for impervious area percentages.

*Irrigation system* means an underground network of piping and its related equipment which links a water source with multiple outlets to provide water to living vegetation.

*Kennel* means a commercial establishment in which dogs or domesticated animals are housed, bred, boarded, trained or sold. For purposes of this subsection, commercial establishment means any home or business conducting or allowing to be conducted on its premises any kennel activity operated for pecuniary gain. For purposes of this section, operation for pecuniary gain shall not depend on actual profit or loss.

*Living area* means the gross floor area of a dwelling unit, excluding attached carports, porches, and garages.

*Lot* means a parcel of land of at least sufficient size to meet the minimum zoning requirements of this chapter, having frontage on a street and consisting of a single lot of record or portion thereof; a combination of complete lots of record, portions of complete lots of record, or complete lots of record and portions thereof; or a parcel of land described by metes and bounds.

*Lot, corner* means a lot abutting two or more streets at their intersection, or a lot having two sides abutting a roadway.

*Lot coverage* means that portion of the land occupied by buildings or structures.

*Lot dimensions.*

- (1) *Depth.* Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) *Width.* Width of lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the points where the front setback lines intersect the side lot lines. However, the width between side lot lines at their foremost points (where they intersect with the street line right-of-way) shall not be less than 80 percent of the required lot width, except in the case of lots on the turning circle of culs-de-sac, which shall have a minimum of 30 feet facing a street.

*Lot line* means the legal boundary line of a lot.

*Lot split* means any division of a platted subdivision lot into two lots or any change in the configuration of two lots which both abut a public right-of-way, where such division does not require any off-site improvements to any roads, drainage system, or utilities. Any split greater than two lots shall be considered a subdivision.

*Medical office* shall mean a professional office that provides services to the public by physicians, dentists, surgeons, chiropractors, pharmacists, osteopaths, physical therapists, nurses, acupuncturists, podiatrists, optometrists, psychiatrists, or others who are duly licensed to practice their respective professions in the State of Florida, as well as other persons, including technicians and assistants, who are acting under the supervision and control of a licensed health care practitioner. Retail pharmacies staffed by pharmacists that sell prescription drugs, nonprescription drugs, or both, as well as other goods for sale to the public are not medical offices for purposes of this Code. Pain management clinics are medical offices for purposes of this Code.

*Native vegetation* means any plant species with a geographic distribution indigenous to all or part of East Central Florida (Brevard, Indian River, Osceola, Orange, Seminole, and Volusia Counties).

*Net weight* means the actual weight of the vehicle, including any attachments or equipment which have been added, but excluding any load.

*Nonconforming structure or use* means a structure or land use which was lawful at the time this chapter was adopted but which does not conform to the current provisions of this chapter.

*Ocean bluff line* means the easternmost projection of the top edge of the natural vegetated ocean bluff, the highest elevation of the dune, or an armoring structure in existence when this chapter was adopted, whichever is farthest west.

*Ocean bluff protection line* means the 1981 Coastal Construction Control Line

*Ocean bluff protection zone* means that area east of the ocean bluff protection line.

*Open space, common* means any area of land or water within a multi-family or mixed-use site reserved for the use of residents and visitors to the site.

*Pain management clinic* shall mean any office, center, clinic, or other facility unaffiliated with any hospital, hospice, and/or facility for the treatment of the terminally ill in Brevard County, Florida, for which its primary focus, advertising, or concentration is providing, prescribing, and/or dispensing of medication (i) to persons with complaints of pain, chronic or otherwise, or (ii) with the intent to reduce or manage pain.

*Parcel* means a lot.

*Parking area* means any area used to maneuver, park, or load vehicles, including driveways, aisles, parking spaces, and backout areas, but excluding public rights-of-way.

*Parking space* means an area not within a public right-of-way for the parking of one motor vehicle, having a width and length as specified in this chapter.

*Permit* means an official document issued by the building official authorizing performance of a specified activity.

*Permitted use* means a use that is appropriate without restriction throughout a zoning district.

*Permittee* means the person holding a lawfully-issued permit.

*Person* means an individual, child, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, and all other groups or combinations.

*Personal property* means property which is owned, utilized and maintained by an individual or members or his/her residence and acquired in the normal course of living in or maintaining a residence. Personal property shall not include merchandise which was purchased for resale or obtained on consignment or food or beverages.

*Planned unit development (PUD)* means an area of land developed as a single entity, under single ownership, which is totally planned to provide a variety of residential uses and common open space.

*Playground* means an outdoor area set-aside for recreation and play for children containing one or more pieces of equipment, including, but not limited to, slides, swings, seesaws, sandboxes, merry-go-rounds, jungle gyms and any structures incorporated with such items.

*Portable storage container* means a container without wheels that provides temporary storage of material or goods.

*Principal structure* means the structure which establishes an identifiable purpose or function.

*Principal use* means the use of a lot or structure which establishes an identifiable purpose or function.

*Recreational vehicle* means any boat, boat trailer, cargo trailer, house trailer, motor home, camper, bus or similar vehicles or equipment, including any vehicle, or part of a vehicle, or equipment designated for temporary living quarters for recreation, camping, or travel.

*Residential area* means any lot, right of way, or other land designated as residential in this chapter, the city zoning map, the land use element of the city comprehensive plan, or a city ordinance.

*Residential roadway* is any roadway within the city which is not an arterial or collector roadway.

*Residential use* means the primary use of a lot and structure as residential, without regard to the zoning designation of the area.

*Resort dwelling* shall mean any unit in a multi-family dwelling which is rented for less than 181 days.

*Retail pharmacy* shall mean a business offering goods or services for retail sale and on-site dispensing of prescription drugs, nonprescription drugs, or both.

*Retention* means the collection and storage of surface water runoff without subsequent discharge into a receiving water body.

*Revetment* means a sloping or horizontal structure of masonry, stone, riprap, or other suitable material built to sustain any non-vertical wall of earth.

*Roofline* means a horizontal line intersecting the highest point(s) of a roof.

*Seasonal high-water line* has the same meaning as that defined in F.S. ch. 161.

*Setback* means a required horizontal distance between a structure and property line or other designated line such as the 1981 Coastal Construction Control Line.

*Shoreline* means the line formed along a shore by a horizontal plane at the elevation of mean high tide.

*Sign* means any lettering, numerals, characters, logos, or images, and any contiguous lines, shapes, coloration, or border which are painted, attached, or erected in any manner visible from out-of-doors so as to identify or promote any structure, use, product, service, activity, event, or person. A business's trademark colors alone applied to any structure shall not be deemed a sign for purposes of this chapter, as long as such colors are not used to resemble or represent the trademark of the business on the premises. In addition to the signs in Table 1, the types of signs included in this chapter are the following:

*Animated sign* means any image or sign, except for time and temperature displays, which moves in any manner, uses any lighting which changes color, flashes, alternates, shows apparent movement, or automatically changes the appearance of any part of the sign at a frequency of more than once every 24 hours.

*Banner sign* means any sign intended to be hung with or without frames, with characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric, including flags not on poles and pennants.

*Beacon light* means any high-intensity, steady or flashing light with one or more beams, capable of being directed in a fixed direction or having any part revolve manually or automatically.

*Bench sign* means a sign which is erected on a bench in a public area.

*Construction sign* means any temporary sign located on a property where construction is planned or underway, providing information regarding the construction project.

*Dedication plaque* means a sign indicating a dedication or name of a building which is typically cut into a masonry surface or constructed of metal attached to the building.

*Directional sign* means any on-premises sign which is used to direct vehicular or pedestrian traffic and which contains no advertising or identification of any product or service.

*Directory sign* means any sign that states the name and/or occupation of the occupants of a building or gives the use of the building, such as office, church, and apartment directories.

*Flag* means a piece of fabric with a color or pattern which represents a country, religion, non-profit organization, or political subdivision such as a state or municipality.

*Holographic display sign* means an advertising display that creates a three-dimensional image through projection, organic light-emitting diode (OLED), or similar technology.

*Identification, development sign* means any sign identifying a subdivision, multi-family project, or commercial development.

*Identification, occupant sign* means a sign which conveys the name and/or address of the occupant of a building.

*Light-emitting diode (LED) sign* means any sign or portion thereof that uses solid-state, light-emitting technology or other semiconductor technologies to produce an illuminated image, picture, or message of any kind, whether moving or stationary. This type of sign includes any LED technology (conventional, using discrete LEDs; surface-mounted (individually-mounted) LEDs; and transmissive, organic light-emitting diodes (OLEDs)); light-emitting polymers (LEPs); light-emitting capacitors (LECs); and any similar technology.

*Monument sign* means a low-profile, freestanding sign with a fully-enclosed base which has no visible openings, is located on the ground, conceals all structural elements, and has at least the same width as the overall sign.

*Neon sign* means a sign using glass tube lighting containing an inert gas such as neon, argon, xenon or krypton to produce various illuminating colors.

*Nonconforming sign* means any sign which was lawfully erected and in use on the date this chapter was adopted but which does not conform to the current provisions of this chapter.

*Off-premises sign* means a sign advertising anything not available on the premises on which the sign is located.

*Parked advertising sign* means a sign on any vehicle or trailer to advertise a person, business, or activity located on the same property. It does not include any vehicle or trailer used in the normal course of business which is parked at the business location or elsewhere.

*Perimeter wall sign* means a sign attached to a wall located along any portion of the perimeter of a development.

*Permanent sign* means a sign erected for an indefinite period of time.

*Political campaign sign* means a temporary sign which advertises a political candidate or issue which will appear on a ballot for any primary, general, or special election.

*Portable sign* means any sign that is movable and self-supporting.

*Projecting sign* means any sign, including a marquee, that is affixed to a structure and extends more than 12 inches beyond such structure.

*Real estate sign* means a temporary sign which advertises a particular property or structure for sale or lease. Real estate signs also include real estate directional, open house, and model home signs.

*Roof sign* means any sign that extends above the lowest point of the roof or the top of a parapet.

*Snipe sign* means any temporary sign that is attached in any way to a utility pole, tree, fence post, or similar object.

*Wall sign* means a sign erected parallel to the outside wall façade or fascia of any building which contains a business or multi-family building of six or more residential units.

*Window sign* means any sign that is permanently or temporarily attached, painted, or installed on the interior or exterior of a window or placed within five feet of the interior side of a window.

*Wrap sign* means any sign composed of fabric, plastic, vinyl, mylar, or a similar material that hangs from, and follows the contours of, the side of a building, wall, window, or other rigid surface.

*Sign area* means the surface area of an entire sign and consists of two parts:

(1) *Copy area* means the message area within any regular geometric figure or combination of figures, including the outer extremities of all letters, figures, characters, background, and frame.

(2) *Architectural area* means the architectural elements of a sign, including trim, molding, sign base, and all other decorative areas not included in the copy area.

*Sign height* means the vertical dimension of a sign measured from the crown of the road to the highest point of the sign.

*Stormwater* means water resulting from a rainfall.

*Street* means any public or private right-of-way intended for traffic circulation.

*Subdivision* means any subdivision of land not classified as a lot split.

*Surface water runoff* means water from any source which originates on a property and flows across the property boundary. It consists primarily of stormwater runoff which originates from rain falling on a property, but also includes all other natural and man-made sources of runoff, such as irrigation runoff, water pumped from swimming pools or excavations, and water flow from wells.

*Surface water runoff management system* means the retention or detention areas, swales, piping, control structures, etc., or combinations thereof, which collect, hold, treat, or channel surface water or convey it through or from a site.

*Surface waters* means the Atlantic Ocean, the Banana River, and all canals located within the city west of South Patrick Drive.

*Townhouse* means one of at least three attached single-family dwellings having a property line and a common wall separating each unit.

*Transient facility* means any dwelling unit which is rented or leased less than six months at any time.

*Tree* means any living self-supporting woody perennial which is at least ten feet high when planted and which is of a species which normally grows locally to at least 15 feet in height.

*Tree, established* means a tree which is not on the Florida Exotic Pest Plant Council's most current list of invasive species and which has a diameter exceeding four inches at a height of 42 inches.

*Tree, protected* means any established tree except those prohibited elsewhere in this chapter.

*Warehousing* means storage of goods and merchandise, to include distribution and wholesaling, in enclosed structures or outside areas. Storage of goods, equipment, materials or merchandise in an area not abutting the principal (licensed) business structure of any commercial activity shall be considered as warehousing.

*Yard, front* means the yard extending across the entire width of the lot between the front lot line and the front of the principal structure, including covered porches and garages. Corner lots have two front yards.

*Yard, rear* means the yard extending across the entire width of the lot between the rear lot line and the rear of the principal building, including covered porches and garages. On corner lots, the rear yard does not include any area deemed to be a front yard.

*Yard, side* means the yard extending from the front yard to the rear yard between the side lot line and the side of the principal building, including covered porches and garages. Corner lots have only one side yard. On irregularly-shaped lots, any yard not clearly defined by this section is deemed to be a side yard.

*Yard, side street* means a side yard adjacent to a street.

(Ord. No. 927, § 1, 2-1-06; Ord. No. 946, § 1, 8-16-06; Ord. No. 972, § 1, 8-15-07; Ord. No. 993, § 1, 6-18-08; Ord. No. 996, §§ 1—4, 10-15-08; Ord. No. 1033, § 2, 6-16-10)

## **§ 30-108. Referendum required regarding certain amendments**

(a) Any person seeking approval of an application for a development permit that increases the density or height above, or decreases any breezeway below, any provision of the land development regulations in effect on November 7, 2006 shall be subject to the referendum requirements of Section 8.04 of the City Charter, except as to those matters contained in Subsection 8.04(c) thereof.

(b) Any proposed amendment subject to Section 8.04 of the City Charter shall be submitted on an application form approved by the city. All costs associated with any such application, including the costs of any referendum, shall be borne solely by the applicant unless city council, in its sole discretion, determines that the city should pay for any or all of the cost based upon the nature of the application.

(Ord. No. 959, § 1, 3-21-07)

## **§§ 30-109--30-200. Reserved**

### **Article II. Administration**

#### **Division 1. Building Official**

##### **§ 30-201. Building official's duties and authority**

(a) Under the supervision of the city manager, the building official shall interpret, administer, and enforce the provisions of this chapter. The building official shall be provided assistance by those city officers and employees necessary to provide additional technical expertise or to enforce the provisions of this chapter.

(b) The building official shall order a discontinuance of any illegal use of, or any illegal work being done on, any land, structures, or alterations thereto within the city and shall be authorized to take any action necessary to prevent any violation of this chapter.

(c) The building official is authorized to allow minor encroachments up to four inches within any required setback for new construction.

#### **Division 2. Board Of Adjustment**

##### **§ 30-202. Board of adjustment established**

A board of adjustment is hereby established.

##### **§ 30-203. Organization**

(a) *Membership.* The board of adjustment is a quasi-judicial board which shall consist of five primary members and two alternates appointed by the city council. All members shall be registered voters residing in the city and shall serve without compensation. A staff secretary to the board shall be appointed by the city manager.

(b) *Term of office.* Each member of the board shall serve for a term of three years.

(c) *Removal of members.* Any member may be removed by the city council. In addition, a primary member shall be automatically removed when absent from more than two regular meetings during any period of 12 consecutive months, unless the board chair determines they are excused absences as defined in the definitions section [section 30-107] of Article I.

(d) *Vacancies.* Vacancies shall be filled to complete unexpired terms in the same manner as initial appointments.

##### **§ 30-204. Board procedures**

(a) *Officers.* The board shall elect its own officers. The chair may compel the attendance of witnesses; and the chair, if a notary, or the staff secretary to the board may administer oaths.

(b) *Procedures.* The board may adopt any procedures it deems necessary to fulfill its duties.

(c) *Required vote.* The approval of variance requests and appeals of building official decisions shall require an affirmative vote of at least four members of the board; all other matters before the board shall require a majority vote. If a five-member board is not present, the applicant has the right to request that the hearing be continued until a full board is present.

(d) *Meetings.* Regular meetings shall be held as established by the city council. Rescheduled or continued regular meetings, special meetings, and workshop meetings may be held as called by the chair or a majority of the board. The presence of any four members at a meeting shall constitute a quorum.



## § 30-205. Powers and duties

(a) *Administrative review.* The board shall hear and decide appeals from any decision by the building official regarding any portion of this chapter.

(1) *Appeal procedure.* Appeals to the board may be taken by any person aggrieved by such a decision. The appeal shall be in writing, specify the grounds for appeal, and be filed with the building official within 30 days after the decision is rendered.

(2) *Effect of appeal.* An appeal stays all actions involving the appealed decision, unless the building official certifies to the board that the official believes a stay would pose imminent peril to life or property. In that event, actions shall not be stayed except by injunction entered by a court of competent jurisdiction after notice to the building official.

(3) *Board authority.* Consistent with the provisions of this chapter and the powers of the building official, the board may reverse, affirm, or modify any part of the appealed decision and make any other decision or interpretation it deems appropriate.

(b) *Variances.* The board shall hear and decide requests for variances.

(1) *Permissible subject matter.* The board may grant variances for the following matters only: structure size and height, lot size and area, yard size and amount of open space, setbacks, fences, and landscaping.

(2) *Eligible applicants.* Only the following may request a variance:

- a. The owner(s) of at least 75 percent of the property or an agent they have authorized through a properly executed power of attorney;
- b. The city council;
- c. The planning and zoning advisory board; and
- d. Any department of the city.

(3) *Criteria.* The board shall be governed by the following criteria when deciding whether a variance shall be granted:

a. *Written application.* A written application for a variance must be submitted demonstrating the following criteria, all of which must be met:

1. A special circumstance exists which is peculiar to the land, building, or structure involved (i.e., not applicable to other lands or structures in the same zoning district), and is not the result of the applicant's actions except as provided in (b)(3)b.3.(i) and (ii) of this section; or
2. In lieu of the foregoing special circumstance, a compelling health factor exists regarding the owner-occupant or any of owner's immediate family members residing on the property. For purposes of this section, [1] a compelling health factor shall mean a permanent and life-threatening disease which cannot be cured or a permanent injury which cannot be rehabilitated and [2] immediate family members shall mean lineal ascendants or descendants, spouse, or siblings. The applicant shall provide the board with written verification of an applicable health factor from a Florida-licensed physician; and
3. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and work unnecessary hardship on the applicant; and
4. Applicant's reason justifies granting the variance, and the variance is the minimum that will make possible the reasonable use of the land, building, or structure under present zoning; and
5. The variance will be in harmony with the general intent of this chapter and the district in which the property is located and will not be detrimental to the neighborhood or the public welfare.

b. *Other restrictions.*

1. No variance shall be granted based on the existence of:
  - (i) A nonconforming use of property in the same zoning district, or
  - (ii) Any use of property in other zoning districts.
2. A variance shall not establish or expand any use prohibited in any zoning district in the city.
3. A variance shall not be granted if the special circumstance in (b)(3) a.(i) of this section was created by failure of the applicant or any previous owner of the property to obtain any required permit. However, a variance is not precluded if the special circumstance was created by those who:
  - (i) Were acting in full compliance with all government regulations in effect when the special circumstance was created; or
  - (ii) Detrimentally relied on a permit issued in error through no fault of their own and who demonstrate such detrimental reliance to the board.

(4) *Modifications.* While a variance request is being considered by the board, the applicant may modify the request to obtain a lesser variance. In addition, the board may approve a lesser variance on its own initiative. The board may also prescribe conditions and safeguards consistent with this chapter as a part of any variance, and the violation of such conditions and safeguards shall be subject to enforcement by law.

(5) *Effective period.* Any required building permit(s) must be obtained within six months of the variance approval date; after that time, the variance is void.

(c) *Public hearings.* A public hearing shall be held for each requested variance and administrative review. A completed application and filing fee must be received by the building official at least 30 days before the scheduled hearing.

(1) *Notice.*

a. At least 15 days before the public hearing, notice of the hearing shall be posted on the subject property and at city hall, and shall be published in a newspaper of general circulation within the city.

b. The city shall provide courtesy notices, by mail or in person, to the owners of all property located within 250 feet of the subject property. In case of notice by mail, such notice shall be mailed at least ten days before the hearing date. Failure to mail or receive such courtesy notice shall not affect any proceeding or action taken under this section.

(2) *Representation.* At the hearing, any party may appear in person or be represented by an agent or attorney.

(3) *Board decisions.* Written confirmation of board decisions shall be promptly mailed by the building official to the applicant's last known address. Any decision by the board may be reviewed within 30 days as provided by law.

(Ord. No. 972, § 2, 8-15-07)

## **Division 3. Planning And Zoning Advisory Board**

### **§ 30-206. Planning and zoning advisory board established**

A planning and zoning advisory board is hereby established.

### **§ 30-207. Organization**

(a) *Membership.* The planning and zoning advisory board shall consist of five primary members and two alternates appointed by the city council. All members shall be registered voters residing in the city and shall serve without compensation. A staff secretary to the board shall be appointed by the city manager.

(b) *Term of office.* Each member of the board shall serve for a term of three years.

(c) *Removal of members.* Any member may be removed by the city council. In addition, a primary member shall be automatically removed when absent from more than two regular meetings during any period of 12 consecutive months, unless the board chair determines they are excused absences as defined in the definitions section of this chapter.

(d) *Vacancies.* Vacancies shall be filled to complete unexpired terms in the same manner as initial appointments.

### **§ 30-208. Board procedures**

(a) *Officers.* The board shall elect its own officers.

(b) *Procedures.* The board may adopt any procedures it deems necessary to fulfill its duties.

(c) *Meetings.* Regular meetings shall be held as established by the city council. Rescheduled or continued regular meetings, special meetings, and workshop meetings may be held as called by the chair or a majority of the board.

### **§ 30-209. Duties**

(a) *Duties.* The board shall have the following duties:

(1) Advise the city council on all matters governed by this chapter or otherwise required by law.

(2) Conduct hearings on proposed rezoning requests, conditional uses, subdivision plats, site plans when required by this Chapter, and amendments to this Chapter.

(3) In accordance with F.S. § 163.3164, serve as the city's land development regulation commission.

(b) *Eligible applicants.* Any person or entity, including the city council and any department or board of the city, may file an application with the building department to request approval of any of the actions in (a)(2) of this section.

(c) *Public hearings.*

(1) The building official shall refer all completed applications to the board, which shall hold a public hearing to consider the proposed application no later than 60 days from the date the completed application was first received by the building department. An application shall be deemed complete when an applicant has provided all information required by the Code, and addressed any staff comments described in subparagraph 2, below.

- (2) All applicable city departments shall provide written comments and recommendations to the board and the applicant within seven business days of receipt of an application. All subsequent submissions made by an applicant, whether provided in response to staff comments or on the applicant's own initiative, shall be made no later than 14 days after receipt of staff comments. City staff shall review all subsequent submissions within 7 business days of receipt. However, if such submissions are not received from an applicant in time for City staff to timely review prior to providing timely notice of a board meeting and/or do not adequately address prior staff comments, the pending application will be delayed to the next regular meeting of the board after the City receives a completed application.
- (3) The board shall review each application to determine if it meets the requirements of this chapter and the city's comprehensive plan. For rezoning requests, the board shall consider the effect of the change on the subject property and surrounding properties and the amount of undeveloped land in the general area and in the city having the same classification as that requested.
- (4) The board shall report its findings and recommendations to the city council.
- (5) Notice of public hearings.
  - a. *Required notices.* At least 15 days before the public hearing before the board and the subsequent hearing before the city council, notice of the hearing shall be posted at city hall and:
    1. Posted on the subject property, for requests for rezoning, conditional uses, and site-plan and subdivision plat approvals;
    2. Published in a newspaper of general circulation within the city, for requests for rezoning, conditional uses, and amendments to this chapter; and
    3. Sent by certified mail to the subject property owner or owner's agent or the applicant as applicable, for all requested actions.
  - b. *Courtesy notices.*
    1. Property owners. For all requests except amendments to this chapter, at least 15 days before the public hearings before both the board and the city council, the city shall mail a courtesy notice to the owners of record, as maintained by the tax assessor, of all property located within 250 feet of the subject property.
    2. Adjacent communities. For rezoning requests, at least 15 days before the public hearings before both the board and the city council, when a zoning district boundary proposed to be changed lies within 250 feet of an adjoining incorporated or unincorporated area, the city shall mail a courtesy notice to the applicable governing body.
    3. For all requested actions, failure to mail or receive any courtesy notice shall not affect any action or proceeding taken under this section.
  - c. For all requested actions, the applicant shall pay the cost of providing all notices.

(Ord. No. 1092, § 2, 5-21-14)

## **Division 4. Beautification Board**

### **§ 30-210. Beautification board established**

A beautification board is hereby established.

### **§ 30-211. Organization**

- (a) *Membership.* The board shall consist of five primary members and two alternates appointed by the city council. All members shall be registered voters residing in the city and shall serve without compensation.
- (b) *Term of office.* Each member of the board shall serve for a term of two years.
- (c) *Removal of members.* Any member may be removed by the city council.
- (d) *Vacancies.* Vacancies shall be filled to complete unexpired terms in the same manner as initial appointments.
- (e) *Officers.* The board shall elect its own officers.
- (f) *Procedures.* The board may adopt any procedures it deems necessary to fulfill its duties.

### **§ 30-212. Duties**

Using the principles of Florida-friendly landscaping, as defined in ch.373, Florida Statutes, and prohibiting the use of plants on the Florida Exotic Pest Plant Council's most current list of invasive species, the board shall perform the following duties regarding Citywide beautification:

- (a) Propose beautification programs to the city council which the board deems appropriate;
- (b) Assist private and public landscaping and beautification programs conducted within the city as requested, and
- (c) Promote public interest in improving the general appearance of the city.

(Ord. No. 1073, § 2, 7-17-13; Ord. No. 1092, § 3, 5-21-14)

## **§§ 30-213--30-300. Reserved**

### **Article III. Planning**

#### **Division 1. Site Plan**

#### **§ 30-301. Site plan review; generally**

A site plan review shall be conducted to ensure that a proposed development of individual sites within the City meets all applicable development codes, provides for adequate public facilities and services (potable water, sanitary sewer, solid waste disposal, surface water runoff drainage, roads, and recreation) concurrent with impact of the development, and is compatible with existing and anticipated development within the site's immediate area.

A site plan must be approved by the Planning and Zoning Advisory Board and City Council prior to any development only where the size of any proposed development exceeds five (5) acres in size. All other required site plans shall be approved by City staff as provided in this Division.

(Ord. No. 1073, § 2, 7-17-13; Ord. No. 1092, § 4, 5-21-14)

#### **§ 30-302. Site plan review procedure (requires planning and zoning advisory board and city council approval)**

(a) *Pre-application conference.* Before submitting a site plan for review and approval, the applicant, or his/her representative, shall meet with the building official, or designee, and any other city manager designee, to discuss the site plan review process and for guidance in meeting the goals of the community redevelopment district, if applicable, and the land development regulations. No person may rely upon any comment made by anyone at this conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

(b) *Review process.*

(1) The building official shall submit the proposed site plan to the appropriate city staff and the city engineer for their determination of the plan's feasibility, suitability, and conformity with official city plans, policies, and the requirements of the land development regulations. The city staff and city engineer shall communicate their findings and recommendations to the building official.

(2) Thereafter, the building official shall submit all plans, findings, and recommendations to the planning and zoning advisory board at least seven days before the public hearing at which the board shall consider the submitted information and make its recommendations to the city council.

(c) *Review criteria.* In making its recommendation, the planning and zoning advisory board shall consider the following minimum factors in addition to the information described in [subsection] (b) above:

- (1) Consistency with the levels of service requirements in the city's comprehensive plan and the concurrency and other requirements of this chapter.
- (2) Design and functional compatibility within the development and the city.
- (3) Provision for maintenance and conservation of common open space, if any.
- (4) Provision for surface water runoff management and conservation of natural resources, including the beach and the Indian River Lagoon.

(Ord. No. 1073, § 2, 7-17-13)

#### **§ 30-303. Site plan requirements**

- (a) *Preparation.* Site plans shall be prepared by a registered architect, engineer, or landscape architect, as applicable, licensed to practice in the State of Florida. The plans shall be dated and identified by a project title or job number. Any revisions to the plans shall be sealed and dated.
- (b) *Submittal.* Certified copies of the site plan shall be prepared in a form acceptable to the City and submitted to the building official for review and approval. The application shall include one digital copy and five (5) copies of the site plan, along with the required filing fees. The individual who certifies the site plan will attach the following signed statement to the plan:  
 "To the best of my knowledge, this site plan complies with the City of Satellite Beach Land Development Regulations, except as noted below."
- (c) *Filing approved site plan.* Upon approval by the City Council or City staff, whichever is applicable, two copies of the site plan and required exhibits shall be signed by the Building Official. One signed copy shall be filed with the Building Official as a permanent record, and the other shall be provided to the applicant.
- (d) *Modification of site plans.* Any proposed modification to an approved site plan must be reviewed by the Building Official to determine whether the proposed modification constitutes a minor or major modification. Such a request must be filed in writing, and a written determination will be rendered within ten (10) working days of such request.
- (1) For purposes of this section, major modifications shall include, but not be limited to (i) any changes in use or density, (ii) any increase in the number of structures, (iii) any change in the location of a structure included in an approved site plan and (iv) modifications the building official determines could reasonably be expected to cause adverse changes in internal functioning of the site or its off-site impacts. Major modifications to approved site plans must be approved by the Planning and Zoning Advisory Board and City Council or City staff, whichever is applicable, in the same manner as a new application.
- (2) For purposes of this section, minor modifications are slight variations or alterations to an approved site plan of such a nature that they do not qualify as a major modification as described in subsection (1).
- (3) Minor modifications may be authorized by the building official, when determined to be consistent with an approved site plan. An application for minor modification must be filed with the building official stating the nature of the request and justification for such, as well as an updated site plan illustrating the proposed change. The building official shall provide a written response to the applicant within ten (10) working days of receipt of an application. If the building official denies the minor modification, the reasons for denial shall be stated in the response. An applicant may proceed with the requested change upon a favorable decision from the building official regardless of whether the minor modification is approved prior to or after a building permit has been issued.
- (e) *Time limit for commencing development after site plan approval.* For non-phased development, if the foundation, under-floor plumbing, and floor slab are not completed within one year of the site plan approval date and no extension has been granted by the City Council or City staff, whichever is applicable, before the one-year period expires, the site plan shall be deemed null and void, and no construction shall be permitted until a new application has been approved. If development is planned in phases, the time table approved by City Council or City staff, whichever is applicable, must be adhered to, or an extension must be obtained from the City Council or City staff, whichever is applicable, before the phased schedule expires.

(Ord. No. 1073, § 2, 7-17-13; Ord. No. 1092, § 5, 5-21-14)

## **§§ 30-304--30-309. Reserved**

### **Division 2. Subdivision Of Land**

#### **§ 30-310. General provisions**

- (a) *Purpose.* The purpose of this division is to establish procedures and standards for the subdivision of real property within the city to achieve the following:
- (1) Provide proper legal descriptions, installation of monuments, and recording of property boundaries;
  - (2) Create orderly patterns of land development and avoid undesirable impacts of haphazard land subdivision;
  - (3) Provide safe traffic control;
  - (4) Encourage development of an economically stable community;
  - (5) Develop adequate utilities;
  - (6) Provide flood control and drainage facilities to prevent periodic flooding;
  - (7) Protect the beach, the Indian River Lagoon, and other environmentally-sensitive lands;
  - (8) Manage and protect water resources;
  - (9) Provide public open-space for recreation;

(10) Require development equipped with necessary and lasting improvements which are compatible with the topography and other site conditions;

(11) Encourage aesthetic development; and

(12) Protect privacy.

(b) *Applicability.* Except for subdivisions with an unexpired preliminary plat which was approved before this chapter was enacted, this division shall apply to any subdivision of land, as that term is defined in F.S. ch. 177, which occurs in the city after this chapter was enacted, including any further subdivision of an existing subdivision.

(c) *Plat approval and recording as prerequisite to further activity.* Until a final plat is properly approved and recorded, no building permit shall be issued; no city services for the impacted land shall be rendered; and no lot shall be sold from the subdivided land. In addition, no preliminary plat shall be relied upon to sell, transfer, or negotiate the sale or transfer of any land within the subdivision. Violation of this provision shall be punishable as provided in section 1-13 of the city code.

(d) *Adjustments from this chapter.* After input from the planning and zoning advisory board, the city council may authorize adjustments from this chapter when it deems undue hardship may result from strict compliance. In granting any adjustment, the city council shall prescribe only conditions deemed necessary or desirable for the public interest. In making its findings, the council shall consider the nature of the existing and proposed land use in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision on traffic, public health and safety, and convenience in the subdivision and its vicinity.

(e) *Hold harmless requirement.* Applicant shall furnish to the city a release from all liability and responsibility for development of land in the city, including indemnification for all damages caused directly or indirectly by the collapse or failure of any associated installations or structures.

(f) *Requirement for approval and recording of subdivision plats.* Before a subdivision plat may be recorded in the public records of Brevard County, it must be approved by the city council and clearly display a written certification demonstrating such approval. If any unapproved plat is recorded, the city council shall request the clerk of the courts to strike it from the records.

(g) *Subdivision by joint owners of land.* When it becomes evident that a subdivision is being created by the recording of a deed with a metes and bounds description, the city shall require all involved owners to jointly file a plat of the subdivision being created and conform to the applicable provisions of this chapter.

(h) *Classification of land divisions.* All divisions of land within the city shall be classified as either a lot split or a subdivision.

## § 30-311. Lot splits

(a) *Minimum size.* All lots created by a lot split shall have the minimum square-footage required by this chapter. No lot split shall create a nonconforming lot.

(b) *Application.* Application for a lot split shall be in a form prescribed by the building official.

(c) *Review and approval.* The building official shall review all lot-split applications to ensure conformance with this chapter and the city's comprehensive plan. Upon determining that a proposed lot split so conforms, the building official shall approve the application.

(d) *Recording.* Upon approval of the lot split, applicant shall record with the clerk of courts a plat containing the legal description of the created lots and any dedication of easements. If any unapproved plat is recorded, the city council shall request the clerk of courts to strike it from the records.

## § 30-312. Subdivision preliminary plats

(a) *Purpose.* The purpose of the preliminary plat is to provide an exact presentation of the proposed subdivision for evaluation pursuant to this article. The preliminary plat shall be approved before application for construction plan approval.

(b) *Preparation.* The preliminary plat shall be prepared by a civil engineer or land surveyor licensed to practice in the State of Florida. It must be clearly and legibly drawn and reproduced with the required number of copies to be determined by the building official.

(c) *Filing fee.* When filing the application for preliminary plat approval with the building and zoning department, applicant shall submit the applicable non-refundable fee, payable to City of Satellite Beach.

(d) *Content.* Preliminary plats shall contain the following:

(1) Name of subdivision, which shall not duplicate or closely approximate the name of any other subdivision in the city.

(2) North-arrow graphic scale and date of preparation. The city engineer shall approve the scale, but in no case shall such scale be smaller than one-inch-equals-200-feet.

(3) Name, address, and telephone number of all persons having a legal or equitable interest in the land, and a statement from such persons that they will join in the dedication of the proposed subdivision.

(4) Name, business address, and registration number of the engineer or surveyor responsible for the plat and supporting data.

(5) If applicable, names of adjacent subdivisions and their owners of record, along with plat book and page references.

- (6) A contour map showing ground elevations at intervals of not more than one foot, based on the United States Coastal and Geodetic Survey datum, of the area to be subdivided and of a perimeter strip from 50 to 150 feet wide around the area as required by the city engineer.
- (7) Topographical conditions on the subdivision including all the existing watercourses, drainage ditches and bodies of water, marshes, and other significant natural or manmade features.
- (8) The name, alignment, established center-line elevations, and width of all existing and proposed streets, alleys, rights-of-way, or easements within 300 feet of the tract.
- (9) All existing and proposed property lines and the proposed layout of lots and blocks.
- (10) Utilities and easements such as telephone, electric, potable water, sanitary sewer, and gas within 20 feet of the tract. The preliminary plat shall contain a statement that all utilities are available and have been coordinated with all required utilities.
- (11) Sites proposed for parks, recreation areas, and schools.
- (12) If the property to be subdivided borders any surface waters, then applicant shall establish the mean-high-water line and delineate it on the plat. Applicant shall provide a plan for stabilizing the shoreline in compliance with the requirements of this chapter. The shoreline protection zone shall also be designated, together with plans for preserving native indigenous plant communities within the zone.
- (13) Permanent reference monuments shall be shown and subsequently installed at all block corners, all points of reverse or compound curvature, and all points of tangency.
- (14) Block perimeter returns at block corners or other block line intersections shall be stated in terms of tangent distances of five-foot intervals, with a minimum tangent distance of 20 feet.
- (15) A vicinity sketch at a scale no smaller than one-inch equals 2,000 feet, showing the location of the boundary lines and distance of the land proposed for subdivision in reference to other areas of the city. The section, township, range, and legal description of the site shall also be included.
- (e) *Required supplemental information.* The following information shall be submitted with the preliminary plat:
- (1) A master surface water runoff management plan.
  - (2) A traffic impact analysis prepared by a traffic engineer and used to determine the number of lanes and capacity of the street system proposed or affected by the development and the phasing of improvements.
  - (3) Open space and recreation facility improvements.
  - (4) Required potable water and sanitary sewer improvements.
  - (5) Erosion and sedimentation control measures.
  - (6) If the proposed subdivision will be undertaken in phases, those phases and their order shall be indicated. Where phases of high elevations are undertaken before those of lower elevations, the ultimate surface water runoff management system in the lower phases must be concurrently developed.
  - (7) All amenities shall be depicted on the preliminary plat identifying the phases, if any, in which the amenities will be constructed. No building permits for lot development shall be issued until the amenities are constructed in accordance with the construction plan, except that the city shall issue building permits if the developer submits a performance guarantee, as provided for in section 30-316, to insure all amenities will be constructed.
- (f) *Review procedures.*
- (1) Staff review. The building official shall coordinate the review of the preliminary plat for completeness and shall inform applicant whether it meets the requirements of this section. If deficiencies are found, applicant shall be notified of necessary revisions in writing as soon as practicable. If applicant chooses not to make the revisions, applicant may request that the preliminary plat be forwarded to the planning and zoning advisory board with staff comments, including documentation of unresolved issues. After the building official and city engineer have completed the staff review and written recommendations have been submitted to applicant, the preliminary plat shall be scheduled for the next steps in the review process.
  - (2) Planning and zoning advisory board review. After receiving a staff recommendation, the preliminary plat shall be scheduled for review at the next available regular meeting of the planning and zoning advisory board. Before approval of any proposed subdivision, the board shall determine whether the subdivision complies with the provisions of this chapter and the comprehensive plan. The board shall consider the physical characteristics of the property, traffic impact, economic impact, appropriateness of the type and intensity of the proposed development, existing and future development and development patterns, relationship of the project to the city's capital improvements program, and other relevant factors. After completing its review, the board shall submit its recommendations to the city council.
  - (3) City council review. After recommendations are obtained from the staff, the planning and zoning advisory board, and any other reviewing entity, the preliminary plat shall be scheduled for city council review. During its review, the city council shall consider the written recommendations as well as comments from the public. If the city council disapproves a preliminary plat, it shall state the reasons for disapproval and indicate what further actions, if any, applicant may take to secure approval. Any final action of the city council may be appealed within 30 days as provided by law.
- (g) *Schedule of development phases.* Applicant may schedule development phases within any proposed subdivision and shall specify such phases on the preliminary plat. Each phase shall be sized, designed, and scheduled so that it can exist independently as a subdivision in compliance with the requirements of this article. As provided in section 30-314, applicant may request final plat approval on any phase. Any change in the schedule of phases must receive prior approval by the city council.

## § 30-313. Subdivision construction plans

After city council's approval of the preliminary plat, applicant may apply for construction plan approval of required improvements (i.e., streets, surface water runoff drainage, potable water, sanitary sewer, and reuse water). No such improvements shall be initiated until the construction plan has been approved by the building official and the city engineer. If applicant proceeds with permitting and construction pursuant to plans approved under this section before final plat approval, such activities shall be at the applicant's risk, and under no circumstances shall it create a basis for the applicant to make a claim for equitable estoppel against the city.

(a) *Filing fee.* When filing the application for construction plan approval with the building and zoning department, applicant shall submit the applicable non-refundable fee, payable to City of Satellite Beach.

(b) *Application period.*

(1) Application for construction plan approval shall occur within 12 months of city council approval of the preliminary plat. Application for construction plan approval of subsequent phases, if any, shall occur within 12 months of issuance of a certification of completion of the previous phase. Applicant may not apply for construction plan approval for any portion of the approved preliminary plat that is not to be constructed within the following 18 months.

(2) Unless applicant has applied in writing to the building and zoning department for an extension from the city council at least 90 days before expiration of the application period, failure to apply for construction plan approval within the application period shall require re-application for preliminary plat approval. If the city council finds that applicant has demonstrated good cause for the extension, it may extend the application period for up to 12 months.

(c) *Staff review and approval.* The building official shall distribute copies of the application and supporting data to the city engineer for review. For approval, the building official and city engineer must find that the proposed construction plan complies with the approved preliminary plat and the design standards for streets and surface water runoff drainage in subsection (f) of this section. The building official and city engineer may approve, conditionally approve, or deny the application. Upon approval, applicant may proceed with construction of the required improvements.

(d) *Appeal.* Applicant may appeal the decision of the building official and the city engineer to the city council. Such appeal shall be filed with the building and zoning department within ten working days of the decision, and the appeal shall be placed on the agenda of the next available city council meeting.

(e) *Design standards for streets and surface water runoff drainage.*

(1) Streets. Streets within the city shall be laid out to be compatible with existing improvements abutting the subdivision, shall be at least 50 feet wide, and shall meet the following specific design standards:

a. *Subgrade.* The stabilized subgrade shall be a minimum of 8 inches thick and shall be compacted to 98 percent maximum density per AASHTO T-180, minimum LBR '40.

b. *Base.* The base shall be constructed from limerock, cemented coquina, or soil cement. All material shall come from an F.D.O.T. approved facility. The material shall be compacted to 98 percent maximum density per AASHTO T-180, minimum LBR '100.

c. *Surface.* The surface shall be 12-inch F.D.O.T. Type III Asphaltic Concrete Surface Course, 1,000 Lb. Marshall Stability.

d. *Minimum street centerline grade.* The minimum street centerline grade shall be one foot above the FEMA floodplain elevation or five feet above mean sea level, whichever is higher.

(2) Surface water runoff drainage. The following design standards shall be met:

a. *Curbing.* All public streets shall have two-foot wide F.D.O.T. Modified Curb or Type AF @ Curb and Gutter per Index 304. Open ditches are not permitted.

b. *Minimum slope.* The minimum slope shall be 0.28 feet per 100 feet.

c. *Maximum gutter run.* The longest distance from a high point to an inlet shall be 400 feet. The maximum distance between inlets shall be 800 feet.

d. *Inlets.* Inlets and drainage structures shall be per F.D.O.T. Standard Specifications for Road and Bridge Construction (Latest Edition).

e. *Pipe.* All piping to be constructed shall be Reinforced Concrete Pipe unless an alternate is approved by the city engineer. The minimum pipe size shall be 18 inches. Laying conditions and cover shall be in accordance with the manufacturer's requirements and F.D.O.T.

f. *Underdrains.* Underdrains shall be a minimum six-inch ADS with filter fabric and shall be in a 24" x 24" trench of F.D.O.T. sand or ¾-inch washed #57 stone. The underdrain shall control the water table a minimum of 12 inches below the subgrade.

g. *Drainage east of SR A1A.* All runoff east of SR A1A shall drain to SR A1A. No runoff shall discharge to the beach.

## § 30-314. Subdivision final plats

Final plats shall comply with the approved preliminary plat and construction plan and the provisions of this article and F.S. ch. 177.



(a) *Application for approval.* Application for approval of a final plat shall be filed with the building and zoning department. All required supplemental documentation shall accompany the final plat, as well as certified as-built construction drawings and the legal instruments demonstrating specific performance guarantees, if applicable.

(b) *Application period.*

(1) Application for final plat approval shall occur within 18 months of city council approval of the preliminary plat. In phased subdivisions, the deadline shall be established by the city council at the time of preliminary plat approval. Applicant may not apply for final plat approval for any portion of the approved preliminary plat that is not to be recorded and developed within the following 18 months.

(2) Unless applicant has applied in writing to the building and zoning department for an extension from the city council at least 90 days before expiration of the preliminary plat, failure to apply for final plat approval within the application period shall require re-application for preliminary plat and construction plan approval. If the city council finds that applicant has demonstrated good cause for the extension, it may extend the application period for up to 18 months.

(c) *Fees.* Applicant shall pay the following fees:

(1) Filing fee. The non-refundable filing fee established by the city council, payable to City of Satellite Beach.

(2) City's surveyor fee. All fees associated with the city's surveyor review, payable to City of Satellite Beach.

(3) Recording fee. The recording fee established by the clerk of the courts, payable to Brevard County Clerk of the Courts.

(d) *Preparation.* The final plat shall be prepared by a professional surveyor. It shall be clearly and legibly drawn with black permanent drawing ink and shall include ten copies and two reproducible mylars of the final plat. Each sheet shall contain a three-by-five inch space in the upper right corner for use by the clerk of the courts, a three-inch margin on the left side, and a half-inch margin on all remaining sides.

(e) *Content.* In addition to the requirements in F.S. § 177.091, final plats shall contain the following:

(1) Name of subdivision, printed in bold legible letters across the top of the sheet. The name shall not duplicate or closely approximate the name of any other subdivision in the city, except that if the plan is an addition to a recorded subdivision, it shall carry the same name as the existing subdivision.

(2) Survey data. Sufficient survey data shall be shown to describe the boundary of each lot, block, right-of-way, easement, building line, and all other areas shown on the plat. The survey data shall also include:

a. All intersecting street right-of-way lines shall be joined by the long chord of minimum radius of 25 feet and all dimensions shall be shown.

b. The map shall mathematically close within 0.01 foot and shall be accurately tied by distance and bearing to all township, range, and section lines within the subdivision.

c. The point of beginning shall be shown with the letters "POB" in bold letters. The POB shall be accurately tied by distance and bearing to the nearest quarter-section corner of section or government corner.

d. The first page of the plat shall contain a vicinity sketch showing the subdivision's location in reference to contiguous areas.

(3) Lot and block identification. All lots in the subdivision shall be progressively numbered in each block in a clockwise direction starting at the northwest corner of each block. Blocks shall be consecutively lettered throughout a subdivision in a clockwise direction starting at the northwest corner of the subdivision.

(4) Excluded lots. Lots not included within the subdivision shall be marked "not part of this plat." Where such a lot is completely surrounded by areas within the subdivision, sufficient easements or rights-of-way shall be provided for access, utilities, and drainage for the excluded lot. No lot shall be excluded unless it is sufficiently large to be of some use, which shall be noted on the first page.

(5) Street names. The name of each street on the plat shall be shown. All street names must be approved by Brevard County's address assignment office.

(6) Private streets. Private streets shall be allowed within a subdivision owned by a single individual, a property owners' association, or a condominium or cooperative association as defined by Florida law. Ownership and maintenance documents for private streets shall be submitted with the final plat, which shall clearly dedicate the roads and their maintenance responsibility to the owning entity without recourse to the city or any other public agency.

(7) Existing streets. The plat shall show the name, location, and width of all existing streets intersecting or contiguous to the plat boundary, accurately tied by distance and bearing to the plat boundary.

(8) Rights-of-way and easements. All right-of-way and easement dimensions shall be shown. The plat shall contain a statement that no construction of any kind shall be placed on rights-of-way or easements.

(9) Dedications. All areas reserved for use by subdivision residents and all areas reserved for public use, such as utility or drainage easements, parks, and rights-of-way for roads, streets and alleys, shall be dedicated by the owner of the land at the time the plat is recorded. The purpose of all reserved areas shall be stated on the plat.

(10) Restrictive covenants. Restrictive covenants, which shall be noted on the plat, shall be required for restrictions pertaining to the following: type and use of potable water supply and sanitary sewer facilities, use of water areas and other open spaces, odd-shaped and substandard lots, building lines, establishment and maintenance of buffer strips and walls, and other restrictions of similar nature. Documents pertaining to restrictive covenants shall be submitted with the final plat.

(11) Approvals and certifications. The first page of the plat shall contain the following approvals and certifications, notarized as required by Florida law:

a. *Mortgagee.* The mortgagee's approval and joinder of the plat and all dedications, shall be required. Mortgagee's signature(s) must be witnessed and notarized.

b. *Applicant's surveyor.* The plat shall contain the signature, registration number, and official seal of the land surveyor, certifying the following:

1. The plat is a correct representation of the land surveyed under his/her supervision.
2. The survey data on the plat complies with the requirements of this article and F.S. ch. 177.
3. Permanent reference monuments have been set in compliance with the requirements of this article and F.S. ch. 177.
4. Permanent control points have been set in compliance with the requirements of this article and F.S. ch. 177.

c. *City's surveyor.* The plat shall contain an approval and signature block for the city's surveyor.

d. *Mayor and city clerk.* The plat shall contain an approval and signature block for the mayor and an acknowledgment and signature block for the city clerk. Following city council approval of the final plat, the mayor shall sign the plat, and the city clerk shall sign and forward the plat to the clerk of the courts for recording.

e. *City attorney.* The plat shall contain a signature block for the city attorney indicating that the plat and all supplemental documentation, including performance guarantees, have been reviewed and approved as to legal form and content.

f. *Title certification.* The first page of the plat shall contain a certification that the lands on the plat are in the name(s) of the person(s) or organization executing the dedication and that all taxes have been paid on said lands as required by Florida law. It shall also show all mortgages on the land and their official record book and page number. The title certification must be either an opinion of an attorney licensed in the State of Florida or the certification of an abstractor or title insurance company licensed in the State of Florida.

(f) *Required supplemental documentation.* The following shall be submitted with the final plat:

- (1) The developer's statement indicating whether the required improvements are to be constructed before recording the final plat or after recording under performance guarantees as provided in section 30-315
- (2) A copy of the homeowners' association or condominium documents, if applicable. Such documents shall indicate the maintenance responsibility for the required improvements, to include responsibility if the association is dissolved.
- (3) Any other material required by the city when access, drainage, or utilities are not available through platted rights-of-way or easements.

(g) *Review procedures.*

(1) *Staff review.* The building official, city engineer, city attorney, and the city's surveyor shall examine the final plat for compliance with the requirements of this article and F.S. ch. 177, and shall provide applicant with a written report of their findings and recommendations. If any deficiency exists, reference shall be made to the specific provision(s) in the city code or state statute with which the final plat does not comply, and applicant shall correct all deficiencies. If no deficiencies are found, the staff shall recommend approval to the city council.

(2) *City council review.* Following the city council's approval of the required improvements or the performance guarantee, the mayor shall sign the final plat, certifying that the development has met the requirements of this article and F.S. ch. 177. If the city council disapproves a final plat, it shall state the reasons for disapproval and indicate what further actions, if any, applicant may undertake to secure approval. No revisions to the final plat shall be allowed after it has received city council approval.

(h) *Final plat recording.* After the final plat has been certified, the city clerk shall submit the final plat to the clerk of the courts for recording and shall provide copies to the building official and city engineer.

## § 30-315. Performance guarantees

When applicant desires to construct required improvements after recording the final plat, applicant shall provide the city with a performance guarantee in the amount of 110 percent of the required improvements' construction cost (based on engineer's estimate or contract bid prices) to ensure that such improvements will be completed in the event of applicant's default. All guarantee documents shall be subject to approval of the city attorney and city council.

(a) *Form of guarantee.* The performance guarantee shall be in one of the following forms, unless an alternate irrevocable form is approved.

- (1) *Cash.* Applicant may deposit cash with the city or place cash in an escrow account subject to the city's control. Applicant shall be entitled to receive all interest earned on such deposit or account.
- (2) *Personal bond with letter of credit.* Applicant may give the city a personal bond secured by an unconditional, irrevocable letter of credit issued by a State of Florida or federal bank in a form approved by the city attorney. Such letter shall have an expiration date at least three months after the date of the certificate of completion.
- (3) *Surety bond.* Applicant may give the city a surety bond from a company having an A or greater Best rating, guaranteeing that within the time required by this article, all required improvements will be completed in compliance with the preliminary plat and construction plan.

(b) *Release from guarantee.* As a condition for applicant's final release from his/her performance guarantee, applicant shall provide all of the following:

- (1) Statements from applicant's engineer and the city engineer that all work has been completed in compliance with the approved preliminary plat and construction plan.
- (2) Evidence by reference to plat book and page that the approved final plat has been filed.

(3) Submission by applicant's engineer of a complete set of as-built drawings, together with operating manuals and parts' lists for any mechanical installations.

(4) A statement from applicant's surveyor verifying completion of all required survey work and installation of all required permanent reference monuments, permanent control points, and lot corners.

(5) A release of lien from the contractor, engineer, surveyor, or other person(s) providing any labor or material for the subdivision, stating that they will not file a lien on the subdivision for nonpayment of charges.

(Ord. No. 972, § 5, 8-15-07)

### **§ 30-316. Extension of construction period**

All required improvements shall be completed within 18 months from the date of approval of the construction plan(s). If more time is needed, applicant must apply in writing to the building and zoning department for an extension from the city council at least 90 days before expiration of the construction period. If the city council finds that applicant has demonstrated good cause for the extension, it may extend the construction period for up to 18 months.

### **§ 30-317. Failure to complete required improvements**

(a) When plat has been recorded. When a plat has been recorded and applicant fails to complete the required improvements within the required time including approved extensions, the city council shall authorize completion of the required improvements under the performance guarantees provided by applicant after 60 days' written notice to applicant. Notice shall be deemed to be duly served upon posting via certified mail, return receipt requested. Upon completion of construction of the required improvements, the city council shall accept by resolution the subdivision, the dedications on the plat, the required improvements and, when applicable, maintenance responsibility for said improvements. The remaining guarantees posted by applicant shall be retained for two years after completion.

(b) When plat has not been recorded. Where an applicant has elected to construct the required improvements before recording the plat and fails to complete the improvements within the required time including approved extensions, all approvals of the preliminary plat and construction plan(s) shall be null and void, and the land shall revert to its original state. No reference shall be made to the preliminary plat with respect to the sale of lots until the preliminary plat and construction plan(s) have been resubmitted and approved.

### **§ 30-318. Certificate of completion**

Applicant's engineer shall provide the city engineer with a copy of each construction plan for comparison with the actual finished work; a copy of the measurements, tests, and reports made on the work and material during construction; and a signed and sealed certificate of completion stating that the required improvements were constructed under his/her supervision and have been completed in conformance with the approved plat and construction plan(s) and the provisions of this article and all other applicable codes. Required improvements shall not be considered complete until the certificate of completion and all final project records, including as-built drawings, have been approved by the city engineer.

(Ord. No. 972, § 6, 8-15-07)

### **§ 30-319. Workmanship and materials agreement**

Applicant shall execute an agreement guaranteeing the required improvements against defect in workmanship and materials for one year after acceptance of the improvements by the city council. Said agreement shall be submitted to the city engineer along with the certificate of completion and all final project records.

### **§ 30-320. Acceptance of subdivision, dedications, required improvements, and maintenance responsibilities**

After approving the certificate of completion from applicant's engineer and after receiving all contractors' affidavits acknowledging payment in full for their labor and materials, the workmanship and materials agreement, and the city engineer's recommendation of approval, the building official shall recommend to the city council the acceptance of the subdivision, the dedications on the plat, the required improvements and, when applicable, maintenance responsibilities for said improvements. Such acceptance shall be approved only upon adoption of a resolution by the city council. Required bonds will be reverted to maintenance bonds in the amount of ten percent of the cost of the improvements for two years to guarantee performance of accepted improvements.

## **§§ 30-321--30-400. Reserved**

### **Division 3. Vacation of public streets, alleys, canals, easements, or other non-fee interests of the City**

#### **§ 30-331. Intent**

It is the intent of this Division to establish a uniform procedure for applications to the City for the vacation, abandonment, and discontinuation of city streets, alleys, canals, easements, and other non-fee interests of the City and/or the public, and to provide procedures and standards governing the processing and consideration of such requests. The process and act of vacating, abandoning, or discontinuing the City's and public's rights in a public street, alley, canal, easement, or other non-fee interest of the City is quasi-judicial.

(Ord. No. 1081, § 1, 12-4-13)

#### **§ 30-332. Authority**

The City Council may upon its own motion, or upon the written request of any agency of the state, county, or federal government, or upon the written request of any person owning property abutting any public street, alley, canal, easement, or other non-fee interest of the City, cause any such public street, alley, canal, easement, or other non-fee interest of the City to be vacated, abandoned, or discontinued.

(Ord. No. 1081, § 1, 12-4-13)

#### **§ 30-333. Application**

- (a) Applications may be filed by the owners of record of property, or their representatives, abutting any right-of-way or easement, or portion thereof, sought to be vacated. All applications for vacating, abandoning, or discontinuing any public street, alley, canal, easement, or other non-fee interest of the City shall be in writing on a form provided by the City, and shall include the following information:
  - (i) Name(s) and address(es) of applicant(s);
  - (ii) Copy(ies) of deed(s) to the property(ies) containing or abutting the proposed vacation, abandonment, or discontinuation, or such other evidence of title acceptable to the City;
  - (iii) A list of the name(s) and address(es) of all persons owning property along the public street, alley, canal, easement, or other non-fee interest of the City sought to be vacated, abandoned, or discontinued;
  - (iv) A survey and legal description of the public street, alley, canal, easement, or other non-fee interest of the City, or portion thereof, sought to be vacated, abandoned, or discontinued;
  - (v) A survey of any existing structures, buildings, fences, and similar items, or engineering plans describing a proposed development, which provides the rationale and justification to support the application, if applicable.
  - (vi) A written statement setting forth the reason(s) to support the requested vacation, abandonment, or discontinuation.
  - (vii) Letters from the local utility providers approving of the request.
  - (viii) Any other information required by the City based upon the nature of the requested vacation, abandonment, or discontinuation.
- (b) All property owners abutting the public street, alley, canal, easement, or other non-fee interest of the City, or portion thereof, sought to be vacated, abandoned, or discontinued who agree or consent thereto must join and sign such application or execute a consent form. If any abutting property owners object to the application, the application shall disclose the name(s) and address(es) of those property owners.
- (c) Each application shall be accompanied by any required filing fee. The amount of the filing fee shall be based upon the actual cost to provide all notices contained in Sec. 30-335 and staff time to process the application and record any adopted ordinance in the public records.
- (d) The City shall accept only complete applications for review and processing. All applicable timelines shall commence when the City receives a complete application. Whether an application is complete will be determined by the City Manager or his/her designee.

- (e) If the City is the applicant for the proposed vacation, abandonment, or discontinuation, the City must determine the owners abutting the public street, alley, canal, easement, or other non-fee interest of the City prior to undertaking any action and must comply with the notice requirements contained in Section 30-335.

(Ord. No. 1081, § 1, 12-4-13)

### **§ 30-334. Review**

- (a) Each application shall be reviewed by City staff for completeness, at which time the application shall be distributed to each department that may be affected by the proposed vacation, abandonment, or discontinuation, as well as all utilities. Replies from each department shall be provided with the respective recommendation or objection within fifteen (15) business days. Any objection shall state the basis for such objection. Upon expiration of the fifteen (15) business day after the completeness review reply period, the City Manager, or his/her designee, shall provide his/her recommendation regarding the proposed vacation, abandonment, or discontinuation to the Planning and Zoning Advisory Board and City Council, and proposed dates for consideration of the application by the Planning and Zoning Advisory Board and City Council shall be established.
- (b) All applications shall be reviewed to ensure that no property owners are denied access to their property as a result of any proposed vacation and that no utilities are denied access to their infrastructure.
- (c) The following additional criteria shall be considered for any application seeking a vacation, abandonment, or discontinuation of property located within the City's Community Redevelopment District:
- (i) Whether the City can identify any future use for the public street, alley, canal, easement, or other non-fee interest of the City, or portion thereof, including but not limited to public access, conservation, infrastructure, stormwater, and/or utilities;
  - (ii) Whether the City has agreed to a public/private partnership for the development of infrastructure or stormwater that requires approval of the request;
  - (iii) Whether the request facilitates a redevelopment project that is consistent with the City's Community Redevelopment Plan and the City's Comprehensive Plan; and
  - (iv) Whether the request provides for one or more of the following:
    - (A) Creation of safer transportation/pedestrian interfacing along the commercial corridors.
    - (B) Creation of a lot, parcel, or development site that is more conforming to the City's Land Development Regulations.
- (d) The following additional criteria shall be considered for any application seeking a vacation, abandonment, or discontinuation of property which is located east of A1A or which abuts any canal:
- (i) If the public street, alley, easement, or other non-fee interest of the City provides access to the beach, no application shall be granted unless the applicant(s) offer(s) comparable land(s) for a similar public street, alley, easement, or other non-fee interest of the City in the same general location of the requested action.
  - (ii) The application is consistent with then-existing Policy 1.1.7 of the Coastal Management/Conservation Element of the City's Comprehensive Plan.
  - (iii) The applicant(s) can establish that the property sought to be vacated does not violate any of the following City objectives:
    - (A) Visual access to the waterfront for all citizens;
    - (B) Conservation and dune protection; and/or
    - (C) Reservation for future infrastructure, stormwater, public access, or utility usage.

(Ord. No. 1081, § 1, 12-4-13)

### **§ 30-335. Notice**

- (a) All requests shall comply with the following requirements:
- (i) At least ten (10) business days prior to the Planning and Zoning Advisory Board meeting at which a proposed ordinance will be considered to vacate, abandon, or discontinue any public street, alley, canal, easement, or other non-fee interest of the City, the City shall mail a courtesy notice to all property owners within five hundred feet (500') of the requested vacation, abandonment, or discontinuation advising of the date and time the Planning and Zoning Advisory Board will consider such matter and the tentative date and time City Council will consider such matter. The notice shall be mailed by certified mail, return receipt requested, to each property owner at his/her last known address as displayed on the Brevard County Property Appraiser's website at the time of submission of the application. The mailing of a notice to an erroneous address provided by the Property Appraiser or the failure to receive any notice mailed by the City in accordance with this paragraph shall not invalidate any proceedings under this ordinance.

- (ii) As required by Section 177.101(3), (4), and (5), F.S., the City shall provide a legal notice published in two weekly issues of a newspaper of general circulation prior to the second reading of the ordinance. In addition, the City shall provide a legal notice published in said newspaper no later than ten (10) days before the Planning and Zoning Advisory Board meeting. Publication of the notice prescribed by Section 166.041, F.S., for adoption of ordinances generally shall specifically include in the ordinance title a general description of the public street, alley, canal, easement, or other non-fee interest of the City, or portion thereof, to be vacated, abandoned, or discontinued.

(Ord. No. 1081, § 1, 12-4-13)

### **§ 30-336. Adoption of Ordinance; Recording**

By ordinance, City Council may authorize the vacation, abandonment, or discontinuation of any public street, alley, canal, easement, or other non-fee interest of the City. The City shall record the ordinance in the public records of Brevard County, Florida, at which time the vacation, abandonment, or discontinuation of the public street, alley, canal, easement, or other non-fee interest of the City, or portion thereof, shall become effective. However, if City Council conditions the effective date of any ordinance, meeting such conditions shall be the sole responsibility of the applicant(s) and the ordinance shall not be recorded until such conditions are met.

(Ord. No. 1081, § 1, 12-4-13)

## **Article IV. Zoning**

### **§ 30-401. Purpose of article**

The purpose of this article is to establish zoning districts and regulations for the use of land and structures to achieve the following: a community with harmonious land-use relationships, adequate light and air, public safety and convenience, and other conditions consistent with the city's comprehensive plan; fairness for property owners and neighbors; flexibility in how properties may be developed and used; uniform application of zoning requirements, regardless of building size, use, or location; preservation and enhancement of the city's key natural attributes, promoting effective surface water runoff management and protection of ocean and lagoon shorelines; improved aesthetics, providing for open space and graceful structures; reduced zoning complexity; and minimal nonconforming properties and property uses.

### **§ 30-402. Interpretation of article**

The provisions of this article shall be deemed minimum regulations for the promotion of public health, safety, and welfare. They shall apply uniformly to each kind of structure or land, except as otherwise provided in this article.

### **§ 30-403. Generally**

(a) *Conformity with district regulations.* No structure or land shall be used and no structure or part thereof shall be constructed, reconstructed, structurally altered, rehabilitated, or relocated unless in conformity with all of the regulations applicable to the district in which the property is located when such activities are undertaken.

(b) *Joint use restrictions.* No part of an open space, surface water runoff retention system, or loading or off-street parking area required for any use by this article shall be included as part of said items required for any other use. However, any part of said items which exceeds the minimum requirements of this article may be shared with other uses.

(c) *Location of structures.* Every building erected shall be located on a lot as defined in this chapter. Every building hereafter erected or structurally altered shall be on a lot which abuts a public street or has access to a public street by means of a recorded easement.

(d) *Architectural guidelines.* All new buildings and improvements and additions or renovation of exterior facades to existing buildings on properties abutting Highway A1A and South Patrick Drive shall be designed to meet the architectural guidelines within this article. In addition, all new commercial buildings, additions or renovations located within the community redevelopment district shall be designed to meet the architectural guidelines within this article.

(e) *Underground utilities.* Within the community redevelopment district, all new development, additions, expansions, renovations or remodeling of structures, or upgrading of any above-ground utilities, that would otherwise require the installation of new above-ground appliances or structures for delivery of said utilities, including but not limited to poles and transformers, shall be installed underground at the owner's expense. This requirement for underground installation shall apply to any upgrade to appliances or structures for above-ground utilities not located on the site occasioned by any of the activities outlined herein. The utilities covered by this section shall include, but not be limited to, electric, telephone and cable.

(Ord. No. 946, § 3, 8-16-06; Ord. No. 972, § 7, 8-15-07)

## § 30-404. Official zoning map

(a) *Generally.* The city shall be divided into zoning districts as provided in this article. Said districts shall be shown on the official zoning map, which, together with all explanatory matter contained thereon, shall be considered part of this article. The official zoning map shall be the final authority as to the current zoning status of land and water areas in the city. It shall be part of the public records in the office of the city clerk and shall be made available for public use.

(b) *Identification.* The official zoning map shall be entitled Zoning District Map, shall be signed by the mayor and attested by the city clerk, and shall bear the city seal under the following words: "This is to certify that this is the Official Zoning Map referred to in section 30-404 of the City Code."

(c) *Maintenance.* The building official shall be responsible for updating and maintaining the official zoning map.

(d) *Amendments.* Each amendment to the official zoning map shall be recorded as soon as practicable after the effective date of the ordinance adopting such amendment. The recordation shall include the zoning case and ordinance numbers and the effective date. It shall be unlawful for any person to make any change to the official zoning map except by authorization of the city council in accordance with procedures set forth in this article.

(e) *Replacement.* If the official zoning map is damaged, destroyed, lost, or difficult to interpret because of changes, the city council may enact an ordinance adopting a new official zoning map, which shall supersede the prior one. The new map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original zoning ordinance or any amendment to that ordinance. The new map shall be identified in the same manner as described in section 30-404(b). Unless the prior map has been lost or totally destroyed, the prior map or any remaining significant parts thereof shall be preserved with all available records pertaining to its adoption or amendment.

## § 30-405. Interpretation of district boundaries

Where uncertainty exists as to district boundaries shown on the official zoning map, the following rules shall apply:

(a) *Boundaries following center line of roadways.* Boundaries indicated as approximately following the center line of any roadway, street, or alley shall be construed to follow such center line.

(b) *Boundaries parallel to center line of roadways.* Boundaries indicated as approximately parallel to the center line of any roadway, street, or alley shall be construed as being parallel thereto at the distance indicated on the official zoning map. If no distance is given, it shall be determined by using the scale shown on said map.

(c) *Abandoned roadways.* Where a roadway, street, or alley is officially vacated or abandoned, it shall be governed by regulations applicable to the property to which it reverted.

(d) *Boundaries following lot, section, or tract lines.* Boundaries indicated as approximately following platted lot, section, or tract lines shall be construed as following such lines.

(e) *Lots divided by district boundary.* Where a district boundary divides a single lot, the city council may, as a conditional use, extend the regulations applicable to either portion of the lot into the other portion of the lot for a distance not to exceed 50 feet beyond the district line.

(f) *Boundaries following city limits.* Boundaries indicated as approximately following city limits shall be construed as following such limits.

(g) *Boundaries following shorelines.* Boundaries indicated as following shorelines shall be construed as following the high-water mark. In the event the shoreline changes, boundaries shall be construed as moving with the high-water mark.

(h) *Boundaries following center line of water bodies.* Boundaries indicated as approximately following the center line of any body of water shall be construed to follow such center line.

(i) *Areas under water.* All areas within the city which are under water and not shown within any district shall be subject to all regulations of the district immediately adjoining the water area. If the water area joins two or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

(j) *Other circumstances.* Where the actual location of physical features varies from those shown on the official zoning map, or in other circumstances not covered by this section, the city council shall interpret the district boundaries.

(k) *Discrepancy between official zoning map and copy.* Where a discrepancy exists between a district boundary shown on the official zoning map and that shown on any copy thereof, the official zoning map shall be the final authority.

(l) *Discrepancy between official zoning map and ordinance.* Where a discrepancy exists between a district boundary shown on the official zoning map and that which is described in the text of an ordinance establishing such boundary, the text of the ordinance shall be the final authority.

## § 30-406. Zoning districts established

In order to classify, regulate and restrict the use of land, water, buildings and structures, to regulate and restrict the height and bulk of buildings, to regulate the density and intensity of land use, and to implement the purpose of this article, 11 districts have been established as follows:

- (1) R-1A, single-family residential district.
- (2) R-1, single-family residential district.
- (3) R-2, single-family residential district.

- (4) R-3, single-family residential district.
- (5) R-4, single-family residential district.
- (6) R-5, single-family residential district.
- (7) RM-1, two-family residential district.
- (8) RM-2, multifamily residential district.
- (9) RM-3, residential-mixed use district.
- (10) C, commercial district.
- (11) LIU, light industrial district.
- (12) ITU, institutional district.

The districts listed in this section are designated upon the official zoning map and expressly made a part of this article. No building shall be erected nor shall a building or premises be used for any purpose other than a lawful nonconforming use or structure in accordance with section 30-423 and any purpose permitted by this article in the district in which such building or premises is located. The designation of zoning districts by letter symbols as set forth in this section, when used throughout this article and upon the zoning map, shall have the same effect as if the full titles of such districts were stated.

### **§ 30-407. R-1A, single-family residential district**

(a) *Intent.* The provisions of the R-1A district are intended to establish and maintain areas of low density single-family residential development. Lot sizes and other restrictions are intended to protect and promote high-quality residential development.

(b) *Permitted uses.* Permitted uses are as follows:

- (1) Single-family dwellings.
- (2) Accessory structures and uses as follows:
  - a. Garden, tool and storage buildings, gazebos, piers and docks.
  - b. Swimming pools, tennis courts and similar minor recreational facilities.
  - c. Satellite dish antennas.
  - d. Home occupations.

(c) *Conditional uses.* Conditional uses are as follows:

- (1) Publicly operated parks and recreation facilities. Golf, tennis, and yacht clubs, and similar private recreation facilities.
- (2) Churches, synagogues and mosques.
- (3) Public utilities.
- (4) Congregate living facilities.

(d) *Property development regulations.* Property development regulations are as follows:

- (1) Minimum lot area and dimensions:
  - a. *Area:* 20,000 square feet.
  - b. *Width:* 100 feet.
  - c. *Depth:* 120 feet.
- (2) Minimum setback requirements:
  - a. *Front:* 25 feet.
  - b. *Side interior:* 15 feet.
  - c. *Side corner:* 25 feet.
  - d. *Rear:* 25 feet.
  - e. *Conservation easement:* 20 feet from easement. No structure or impervious surface of any kind, except permitted docks, shall be allowed within 20 feet landward of the conservation easement, which restriction shall be noted on any plat. As a precondition to issuance of a building permit, any new construction shall be required to provide a drainage plan prepared by a professional engineer verifying that all surface water run-off will not adversely affect the conservation easement.
- (3) Maximum building height: 40 feet.
- (4) Minimum living area: 3,000 square feet. In no case shall the garage area exceed 50 percent of the living area.
- (5) An attached two-car garage is required (20 feet by 20 feet, inside measurement).
- (6) Maximum lot coverage: 50
- (7) Maximum impervious area: 50 percent plus an additional ten percent for pavers

*Exemption:* Swimming pools are exempt from the requirements for impervious area percentages.



## § 30-408. R-1, single-family residential district

(a) *Intent.* The provisions of the R-1 district are intended to establish and maintain areas of low-density single-family residential development. Lot sizes and other restrictions are intended to protect and promote high-quality residential development.

(b) *Permitted uses.* Permitted uses are as follows:

- (1) Single-family dwellings.
- (2) Accessory structures and uses as follows:
  - a. Garden, tool and storage buildings, gazebos, piers and docks.
  - b. Swimming pools, tennis courts and similar minor recreational facilities.
  - c. Satellite dish antennas.
  - d. Home occupations.

(c) *Conditional uses.* Conditional uses are as follows:

- (1) Publicly operated parks and recreation facilities.
- (2) Places of worship.
- (3) Educational institutions, excluding colleges and universities, seminaries and vocational schools and training centers. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.
- (4) Public utilities.
- (5) Congregate living facilities.

(d) *Property development regulations.* Property development regulations are as follows:

- (1) Minimum lot area and dimensions:
  - a. *Area:* 10,000 square feet.
  - b. *Width:* 85 feet.
  - c. *Depth:* 100 feet.
- (2) Minimum setback requirements:
  - a. *Front:* 25 feet.
  - b. *Side interior:* Ten feet or ten percent of frontage, whichever is greater. Ten feet or ten percent of frontage, whichever is greater for any structure between 30—35 feet in height.
  - c. *Side corner:* 20 feet, or 25 feet if the garage entrance faces the street. (Primary structure, if destroyed, may be rebuilt on existing footprint.)
  - d. *Rear:* 20 feet.
  - e. *Canal, river or bulkhead line:* 20 feet.
- (3) Maximum building height: 35 feet with a maximum of two stories. All roof coverings shall be either tile, composition (dimensional) shingle or metal roofs.
- (4) Minimum living area: 1,850 square feet. In no case shall the garage area exceed 50 percent of the living area.
- (5) An attached two-car garage is required (20 feet by 20 feet, inside measurement).
- (6) Maximum lot coverage: 50 percent.
- (7) Maximum impervious area: 50 percent plus an additional ten percent for pavers.

*Exemption:* Swimming pools are exempt from the requirements for impervious area percentages.

## § 30-409. R-2, single-family residential district

(a) *Intent.* The provisions of the R-2 district are intended to establish and maintain areas of low-density single-family residential development. Lot sizes and other restrictions are intended to protect and promote high-quality residential development.

(b) *Permitted uses.* Permitted uses are the same as in the R-1 single-family residential district.

(c) *Conditional uses.* Conditional uses are the same as in the R-1 single-family residential district.

(d) *Property development regulations.* Property development regulations are as follows:

- (1) Minimum lot area and dimensions:
  - a. *Area:* 8,000 square feet.
  - b. *Width:* 80 feet.
  - c. *Depth:* 100 feet.

- (2) Minimum setback requirements:
- a. *Front*: 25 feet.
  - b. *Side interior*: Ten feet or ten percent of frontage, whichever is greater. Ten feet or ten percent of frontage, whichever is greater for structures between 30 and 35 feet in height.
  - c. *Side corner*: 20 feet, or 25 feet if the garage entrance faces the street. (Primary structure, if destroyed, may be rebuilt on existing footprint.)
  - d. *Rear*: 15 feet.
- (3) Maximum building height: 35 feet with a maximum of two stories
- (4) Minimum living area: 1,750 square feet. In no case shall the garage area exceed 50 percent of the living area.
- (5) An attached two-car garage is required (20 feet by 20 feet, inside measurement).
- (6) Maximum lot coverage: 50 percent.
- (7) Maximum impervious area: 50 percent plus an additional ten percent for pavers
- Exemption*: Swimming pools are exempt from the requirements for impervious area percentages.

### **§ 30-410. R-3, single-family residential district**

- (a) *Intent*. The provisions of the R-3 district are intended to establish and maintain areas of single-family residential development. Lot sizes and other restrictions are intended to protect and promote high-quality residential development.
- (b) *Permitted uses*. Permitted uses are the same as in the R-1 single-family residential district.
- (c) *Conditional uses*. Conditional uses are the same as in the R-1 single-family residential district.
- (d) *Property development regulations*. Property development regulations are as follows:
- (1) Minimum lot area and dimensions:
    - a. *Area*: 7,500 square feet.
    - b. *Width*: 75 feet.
    - c. *Depth*: 100 feet.
  - (2) Minimum setback requirements:
    - a. *Front*: 25 feet.
    - b. *Side interior*: Eight feet or ten percent of frontage, whichever is greater. Ten feet for structures between 30 and 35 feet.
    - c. *Side corner*: 20 feet, or 25 feet if the garage entrance faces the street. (Primary structure, if destroyed, may be rebuilt on existing footprint.)
    - d. *Rear*: 15 feet.
  - (3) Maximum building height: 35 feet with a maximum of two stories.
  - (4) Minimum living area: 1,675 square feet. In no case shall the garage area exceed 50 percent of the living area.
  - (5) An attached two-car garage is required (20 feet by 20 feet, inside measurement).
  - (6) Maximum lot coverage: 50 percent
  - (7) Maximum impervious area: 50 percent plus an additional ten percent for pavers
- Exemption*: Swimming pools are exempt from the requirements for impervious area percentages.

### **§ 30-411. R-4, single-family residential district**

- (a) *Intent*. The provisions of the R-4 district are intended to establish and maintain areas of single-family residential development. Lot sizes and other restrictions are intended to protect and promote high-quality residential development.
- (b) *Permitted uses*. Permitted uses are the same as in the R-1 single-family residential district.
- (c) *Conditional uses*. Conditional uses are the same as in the R-1 single-family residential district.
- (d) *Property development regulations*. Property development regulations are as follows:
- (1) Minimum lot area and dimensions:
    - a. *Area*: 7,500 square feet.
    - b. *Width*: 75 feet.
    - c. *Depth*: 100 feet.
  - (2) Minimum setback requirements:
    - a. *Front*: 25 feet, except 20 feet in Eau Gallie Shores Subdivision when the right-of-way is 60 feet.
    - b. *Side interior*: Eight feet or ten percent of frontage, whichever is greater. Ten feet for structures between 30 and 35 feet in height.

c. *Side corner*: 20 feet, or 25 feet if the garage entrance faces the street. (Primary structure, if destroyed, may be rebuilt on existing footprint.)

d. *Rear*: 15 feet.

(3) Maximum building height: 35 feet with a maximum of two stories.

(4) Minimum living area: 1,450 square feet. In no case shall the garage area exceed 50 percent of the living area.

(5) An attached two-car garage is required (20 feet by 20 feet, inside measurement).

(6) Maximum lot coverage: 50 percent.

(7) Maximum impervious area: 50 percent plus an additional ten percent for pavers

*Exemption*: Swimming pools are exempt from the requirements for impervious area percentages.

## § 30-412. R-5, single-family residential district

(a) *Intent*. The provisions of the R-5 district are intended to establish and maintain areas of single-family residential development. Lot sizes and other restrictions are intended to protect and promote high-quality residential development.

(b) *Permitted uses*. Permitted uses are the same as in the R-1 single-family residential district.

(c) *Conditional uses*. Conditional uses are the same as in the R-1 single-family residential district.

(d) *Property development regulations*. Property development regulations are as follows:

(1) Minimum lot area and dimensions:

a. *Area*: 7,500 square feet.

b. *Width*: 75 feet.

c. *Depth*: 100 feet.

(2) Minimum setback requirements:

a. *Front*: 25 feet.

b. *Side interior*: Eight feet or ten percent of frontage, whichever is greater. Ten feet for structures between 30 and 35 feet in height.

c. *Side corner*: 20 feet, or 25 feet if the garage entrance faces the street. (Primary structure, if destroyed, may be rebuilt on existing footprint.)

d. *Rear*: 15 feet.

(3) Maximum building height: 35 feet with a maximum of two stories.

(4) Minimum living area: 1,575 square feet. In no case shall the garage area exceed 50 percent of the living area.

(5) An attached two-car garage is required (20 feet by 20 feet, inside measurement).

(6) Maximum lot coverage: 50 percent.

(7) Maximum impervious area: 50 percent plus an additional ten percent for pavers

*Exemption*: Swimming pools are exempt from the requirements for impervious area percentages.

## § 30-413. RM-1, two-family residential district

(a) *Intent*. The provisions of the RM-1 district are intended to apply to an area of medium-density residential development for two-family units. Lot sizes and other restrictions are intended to promote and protect medium-density residential development.

(b) *Permitted uses*. Permitted uses are as follows:

(1) Single-family dwellings.

(2) Duplex, two-family dwelling units.

(3) Accessory structures and uses as permitted in R-1 single-family residential district.

(c) *Conditional uses*. Conditional uses are as follows:

(1) Publicly operated parks and recreation areas.

(2) Places of worship.

(3) Educational institutions, excluding colleges and universities, seminaries and vocational schools and training centers. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.

(4) Child care centers which comply with state licensing requirements. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.

- (5) Public utilities.
- (6) Congregate living facilities.
- (d) *Property development regulations.* Property development regulations are as follows:
  - (1) Minimum lot area and dimensions:
    - a. *Area:* 7,500 square feet for single-family dwellings, and 10,000 square feet for duplex dwellings.
    - b. *Width:* 75 feet for single-family dwellings, and 100 feet for duplex dwellings.
    - c. *Depth:* 100 feet.
  - (2) Minimum setback requirements:
    - a. *Front:* 25 feet, except 20 feet in Eau Gallie Shores Subdivision when the right-of-way is 60 feet.
    - b. *Side interior:* Seven and one-half feet.  
Ten feet for structures between 30 and 35 feet in height.
    - c. *Side corner:* 20 feet, or 25 feet if the garage entrance faces the street. (Primary structure, if destroyed, may be rebuilt on existing footprint.)
    - d. *Rear:* 15 feet.
  - (3) Maximum building height: 35 feet with a maximum of two stories
  - (4) Minimum living area: 1,450 square feet for single-family dwellings, and 900 square feet for duplex dwellings.
  - (5) Single-family dwelling and duplex, an attached two-car garage is required (20 feet by 20 feet, inside measurement).
  - (6) Maximum lot coverage: 50 percent.
  - (7) Maximum impervious area: 50 percent plus an additional ten percent for pavers.  
*Exemption:* Swimming pools are exempt from the requirements for impervious area percentages.

### **§ 30-414. RM-2, multiple-family residential district**

- (a) *Intent.* The provisions of the RM-2 district are intended to apply to an area of medium-density residential development for three- or more family units.
- (b) *Permitted uses.* Permitted uses are as follows:
  - (1) Multifamily dwellings.
  - (2) Accessory structures and uses as permitted in R-1 single-family residential district.
- (c) *Conditional uses.* Conditional uses are as follows:
  - (1) Publicly operated parks and recreation areas.
  - (2) Places of worship.
  - (3) Educational institutions, excluding colleges and universities, seminaries and vocational schools and training centers. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.
  - (4) Child care centers which comply with state licensing requirements. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.
  - (5) Congregate living homes. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.
  - (6) Nursing and convalescent homes. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.
  - (7) Public utilities.
- (d) *Property development regulations.* Property development regulations are as follows:
  - (1) Maximum density: Seven units per acre.
  - (2) Minimum lot area and dimensions:
    - a. *Area:* 13,068 square feet, except 10,000 square feet in Eau Gallie by the Sea subdivision.
    - b. *Width:* 100 feet.
    - c. *Depth:* 100 feet.
  - (3) Minimum setback requirements:
    - a. *Front:* 25 feet.

- b. *Side interior*: 15 feet.
  - c. *Side corner*: 20 feet, or 25 feet if the garage entrance faces the street.
  - d. *Rear*: 15 feet.
- Minimum setback requirements shall increase to 25 feet when a multistory building abuts a single-family zoning district.

(4) Minimum separation between primary buildings:

- a. *Front*: 25 feet.
- b. *Side*: 15 feet.
- c. *Rear*: 15 feet.

(5) One attached two-car garage is required per unit (20 feet by 20 feet, inside measurement).

(6) Maximum lot coverage: 30 percent.

(7) Maximum impervious area: 70 percent

*Exemption*: Swimming pools are exempt from the requirements for impervious area percentages.

(8) Maximum building height: 35 feet with a maximum of two stories

(9) Maximum building length: 200 feet.

(10) Minimum living area:

- a. *One-bedroom unit*: 800 square feet.
- b. *Two-bedroom unit*: 1,000 square feet.
- c. *Each additional bedroom*: Add 125 square feet.

### § 30-415. RM-3, residential-mixed use district

(a) *Intent*. The provisions of the RM-3 district are intended to regulate the construction of group dwellings (planned unit development), whether of one-family, two-family or multiple-family construction, and limited commercial uses. Such a development will allow a more flexible placing of the buildings on the land and permit the grouping of open space and accessory facilities, such as recreation facilities, garages, parking spaces, and utility and service areas, while preserving a residential environment of sustained desirability and stability. Individual units may be sold providing the responsibility for overall management and control of all common areas is retained by a single agent.

(b) *Permitted uses*. Permitted uses are as follows:

(1) Duplex or multifamily dwellings.

(2) In that portion of the district located south of DeSoto Parkway and east of Highway A1A, only single-family, two-family, and three-family dwellings shall be permitted.

- a. An increase in the number of dwelling units existing on any developed lot in this area on April 1, 2009, shall be prohibited.
- b. The total number of dwelling units permitted in this area shall be 40.

(3) Accessory structures and uses:

- a. Accessory structures and uses permitted in the R-1 single-family residential district.
- b. Laundry buildings.
- c. Parking garages and structures.
- d. Cabanas.
- e. Recreation halls.

(4) Single-family dwellings.

(5) Resort dwelling rental.

- a. East of Highway A1A.
- b. 30-day minimum rental period
- c. Performance standards
  - 1. State license required.
  - 2. Local business tax receipt required.
  - 3. Local management. Each resort dwelling shall have a designated local manager. Contact information for the local manager shall be on the local business tax receipt and shall include a 24 hour contact number. The information shall be posted in each dwelling unit and on the property in a manner visible from the public way. The posted information shall include the non-emergency police number.
  - 4. Penalty. The resort dwelling's local business tax receipt may be revoked under the following conditions: Code enforcement finds a violation or recurring violation of the Satellite Beach Code of Ordinances or by any other means provided by law.

(c) *Conditional uses*. Conditional uses are as follows:

(1) Congregate living homes. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.

(2) Places of worship.

(3) Professional offices, including but not limited to accountants, architects, doctors, attorneys and engineers.

(4) Business offices, including but not limited to real estate offices, insurance offices and financial institutions.

(5) General offices.

(6) Personal services, including but not limited to barbershops, beauty salons, tailoring shops and shoe repair shops, when included within a structure occupied by residential uses and when such nonresidential uses comprise no more than ten percent of the gross floor area of the structure. No exterior signs shall be permitted.

(7) Publicly operated parks and recreation areas.

(8) Educational institutions, excluding colleges and universities, seminaries and vocational schools and training centers. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.

(9) Child care centers which comply with state licensing requirements. Such centers are allowed as conditional uses only to avoid a concentration of such facilities in a single area or type of neighborhood which would stress such area or neighborhood and inadvertently create an institutional setting. A conditional use is likewise required to ensure such use is compatible with the proposed neighborhood or area in terms of size of facility and number of persons.

(10) Financial institutions without drive-through tellers.

(11) Towers and monopoles subject to regulations set forth in section 30-580.

(d) *Property development regulations.* Property development regulations (excluding townhouse development) are as follows:

(1) Minimum lot area and dimensions for multifamily uses:

a. *Area:* One acre.

b. *Width:* 100 feet.

c. *Depth:* 100 feet.

(2) Minimum lot area and dimensions for duplexes and single-family uses:

a. *Area:* 10,000 square feet.

b. *Width:* 100 feet.

c. *Depth:* 100 feet.

(3) Minimum setback requirements:

a. *Front:* 25 feet.

b. *Side interior:* 25 feet except 15 feet between commercial land uses.

c. *Side corner:* 25 feet.

d. *Rear:* 25 feet except 15 feet between commercial land uses.

*NOTE:* All setbacks require a five-foot landscape strip along the entire perimeter of any property in this district with plants at least four feet high at the time of planting. Plants must be selected from the list provided in section 30-704. In the event of a conflict between landscape provisions, the most restrictive provisions shall apply.

(4) Additional setbacks for all building types:

a. Canal bulkhead line: 20 feet.

b. River bulkhead line: 20 feet.

c. 1981 Coastal Construction Control Line.

(5) Minimum living area, for multifamily and duplexes: 1,100 square feet. Minimum living area for single-family: 1,850 square feet.

(6) Maximum structure length: 200 feet.

(7) Maximum building height: 35 feet with a maximum of two stories west of Highway A1A, or 65 feet east of Highway A1A.

(8) Maximum lot coverage: 30 percent.

(9) Maximum impervious area: 70 percent.

(10) Minimum separation between structures: 15 feet for one or two stories, and five feet for each additional story.

(11) Minimum breezeway and density:

Height (feet)	Maximum Density per Acre	Minimum Breezeway
0 to 38	8	40%
Over 38 to 47	9	40%

Over 47 to 56	10	50%
Over 56 to 65	11	60%

Maximum density is ten units per acre for property that is not direct oceanfront property.

(12) For multifamily and duplexes, one one-car garage is required per unit (ten feet by 20 feet, inside measurement). For single-family, an attached two-car garage is required (20 feet by 20 feet, inside measurement).

(13) In the area south of DeSoto Parkway and east of Highway A1A, no lots may be combined in any manner whatsoever which could allow the construction of multifamily dwellings, which shall be prohibited in this area.

(e) *Property development regulations for townhouse development.*

(1) Minimum site area and dimensions for townhouse uses:

- a. Site area prior to platting: One acre.
- b. Minimum interior lot size within a site is 1,800 square feet.
- c. Minimum interior lot width is 15 feet.
- d. The number of individual lots (units) shall not exceed ten units per primary building or structure.
- e. Maximum density is ten units per acre on the overall site.
- f. Maximum site coverage of all buildings or structures is 30 percent.

(2) Minimum setback requirements for townhouse developments:

- a. *Front*: An average of all units within a single structure to be 22 feet provided no unit is less than 20 feet.
- b. *Side interior*: Zero feet.
- c. *Rear*: 20 feet.
- d. The perimeter of any site development shall maintain a 25-foot setback.
- e. 1981 Coastal Construction Control Line.

(3) Minimum living area: 900 square feet.

(4) Maximum building height, minimum separation between structures and minimum breezeway requirements are the same as described in subsection (d) above.

(5) One attached one-car garage is required per unit (ten feet by 20 feet, inside measurement).

(6) In the area south of DeSoto Parkway and east of Highway A1A, no lots may be combined in any manner whatsoever which could allow the construction of townhouse dwellings, which shall be prohibited in this area.

(f) *Special regulations.*

(1) *Access.* All dwelling units and permitted uses shall have access to a public street either directly or indirectly via an approach, private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access. Permitted uses are not required to front on a public dedicated road. The city shall be allowed access on privately owned roads, easements and common open space to ensure police and fire protection of the area, meet emergency needs, conduct city services and generally ensure the health and safety of the residents of the planned unit development.

(2) *Unified control.* Title to all land within a proposed site for a planned unit development shall be owned or controlled by the developer/owner submitting the applications for the planned unit development. For purposes of this section, the term "controlled by" shall mean that the developer shall have the written consent of all owners of the property within the proposed site not owned by the developer. The consent shall contain a notarized statement that the developer is authorized to represent the owners in the submission of an application under the provisions of this section and that the owners shall agree to be bound by the decision of the city council if the application is approved.

(3) *Development standards.* The minimum construction requirements for streets or roads, sidewalks, sewer facilities, utilities and drainage shall be in compliance with the requirements of the city. The developer shall provide traffic control and street name signs as required by the city. The city shall require that all new streets be named. All proposed street names shall be approved by the city.

(4) *Common open space.* All privately owned common open space shall conform to its intended use and remain as expressed in the final development plan through the inclusion in all deeds of appropriate restrictions to ensure that the common open space is permanently preserved according to the final development plan. Such deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition. All common open space, as well as public and recreational facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures. The developer shall establish an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common open space. The association or nonprofit corporation shall conform to the following requirements:

- a. The developer must establish the association or nonprofit corporation prior to the sale of any lots. Control of all common open space and recreation facilities shall be passed to the association when occupancy permits for 80 percent or more of the residential units have been issued.
- b. Membership in the association or nonprofit corporation shall be mandatory for all residential property owners within the planned unit development, and such association or corporation shall not discriminate in its members or shareholders.

c. The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public; shall provide for the maintenance, administration and operation of such land and any other land within the planned unit development not publicly or privately owned; and shall secure adequate liability insurance on the land. The title to all residential property owners shall include an undivided fee simple estate in all common open space or an unrestricted easement for the use and enjoyment of the common open space.

(Ord. No. 972, §§ 8, 9, 8-15-07; Ord. No. 1029, §§ 1, 2, 3-17-10)

### **§ 30-415.5. RM-4, multi-family residential zoning district**

(a) *Intent.* The provisions of the RM-4 district are intended to apply to an area of high-density residential development for three or more family units.

(b) *Permitted uses.* The following are the only permitted uses:

- (1) Multi-family dwellings.
- (2) Accessory structures and uses:
  - a. Accessory structures and uses permitted in the R-1 single-family residential district.
  - b. Laundry buildings.
  - c. Parking garages and structures.
  - d. Cabanas.
  - e. Recreation halls.

(c) *Property development regulations.* Property development regulations are as follows:

- (1) Minimum lot area:
  - a. Area: Five acres.
- (2) Minimum setback requirements:
  - a. Front: 40 feet.
  - b. Side interior: 25 feet.
  - c. Rear: 25 feet.
  - d. Additional setback: 1981 Coastal Construction Control Line.
- (3) Minimum living area: 1,100 square feet.
- (4) Maximum structure length: 200 feet.
- (5) Maximum building height: 96 feet.
- (6) Maximum lot coverage: 30 percent.
- (7) Maximum impervious area: 70 percent.
- (8) Minimum separation between structures: 15 feet for one or two stories, and five feet for each additional story.
- (9) Maximum density: 108 units.
- (10) Minimum breezeway: 35 percent.
- (11) Minimum parking requirements: Two spaces per unit, each with an overall dimension of 9 × 18 feet.

(d) *Special regulations.*

(1) *Access.* All dwelling units and permitted uses shall have access to a public street either directly or indirectly via an approach, private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access. The city shall be allowed access on privately owned roads, easements and common open space to ensure police and fire protection of the area, meet emergency needs, conduct city services and generally ensure the health and safety of the residents of the development.

(2) *Unified control.* Title to all land within a proposed site for a development shall be owned or controlled by the developer/owner submitting the application for the development. For purposes of this section, the term "controlled by" shall mean that the developer shall have the written consent of all owners of the property within the proposed site not owned by the developer. The consent shall contain a notarized statement that the developer is authorized to represent the owners in the submission of an application under the provisions of this section and that the owners shall agree to be bound by the decision of the city council if the application is approved.

(3) *Development standards.* The minimum construction requirements for streets or roads, sidewalks, sewer facilities, utilities and drainage shall be in compliance with the requirements of the city. The developer shall provide traffic control and street name signs as required by the city.

(4) *Association or nonprofit.* The developer shall establish an association or a nonprofit corporation of all individuals or corporations owning property within the development to ensure the maintenance of all common open space. The association or nonprofit corporation shall conform to the following requirements:

- a. The developer must establish the association or nonprofit corporation prior to the sale of any property or portion(s) thereof. Control of all common open space and recreation facilities shall be passed to the association when occupancy permits for 80 percent or more of the residential units have been issued.
- b. Membership in the association or nonprofit corporation shall be mandatory for all residential property owners within any development, and such association or corporation shall not discriminate in its members or shareholders.



c. The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public; shall provide for the maintenance, administration and operation of such land and any other land within the development not publicly or privately owned; and shall secure adequate liability insurance on the land.

(Ord. No. 971, § 1, 12-19-07)

### **§ 30-416. C, commercial district**

(a) *Intent.* The provisions of the C district are intended to establish and maintain areas for the development of commercial facilities providing a wide range of goods and services at locations having access to a collector or arterial roadway.

(b) *Permitted uses.* Permitted uses are as follows:

- (1) Retail stores, sales and display rooms.
- (2) Personal service establishments, including but not limited to beauty salons, barbershops, laundry and dry cleaning facilities, tailor shops and shoe repair shops.
- (3) Professional offices, studios, clinics, laboratories, general offices, business schools and similar uses.
- (4) General offices and printing establishments.
- (5) Financial institutions.
- (6) Eating and drinking establishments, including bars and cocktail lounges (not permitted west of South Patrick Drive). The following shall apply to outside seating in conjunction with eating establishments:
  - a. Parking requirements shall be the same as for indoor seating: one space for each three seats.
  - b. Outside seating shall comply with section 6-1 regarding consumption of alcohol on the premises.
  - c. The hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.
  - d. Placement of the tables shall be coordinated with fire and safety regulations.
  - e. Tables shall be set back a minimum of 50 feet from residential property.
- (7) Veterinary clinics with no outside boarding, excluding inside boarding except in conjunction with customary veterinary practices.
- (8) Commercial recreation structures such as theaters and bowling alleys (not permitted west of South Patrick Drive).
- (9) Public and private clubs and lodges (not permitted west of South Patrick Drive).
- (10) Government buildings and facilities.
- (11) Accessory structures and uses when permitted in any more restrictive district, and any use permitted in this district as a principal use when incidental to another principal use of the property.

(c) *Conditional uses.* Conditional uses are as follows:

- (1) Automobile fuel stations.
  - a. Automobile fuel stations must be located at a signalized intersection.
  - b. Automobile fuel stations must maintain at least a 50-foot separation between any equipment and residentially used or zoned property.
  - c. A traffic study shall be required at time of application as prescribed in subsection 30-303(4).
  - d. Separation/setback distances shall not be subject to a variance.
- (2) Child care centers complying with state licensing requirements.
- (3) Wholesale businesses.
- (4) Hospitals.
- (5) Public and private utility services, accessory buildings and structures, excluding sanitary landfills, incinerators, refuse dumps and solid waste transfer stations.
- (6) Funeral homes.
- (7) Recreation facilities and clubs, public and private.
- (8) Cultural institutions, including but not limited to museums, libraries, community centers, and botanical and zoological gardens.
- (9) Adult bookstores, adult dancing establishments and adult motion picture theaters.
  - a. *General requirements.* A conditional use for these uses may be granted only if the applicant demonstrates that:
    1. The proposed use and site plan are in harmony and consistent with the purpose of this chapter.
    2. The proposed use is in conformance with all applicable requirements and regulations of this chapter.
    3. The proposed use will not substantially impair the integrity of any validly approved comprehensive plan, and will be consistent with the comprehensive plan.
    4. The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.
    5. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

6. The proposed use and site plan otherwise comply with the provisions regarding conditional uses and the proposed zoning district as provided in this chapter.

b. *Imposition of special conditions.* As a part of the conditional use approval, the council may restrict advertisement, outdoor display and the location of merchandise, and may impose other reasonable requirements deemed necessary to safeguard the health, safety, morals and general welfare of the community.

c. *Access by underage persons.* The owner and all employees of the establishment shall prohibit access to the premises by any person who is under the age of 18 years old.

d. *Prohibited locations.*

1. No person shall cause or permit the establishment, substantial enlargement or transfer of ownership or control over an adult bookstore, adult motion picture theater or adult dancing establishment within 1,000 feet of another such establishment, within 500 feet of any institutional use or property used for institutional purposes, within 500 feet of any preexisting religious institution or school, within 500 feet of an area zoned or used for residential use within the city, or within 1,000 feet of an establishment that in any manner sells or dispenses alcohol. The distance requirement set out in this subsection shall be considered locational only.

2. Notwithstanding the provisions of the subsection 1. of this subsection, no adult entertainment establishments shall be allowed north of Roosevelt Avenue on the South Patrick corridor and 500 feet south of Jackson Avenue on the A1A corridor.

e. *Measurement of distance.* Distance from a proposed adult entertainment establishment to an existing adult entertainment establishment, a residential area, a church, an establishment that sells or dispenses alcohol, or a school shall be measured from the nearest point that the property lines upon which such uses are located are to each other.

(10) Churches and places of worship.

(11) Repair service establishments for items such as household appliances, radios and televisions, air conditioning equipment, electrical appliances, photo equipment, lawn maintenance equipment and small engines (less than 25 horsepower).

(12) Towers and monopoles subject to regulations set forth in section 30-580.

(13) Residential use above commercial use in a commercial structure, subject to the following:

a. This conditional use shall apply only to those commercial properties located within the portion of the commercial district situated north of Park Avenue west of State Road A1A and east of South Patrick Drive (the "Town Center Mixed-Use Overlay" area).

b. Residential use must be clearly and permanently secondary to the primary commercial use.

c. Residential use shall not be permitted on the first floor.

d. Square footage of the residential use shall not exceed the square footage of the commercial use within the same structure. Garages and porches shall not be included in calculating the residential square footage.

e. Maximum of 200 residential-above-commercial units in this entire area.

f. Maximum of five residential units per acre.

g. Maximum floor area ratio of 1.0 on any lot.

(14) Outdoor boat sales on west side of South Patrick Drive.

(15) Auto, marine and equipment repair shop.

(16) In addition to complying with the general conditional use requirements of this Code, pain management clinics shall comply with the provisions section 30-621 of this Code.

(d) *Prohibited uses.* The following uses are prohibited:

(1) Trailer parks.

(2) New and used car sales.

(3) Car rental agencies or facilities.

(4) Trailer sales or rental agencies.

(5) Kennels.

(6) Drive-in theaters.

(7) Warehousing.

(8) Self-storage facilities.

(9) Contractor storage yards.

(10) Any use operating, using, conducting, utilizing, carrying on or incorporating, or seeking to operate, use, utilize, carry on or incorporate, any exception to the gambling laws of this state set forth in F.S. § 849.161(a).

(11) All uses not specifically listed as a permitted or conditional use.

(e) *Property development regulations.* Property development regulations are as follows:

(1) Minimum lot area and dimensions:

a. *Area:* 10,000 square feet.

b. *Width:* 100 feet.

c. *Depth:* 100 feet.

(2) Minimum setback requirements:

a. *Front*: 25 feet.

b. *Side interior and rear*: 15 feet, or 25 feet if adjacent to a dedicated right-of-way or adjacent abutting residential use.

c. *Street side yard*: 20 feet

(3) Minimum building separation: 15 feet.

(4) Maximum building height: 35 feet. Flat roofs must not be visible with the use of architectural amenities such as a mansard roof. Reference section 30-422(b).

Accessory structures such as garages, sheds, tanks and other structures that are incidental to the primary use shall not extend higher than the main structure and in no case exceed 20 feet in height.

(5) Maximum lot coverage: 70 percent.

(6) Maximum impervious area: 70 percent.

(f) *Shared access and parking areas*. No side interior setbacks for landscaping are required provided all of the following are met:

(1) Parking areas and aisles are joined and shared in common with adjacent parcel(s) under separate ownership.

(2) Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common parcels involved and a minimum spacing of 150 feet is maintained; or access is provided by an approved frontage road.

(3) Easements and/or written assurances of shared and common facilities from all property owners involved must be approved prior to the issuance of a building permit or establishment of separate ownership.

If adjacent developments meet all of the requirements described above and, additionally, have buildings on adjacent parcels under separate ownership joined by a common wall, no side interior building setbacks are required.

The parcel must comply with any approved site plan.

(Ord. No. 899, § 1, 1-19-05; Ord. No. 905, §§ 1, 2, 5-25-05; Ord. No. 968, § 1, 7-18-07; Ord. No. 972, §§ 10—12, 8-15-07; Ord. No. 1028, §§ 1, 2, 3-3-10; Ord. No. 1033, § 3, 6-16-10)

## § 30-417. LIU, light industrial district

(a) *Intent*. The provisions of the LIU district are intended to provide sufficient space in appropriate locations for certain types of industrial businesses, light manufacturing, and processing or fabrication of nonobjectional products not involving the use of materials, processes or machinery likely to cause undesirable effects upon surrounding residential or commercial properties.

(b) *Permitted uses*. No building, structure, or land and water use shall be permitted except for the following type uses:

(1) Commercial principal uses as listed in section 30-416(b), which shall be limited to buildings or structures in existence at the effective date of the ordinance from which this chapter is derived.

(2) Light manufacturing, fabricating, processing, converting, altering, assembling and testing of products such as garments, photographic equipment, electrical machinery and equipment, optical equipment, precision instruments and machinery, electronic equipment and other similar uses.

(3) Accessory structures and uses when permitted in any more restrictive district, and any use permitted in this district as a principal use when incidental to another principal use of the property.

(c) *Conditional uses*.

(1) Warehousing shall be permitted by conditional use subject to the limitations contained in subsection (f) of this section and section 30-419

(2) Adult bookstores, adult dancing establishments and adult motion picture theaters.

a. *General requirements*. A conditional use for these uses may be granted only if the applicant demonstrates:

1. The proposed use and site plan are in harmony and consistent with the purpose of this chapter.

2. The proposed use is in conformance with all applicable requirements and regulations of this chapter.

3. The proposed use will not substantially impair the integrity of any validly approved comprehensive plan, and will be consistent with the comprehensive plan.

4. The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.

5. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

6. The proposed use and site plan otherwise comply with the provisions regarding conditional uses and the proposed zoning district as provided in this chapter.

b. *Imposition of special conditions*. As a part of the conditional use approval, the council may restrict advertisement, outdoor display and the location of merchandise, and may impose other reasonable requirements deemed necessary to safeguard the health, safety, morals and general welfare of the community.

c. *Access by underage persons*. The owner and all employees of the establishment shall prohibit access to the premises by any person who is under the age of 18 years old.

d. *Prohibited locations*.

1. No person shall cause or permit the establishment, substantial enlargement or transfer of ownership or control over an adult bookstore, adult motion picture theater or adult dancing establishment within 1,000 feet of another such establishment, within 500 feet of any institutional use or property used for institutional purposes, within 500 feet of any preexisting religious institution or school, within 500 feet of an area zoned or used for residential use within the city, or within 1,000 feet of an establishment that in any manner sells or dispenses alcohol. The distance requirement set out in this subsection shall be considered locational only.

2. Notwithstanding the provisions of the subsection 1. of this subsection, no adult entertainment establishments shall be allowed north of Roosevelt Avenue on the South Patrick corridor and 500 feet south of Jackson Avenue on the A1A corridor.

e. *Measurement of distance.* Distance from a proposed adult entertainment establishment to an existing adult entertainment establishment, a residential area, a church, an establishment that sells or dispenses alcohol, or a school shall be measured from the nearest point that the property lines upon which such uses are located are to each other.

(d) *Prohibited uses.* The following uses are prohibited:

- (1) Trailer parks.
- (2) New and used car sales.
- (3) Car rental agencies or facilities.
- (4) Trailer sales or rental agencies.
- (5) Kennels.
- (6) Drive-in theaters.
- (7) Sanitary landfills.
- (8) Any use operating, using, conducting, utilizing, carrying on or incorporating, or seeking to operate, use, utilize, carry on or incorporate, any exception to the gambling laws of this state set forth in F.S. § 849.161(a).
- (9) All uses not specifically listed as a permitted or conditional use.

(e) *Property development regulations.* Property development regulations are as follows:

- (1) Minimum lot area and dimensions:
  - a. *Area:* One acre.
  - b. *Width:* 150 feet.
  - c. *Depth:* 200 feet.
- (2) Minimum setback requirements:
  - a. *Front:* 25 feet.
  - b. *Side interior:* 25 feet, or 50 feet if it abuts a residential district.
  - c. *Side corner:* 25 feet.
  - d. *Rear:* 25 feet, or 50 feet if it abuts a residential district.
- (3) Minimum separation between buildings: 15 feet.
- (4) Maximum building height: 35 feet. Flat roofs must not be visible with the use of architectural amenities such as a mansard roof.
- (5) Maximum lot coverage: 70 percent.
- (6) Maximum impervious area: 70 percent.

(f) Reserved.

(Ord. No. 968, § 2, 7-18-07; Ord. No. 972, §§ 13, 14, 8-15-07)

## **§ 30-418. ITU, institutional district**

(a) *Intent.* The provisions of the ITU district are intended to establish and maintain areas for development of facilities which serve the public and semipublic needs of the community.

(b) *Permitted uses.* Permitted uses are as follows:

- (1) Public and semipublic buildings and activities, such as city hall, public safety buildings, government offices and uses of a similar nature.
- (2) Educational institutions, including but not limited to primary and secondary schools, junior colleges, colleges and universities.
- (3) Health institutions, including but not limited to hospitals, clinics, nursing and convalescent homes, and congregate living homes.
- (4) Cultural institutions, including but not limited to churches and places of worship, museums, libraries, community centers, and botanical and zoological gardens.
- (5) Public recreation uses, including but not limited to parks and playgrounds.
- (6) Accessory structures and uses as follows:
  - a. Accessory structures and uses as permitted in RM-3, residential mixed use districts.

- b. Employee fitness centers.
- (c) *Conditional uses.*
  - (1) Auditoriums and concert halls are permitted as a conditional use.
  - (2) Towers and monopoles subject to regulations set forth in section 30-580.
- (d) *Property development regulations.* Property development regulations are as follows:
  - (1) Minimum lot area and dimensions:
    - a. *Area:* 20,000 square feet.
    - b. *Width:* 100 feet.
    - c. *Depth:* 150 feet.
  - (2) Minimum setback requirements:
    - a. *Front:* 25 feet.
    - b. *Side interior:* 25 feet, or 50 feet if adjacent to residentially zoned property.
    - c. *Side corner:* 25 feet.
    - d. *Rear:* 25 feet, or 50 feet if adjacent to residentially zoned property.
  - (3) Maximum building height: 35 feet. Flat roofs must not be visible with the use of architectural amenities such as a mansard roof.
  - (4) Minimum building separation: 15 feet.
  - (5) Maximum lot coverage: 70 percent.
  - (6) Maximum impervious area: 70 percent.

### **§ 30-419. Conditional use**

(a) *Application.* By ordinance, the city council may approve a conditional use, which shall prescribe any conditions deemed necessary or desirable for the public interest. Any ordinance authorizing a conditional use shall be construed as allowing only the specifically named or described conditional use.

(1) To obtain a conditional use, a written application, signed by each owner of the property, shall be submitted, giving the property's legal description, the names and addresses of all owners of the property, the conditional use requested, and the reason therefor.

(2) The application, together with a site plan meeting the requirements of this chapter, shall be submitted to the building official, who shall set a date for a public hearing before the planning and zoning advisory board.

(3) All required documentation and fees shall be received within 30 days from receipt or the application will be returned to the applicant and not processed until complete application together with fees is received.

(b) *Criteria for approval.* No conditional use shall be recommended by the planning and zoning advisory board, or approved by the city council, unless a determination is made that the conditional use will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the general purpose of this chapter. In making this determination, the planning and zoning advisory board and the city council shall consider the following:

- (1) Character and use of buildings in the vicinity;
- (2) Traffic to be generated by the conditional use and its impact on nearby properties;
- (3) Traffic conditions in the vicinity, including ingress and egress to property and proposed structures, particularly regarding automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.
- (4) Off-street parking and loading areas, particularly regarding the items described in (3) above.
- (5) Noise, glare, and odor effects of the conditional use on nearby properties.
- (6) Adverse economic impacts of the conditional use on the value of nearby properties.
- (7) Refuse and service areas, particularly regarding the items in (3), (4), (5), and (6) above.
- (8) Location, availability, and compatibility of utilities.
- (9) Type, dimensions, and character of screening and buffering.
- (10) Signs and proposed exterior lighting, with regard to glare, traffic safety, economic impact, and compatibility and harmony with nearby properties.
- (11) Required open space.
- (12) Height of buildings.
- (13) Landscaping.
- (14) Reasonable compatibility with surrounding uses in regard to function, hours of operation, building size and setbacks, and other factors that may be used to measure compatibility.

(c) *Conditional use deemed conforming use.* An approved conditional use shall be deemed a conforming use in the zoning district in which the property is located, provided that it is not extended or expanded without city council approval.

(d) *Expiration of conditional use.*

(1) A conditional use shall expire if construction does not commence within six months of the effective date of the authorizing ordinance, or if construction is not completed within the period of time established by the city council.

(2) For property where structures exist on the effective date of the authorizing ordinance, the conditional use must commence within six months of the effective date of the ordinance, or the conditional use shall expire.

(e) *Termination of conditional use.* When a conditional use stops for a continuous period of six months, the conditional use shall terminate, and use of the premises shall revert to the zoning district in which the property is located, free of the conditional use designation. The city council shall adopt an ordinance to effect such a change to the official zoning map after notice has been given to the owner of record. Such notice shall be given by certified mail to the last known address of the owner, as reflected in the most recent real property tax rolls, at least 15 days in advance of the first reading of the ordinance.

(Ord. No. 946, § 4, 8-16-06)

## **§ 30-420. Limitations on permitted and conditional uses**

(a) The following provisions shall apply in all zoning districts.

Every use shall be operated so as to prevent:

(1) Recurring ground vibration which is perceptible by a reasonable person without instruments at any point beyond the property on which the use is located.

(2) Offensive odors which are readily perceptible by a reasonable person at any point beyond the property on which the use is located.

(3) Glare or light of such intensity as to be a nuisance or hazard to the general public.

(4) Emitting into the air, matter which poses an environmental or human health hazard beyond the property line.

(5) Discharging onto the ground or into any water body, stormwater drain system or sanitary sewer line, any waste which will be dangerous, toxic, or discomforting to persons, animals, or fish or which will damage plants beyond the property on which the use is located.

(b) The following provisions shall apply only in Commercial (C) and Light Industrial (LIU) zoning districts.

(1) All provisions in subsection 30-420(a).

(2) Every use shall be operated so that the generation, storage, disposal or use of toxic or dangerous chemicals or materials is in compliance with all applicable regulatory agencies governing such activity. Also, the owner of any light industrial zoned property shall notify the building official, in writing, of the location of all underground storage tanks prior to receiving any city licenses or permits.

(3) Traffic hazards or congestion due to the type of vehicles required by or associated with the use.

(4) Outside storage is prohibited unless such storage is located entirely within an enclosed wall area. The walls must be stucco, masonry or brick and a minimum of six feet in height. The walls must completely shield the view of the stored matter from public view.

Every use shall be operated so as to prevent:

(5) The source of light rays being not visible at any point above the ground level along the property boundary lines.

(6) The generation of noise beyond the property line of the property on which the use is located which is hazardous or disruptive to the general public and exceeds a level of 50 dB(A) during the time period of 8:00 p.m. to 8:00 a.m., or 60 dB(A) during the time period of 8:00 a.m. to 8:00 p.m., as measured on the "fast" scale of a sound level meter calibrated to American National Standards Institute (ANSI) standards.

(7) The danger from fire and explosions pursuant to the following guidelines:

a. All uses storing, processing or producing free or active burning materials shall be located entirely within buildings or structures having exterior noncombustible walls, and all such buildings shall be set back at 100 feet from all lot lines.

b. These restrictions are in addition to, and not in place of, any requirements of any fire or safety codes of the city, including but not limited to the National Fire Protection Association (NFPA) 101 Life Safety Code, the Standard Fire Protection Code, the Standard Building Code, the State Fire Marshal Rules, and Florida Statutes.

(8) The emission of quantities of nuclear or electromagnetic radiation in excess of those standards established by any bureau or agency of the United States of America or the state establishing safety limits for such materials in effect at the time of adoption of the ordinance from which this chapter is derived.

(Ord. No. 972, § 15, 8-15-07)

## **§ 30-421. Prohibited uses**

Any use not authorized as a permitted, conditional, or accessory use shall be prohibited.

## **§ 30-422. Architectural design guidelines**

(a) *Generally.* The following architectural design guidelines and standards shall apply to all new construction and accessory structures on properties abutting South Patrick Drive, and Highway A1A. In the case of additions or remodeling, the entire structure must be brought into compliance if the addition exceeds 50 percent of the existing square footage or 50 percent of the county's assessed value. Detached accessory tanks may be exempt from these guidelines provided the tank is located over 100 feet from the front property line and is substantially screened with vegetation so as not to be visible from adjacent streets or residences.

In the event that this section does not address a specific criteria or standard, then the general land development regulations will prevail.

(1) Architectural elevations of all facades of any structure shall be required as an exhibit to the development plan. Such exhibit shall include colors, materials, building dimensions, location of service areas and mechanical equipment, screening devices, site furnishings, lighting fixtures and any other information as determined necessary to insure consistency with the intent of this section. The final approval of all architectural designs shall be determined by the city manager or his/her designee as part of the final site plan approval. Such approval shall include, but is not limited to, roof design, materials, colors, orientation and signage.

(2) Any exterior change of any structure shall require review and approval by the city manager or his/her designee except: Routine maintenance and replacement of material, which do not affect the approved exterior design, shall be exempt from this section. Any change of exterior color shall be approved by the city manager or his/her designee.

(3) Permitted architectural styles shall be those recognized by design professionals as having a basis in classical, historical, or academic architectural design philosophies. The following shall not be considered recognized or permitted architectural styles:

- a. Highway architectures commonly described by architectural historians.
- b. Corporate signature or commercial type architecture, unless such is consistent with other requirements of this section.
- c. Any architecture having a reference which is so unique and different from current design philosophy that sets references inconsistent and incompatible with the surrounding structures. Examples of such include igloos, teepees, medieval castles, caves and the like.
- d. Any kitsch architecture which does not resemble a typical structure, but resembles an exaggerated plant, animal, fish, edible food, or other such item such as giant oranges, ice-cream, dinosaurs and the like.

(4) The use of Florida vernacular style architecture, which includes materials such as wood siding, cementitious materials, standing seam roofs, multi-light windows, and architecture decoration and/or Mediterranean style shall be the design theme in order to identify the development. The use of thematic parking lot lighting and signage shall be required in the development.

(b) *Roof design criteria.*

(1) All roof materials, except Mediterranean style architecture, shall be made of metal shingles, corrugated metal sheet, v-crimp metal sheet or standing seam metal sheet. For any metal roof which is originally manufactured with the color, the colors of steel, tin, grey, hunter, white, blue, copper, terra cotta or light green are the only approved colors. All exterior roof materials shall be either:

- a. Untreated finish such as aluminum, copper or similar materials; or
- b. Factory-painted in colors approved by the city manager or his/her designee.

(2) Samples must be submitted for approval for all Mediterranean and Florida vernacular style roof materials.

(3) Flat roofs must not be visible with the use of architectural amenities such as a mansard roof with a minimum slope of 4:12.

(4) Roof-like architectural appurtenances such as false roofs, parapets, lean-to roofs, and other similar features will be permitted if determined to be required for acoustical mitigation of mechanical equipment or to visually screen such equipment, and must be an intricate feature of a recognized architectural style. Such features shall be placed on all sides of the structure as design permits.

(c) *Balconies and patios.*

(1) Outdoor patio areas of residential units shall be designed to provide visual privacy.

(2) Balconies may be located on the front of the residential units and shall contain decorative lighting and design features herein. Balconies may be located elsewhere on the buildings.

(d) *Lighting criteria.*

(1) Exterior architectural, display or decorative lighting (not located on a building) visible from the roadway shall be generated from an enclosed light source, low-level light fixtures. The use of neon lighting is prohibited except in window signs. Exterior lighting located on a building shall be contained in a light fixture that complements the approved theme as described in subsection (a)(4) above. Lighting that outlines the roof, overhang, windows, doorways or other similar architectural facade features shall not be allowed.

(2) Street lamps shall conform to the development theme and must be located at any driveway entrance, or pedestrian entrance within three feet of the public right-of-way.

(3) All lighting shall be positioned to prevent glare or spillover onto adjacent properties and be in compliance with section 30-546, "Sea Turtle Protective Lighting." All lighting lumens shall fall to zero at the property line.

(e) *Specific details for general architectural treatments.*

(1) For Florida vernacular treatments, exterior-building materials shall consist of or accurately resemble horizontal or vertical wood or cementitious siding. Historically correct details, such as door framing, window framing, and corner framing, shall be provided when applicable.

(2) For Mediterranean style architecture, roofs shall be tile and exterior buildings shall resemble coquina stone/facing, cementitious or shell-based stucco or smooth surface finish brick.

(f) *Miscellaneous provisions.*

(1) Structures, which are situated on corner lots, through lots, or are clearly visible from rights-of-way and public area, shall be designed with full architectural treatment on all visible sides.

(2) Colors shall be of a scheme, which is inherent to the adopted recognized architectural style within the redevelopment district.

(3) All service areas and all equipment (ground or roof) shall be screened using architectural features consistent with the structure, or landscaping to provide opaque screening.

(g) *Mandatory standard design criteria.* All buildings are required to include the following design features:

(1) All buildings shall have a minimum of any three of the following design features:

- Canopies or porticos, integrated with the building massing and style;
- Arcades, a minimum of six feet in width;
- Sculptured art work;
- Raised cornice parapets over doors;
- Peeked roof forms;
- Arches;
- Display windows;
- Ornamental and structural architectural details, other than cornices, which are integrated into the building structure and over all design;
- Gazebos;

(2) In addition to the minimum design feature requirements of subsection (1) above, all buildings shall have a minimum of any one of the following design elements:

- Decorative landscape planters or planting areas, a minimum of five feet wide and areas shaded seating consisting of a minimum of 100 square feet;
- Integration of specialty pavers, or stamped concrete along the buildings walkway; or
- Water elements such as fountains, statuary and the like.

(Ord. No. 935, § 1, 5-3-06; Ord. No. 946, § 5, 8-16-06; Ord. No. 972, § 16, 8-15-07; Ord. No. 1073, § 2, 7-17-13)

## § 30-423. Nonconformity

(a) *Generally.*

(1) Within the zoning districts, there may exist lots, structures, and land and structure uses which were lawful before this article was adopted or amended, but which are prohibited or restricted by this article or its future amendments. Such lots, structures, and uses are deemed to be nonconforming with permitted lots, structures, and uses in their respective districts. It is the intent of this article to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is the further intent of this article that such nonconformities shall not be enlarged or used as grounds for adding other structures or uses which are prohibited elsewhere in the same district.

(2) No lot existing when this article was adopted shall be reduced in size below the minimum requirements of this article. Lots created after this article was adopted shall meet the minimum requirements established by this article.

(3) City council may grant a grace period for rebuilding in the event of a catastrophic event. In no case shall any grace period exceed 12 months from the date of the catastrophic event to the date of submitting the request.

(b) *Nonconforming lots.* Where two or more nonconforming lots with adjoining frontages have the same owner, or where a nonconforming lot and a conforming lot with adjoining frontages have the same owner, such lots shall be combined.

(c) *Nonconforming structures.* If a structure lawfully in existence when this article was adopted could not be built or modified under this article, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Alteration of structure.* Nonconforming structures may be altered as long as the nonconformity is not increased in any way, the alteration complies with all applicable regulations in effect at the time of alteration, and the entire resulting premises meets all off-street parking, landscaping, and impervious surface requirements of this chapter.

(2) *Reduction in nonconformity.* For alterations reducing a structure's nonconformity, the property owner shall submit a site plan for approval by the city council. To the extent possible based on site conditions, the city council shall require compliance with all land development regulations in existence when the reduction is permitted.

(3) *Damage or destruction of structure.* Any structure, either existing, permitted or approved by the appropriate regulatory agency or agencies on November 7, 2006, shall be allowed to be built, rebuilt or repaired in the event of a casualty or catastrophe, even if such structure(s) is or are nonconforming for failure to comply with the then-existing regulations governing density, height and/or breezeway.

(4) *Relocation of structure.* When a nonconforming structure is relocated for any reason for any distance, it shall conform to regulations for the district in which it is thereafter located.



(5) *Damage or destruction of structure with a nonconforming use.* Whenever a structure, or structure and land combination, in or on which a nonconforming use is situated is damaged to an extent exceeding two-thirds of the replacement cost at the time of such damage, the use of such structure or structure and land in combination shall thereafter conform to the regulations for the district in which such structure is located.

(d) *Nonconforming uses of land.* Within six months from the date this article is adopted, all nonconforming uses of land without a principal structure shall conform to the permitted uses of this article.

(e) *Nonconforming uses of structures.* If a structure use lawfully in existence when this article was adopted is not allowed under this article, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Changes to existing structure.* No existing structure devoted to a use which is not permitted by this article in its zoning district shall be structurally altered, enlarged, reconstructed, or relocated.

(2) *Repair of structure with nonconforming use.*

a. Ordinary repairs and replacement of walls, fixtures, wiring, or plumbing may be performed, provided that the structure's square footage existing when this article was adopted is not increased and no exterior wall is relocated other than to reduce a nonconformity.

b. Nothing in this article shall be deemed to prevent restoring to a safe condition any structure, or part thereof, declared to be unsafe by any public-safety official.

(3) *Change of use.* If no structural alterations are made, the city council may change a nonconforming use of a structure to a different nonconforming use if the different nonconforming use has less impact on the surrounding neighborhood. The city council may require appropriate conditions and, to the extent possible based upon the configuration of the structure and lot, shall require compliance with all land development regulations in effect at the time of the change.

(4) *Discontinuance of use.*

a. When a nonconforming use is discontinued for six consecutive months, or for 18 months during any three-year period, the use shall thereafter conform to regulations of the district in which it is located.

b. Whenever a structure with a nonconforming use is damaged to an extent exceeding 2/3 of its assessed value, the use shall thereafter conform to regulations for the district in which it is located.

(f) *Uses not deemed nonconforming.* The intermittent, temporary, or illegal use of land or structures shall not be sufficient to establish a nonconforming use. Such use shall not be validated by the adoption of this article unless it complies with the provisions of this article.

(Ord. No. 946, § 6, 8-16-06; Ord. No. 960, § 1, 6-6-07)

### § 30-424. Off-street parking

(a) *Purpose.* The purpose of this section is to create an efficient and safe system of on-site traffic circulation which accommodates vehicles, bicycles, and pedestrians and provides for adequate parking and loading in a manner which ensures compatibility of such activities with nearby properties.

(b) *General requirements for off-street parking.*

(1) *Installation required.* Off-street parking required by this section shall be provided for all development before a certificate of occupancy is issued for any principal structure or at the time any principal structure is increased in capacity.

(2) *Illumination.* The parking area of any commercial or public area for nighttime use shall be illuminated by electric lights, and the light source shall be shielded from all residential areas.

(3) *Maintenance.* All off-street parking areas shall be well maintained and clearly striped, with all lighting in working condition.

(4) *Handicap parking.* The requirements for handicap parking shall be in accordance with applicable Florida Statutes.

(5) *Size of parking spaces.* All parking spaces, except for handicap, shall be a minimum of ten feet by 20 feet.

(c) *Off-street parking spaces.* For all zoning districts, in addition to the garage parking spaces required by each zoning district for all residential dwelling units, the following off-street parking spaces shall also be required:

(1) For residential units above a commercial use, at least one off-street parking space shall be required for each unit. For all other residential units, at least two off-street parking spaces shall be required for each unit.

For non-residential uses, the off-street parking space requirements in the following table shall apply.

Non-Residential Off-Street Parking Space Requirements				One Bicycle Space per # Auto Spaces	
	for each 175 sq. ft.	for each 200 sq. ft.	for each 300 sq. ft.	for each space	for each 10 spaces
Auto, marine, or equipment repair shops	X			N/A	N/A
Assembly facilities (religious, auditoriums and concert halls, commercial recreation establishments)					X

Private recreation facilities, clubs, and lodges					X
Eating and drinking establishments					X
Private schools				X	
Cultural facilities		X			X
Banks, credit unions, and retail stores			X		X
Personal services establishments			X		X
Offices, business and professional			X		X
Veterinary clinics			X		X
Nursing and convalescent homes				N/A	N/A
Medical and dental		X			X

For uses not included in this table, the building official shall determine the number of off-street parking spaces based on requirements for similar uses and appropriate traffic engineering and planning data. For unusual circumstances, the building official shall determine the number of off-street parking spaces based on a parking study prepared by a professional traffic engineer and appropriate traffic engineering and planning data.

One auto space for each four seats.

One auto space per employee on the largest shift and one space per each 500 sq ft.

One auto spaces for each three seats.

### § 30-425. General requirements for off-street parking facilities

*Paved and unpaved area.* An area equal to 2/3 of the total required parking area must be paved and striped. The remaining 1/3, upon the recommendation of the planning and zoning advisory board and approval by city council based on proposed uses of the facility, may be unpaved and placed in grass available for future paving. It is the intent of this subsection to cover both present and future parking needs for the building structure and give consideration to the original proposed use of the building.

### § 30-426. Location of parking spaces

(a) *Standard parking spaces.*

(1) The building official may approve off-site parking facilities as part of the parking requirements by this chapter if:

a. The location of the off-site parking spaces will adequately serve the use for which it is intended. The following factors shall be considered:

1. Proximity of the off-site spaces to the use that they will serve.
2. Ease of pedestrian access to the off-site parking spaces.
3. Whether or not off-site parking spaces are compatible with the use intended to be served.

b. The location of the off-site parking spaces will not create unreasonable:

1. Hazards to pedestrians.
2. Hazards to vehicular traffic.
3. Traffic congestion.
4. Interference with access to other parking spaces in the vicinity.
5. Detriment to any nearby use.

c. The developer supplies a written agreement, approved in form by the city attorney, ensuring the continued availability of the off-site parking facilities for the use they are intended to serve.

(2) A lot or parcel of land in a residential district may be used to satisfy all or any part of the off-street parking requirements for a permitted use in a business district by complying with all of the following provisions, including such other requirements as the city council shall deem appropriate.

- a. The lot in the residential district shall abut the lot in the business district, or shall not be separated therefrom by a public right-of-way exceeding 50 feet in width, and shall be contained within boundaries formed by the extension, in a straight line, of the boundaries of the lot in the business district. The furthestmost point of the parking area shall not exceed a distance of 250 feet from the business lot it serves. An offset of the residential lot lines from the extension of the business lot lines amounting to not more than ten percent of the width of the business lot shall be acceptable.
- b. The lot in the residential district shall be under the same ownership as the lot it serves in the business district.
- c. The use of the lot in the residential district is restricted to off-street parking purposes (less than 24 hours) of passenger vehicles of employees, customers or guests of the person controlling and operating the lot only, and all other uses, including signs, are prohibited, except that not more than one identification sign not exceeding four square feet in area may be permitted.
- d. The lot shall be separated from abutting residential areas by a brick, stone, simulated masonry brick or simulated stone wall (both sides), six feet high, extending to the front setback line required for residential structures in the applicable zones. The wall shall extend in the same direction from that setback point to a point nine feet from the streetside property line. That portion shall be 32 inches in height.
- e. The paved parking area shall be set back a distance of nine feet from the streetside property line. Sidewalks will be installed and maintained as required by section 30-283.
- f. The setback area shall be suitably landscaped, and such landscaping shall be maintained in a healthy condition continuously or shall be replaced. The city council may revoke a conditional use permit if such maintenance is not performed on a timely basis.
- g. Lighting of the parking area shall be in such a manner that a minimum of light shall fall upon adjoining residential areas. The source of light shall not exceed a height of four feet and shall be directed in such a manner that the direct source of illumination (the filament of an incandescent lamp, or its equivalent) cannot be viewed from any elevation above two feet at any point on the boundary line of the parking lot.
- h. Adequate storm drainage shall be provided to ensure that stormwaters are directed away from abutting residential properties.
- i. No charges are to be made for parking on the lot.
- j. The lot is not to be used for sales, repair work or servicing of any kind.
- k. Entry and exit will be determined by the planning and zoning advisory board with the advice of the police department.
- l. Such other conditions may be imposed as may be deemed necessary by the city council to protect the character of the residential district.

(d) *Width of traffic aisles.* The minimum width of traffic aisles in off-street parking areas shall be as indicated in the following table.

Minimum Width of Traffic Aisles in  
Off-Street Parking Areas

Parking Angle	One-Way Traffic	Two-Way Traffic
0° (Parallel to Curb)	12'	24'
45°	15'	not allowed
60°	15'	not allowed
90° (Perpendicular to Curb)	22'	24'
No Parking Allowed	15'	24'

(e) *Location of off-street parking.*

(1) *Vehicle parking.*

- a. All required off-street parking shall be located on the same parcel as the use it is intended to serve, except that the city council may approve off-site parking if:
  1. The location of the off-site parking will adequately serve the intended use. The following factors shall be considered:
    - i. Proximity of the off-site parking to the use it will serve.
    - ii. Ease of pedestrian access to the off-site parking.
  2. The location of the off-site parking will not create unreasonable traffic congestion, interference with access to other parking in the vicinity, hazards to pedestrians or vehicular traffic, or detriment to any nearby use.
  3. The developer supplies a written agreement, approved in form by the city attorney, ensuring the continued availability of the off-site parking for the use it is intended to serve.
- b. Driveways may be used to meet off-street parking requirements for single-family and duplex dwellings, provided that sufficient spaces are available on such driveways to meet the requirements of this section and no portion of such spaces is located in a public right-of-way.

c. No parking shall be located within any required visibility triangle.

(2) *Bicycle parking.* Bicycle parking shall be located in a highly-visible, active, well-lighted area near a building's principal entrance and shall not interfere with pedestrian movements.

(f) *Design standards.*

(1) Each parking and loading area shall be designed to accommodate the type of use intended to be served and its hours of operation, number of cars to be served, surrounding street pattern, adjacent buildings, and other improvements in the neighborhood. The parking area shall be designed to cause the least amount of adverse effects on adjoining or neighborhood properties.

(2) Each parking space, excluding single-family and duplex, shall have appropriate access to a street or alley and a maneuvering and access area sufficient to permit vehicles to enter and exit the site in a forward motion.

(3) The design of off-street parking areas shall be based on a definite and logical system of drive lanes to serve the parking and loading uses.

(4) Except for single-family and duplex residences, each parking space shall be directly accessible without driving over or through any other parking space.

(5) Traffic control signs and other pavement markings shall be used as necessary to ensure safe and efficient traffic operation in the parking area. Such signs and markings shall be subject to the approval of the city engineer.

(6) Loading areas shall not be located in any public right-of-way.

(7) A minimum backup distance of 20 feet shall be required between the subject property line and the first off-street parking space.

(g) *Queuing.* In addition to meeting all other applicable requirements of this section, all drive-through establishments shall meet the following criteria:

(1) Each queuing lane must be clearly defined and designed to avoid interfering with other traffic using the site.

(2) A clearly-designated bypass lane at least ten feet wide shall be provided adjacent to the queuing lane.

*Exception:* In the case of an establishment which does not have a menu board and only a pick-up window, a bypass lane is not required provided:

a. All parking stalls adjacent to the required number of queuing spaces are designated as "Employee Parking Only" and;

b. There shall be a minimum of ten feet between the parking stalls and the queuing spaces to allow a vehicle to bypass.

(3) The minimum number of required queuing spaces, in addition to the vehicle being serviced, shall be as provided in the following table. Each queuing space shall be at least nine feet by 18 feet in size. Except for gasoline pumps, queuing shall be measured from the point of ultimate service to the rear of the queuing lane.

Drive-Through Establishments	Minimum Queuing Spaces for Each Drive-Through Lane
Bank and Credit Union	4
Restaurant	6 (4 of these before menu sign)
Automobile Service Station Gasoline Pump	1 parking space at the gasoline pump and one queuing space behind the car at the pump
Pick Up Window and All Other Drive-through Establishments	2

(Ord. No. 935, § 2, 5-3-06)

## § 30-427. Binding development plan

(a) *Binding development plan.* Rezoning of certain parcels of property may be permitted by the city council when such rezoning requests are accompanied by binding development plans as prescribed in this section because of concerns over allowable uses within the requested zoning district. Such binding development plans would eliminate these use concerns and ensure that the rezoning would be in the best interest of the general health, safety and welfare of the residents of the city. In presenting a binding development plan with a rezoning request, the following conditions must be met:

(1) Any person seeking to rezone any lot, tract or parcel of land may submit a binding development plan with the rezoning request for purposes of detailing the specific use for which the person wishes to utilize the property. Upon submission of the binding development plan, the person shall be bound by the binding development plan unless the property is rezoned or the plan is amended by the city council.

(2) Any site plan submitted under this section shall comply with Article III, Division 1.

(3) If a person submitting a binding development plan fails to begin construction upon the property within the time permitted in section 30-303(e), the binding development plan shall be void, and no construction shall be permitted upon the rezoned property until such person submits a site plan pursuant to the requirements of Article III, Division 1.

(4) For purposes of this section, the term "person" shall mean the applicant for rezoning, the owner if the owner is not the applicant, and the heirs, assigns and successors in interest of the applicant and the owner.

(b) *Notice to adjacent communities.* When any proposed change of a zoning district boundary lies within 250 feet of an adjoining incorporated or unincorporated area, a courtesy notice shall be forwarded to the governing body of such adjoining incorporated or unincorporated areas, at least 15 days in advance of the hearing date, in order to give such body an opportunity to appear at the hearing and express its opinion on the effect of such district boundary change.

(c) *Limitation of subsequent applications.* Whenever any application for a change of zoning shall have been finally determined, no other or further application for a change of zoning with reference to the particular property affected by such application, or with reference to other property similarly situated, will be considered for a period of six months following the date of such action. Should conditions affecting such property materially change, in the opinion of the city council, or should a modified plan for a rezoning be presented to the city council, either of which in the opinion of the council would justify action before the expiration of such six-month period, the council, by concurring vote of four members, may permit the filing of such application for a rezoning notwithstanding the provisions of this section.

## **§§ 30-428--30-500. Reserved**

### **Article V. Building Regulations**

#### **Division 1. Signs**

##### **§ 30-501. Purpose**

The purpose of this article is to regulate the design, construction, and location of signs to achieve the following: protect the public safety and welfare; preserve the unique planned character and the natural and scenic environment of the city; prevent clutter among sign displays which would distract vehicle operators, place excessive demands on public attention, or have a detrimental effect on the character and appearance of the residential, commercial, and industrial areas of the city; provide ample opportunity for business advertisement while preventing excessive, dangerous, and unsightly signs; reasonably assist potential customers in locating and identifying services, facilities, and products offered within the city; and provide for adequate maintenance and inspection of signs.

##### **§ 30-502. Generally**

(a) *Traffic visibility.* No sign shall be placed at any location where it may obstruct the line of sight for pedestrian, bicycle, or vehicular traffic. No part of any sign shall be located closer than 25 feet to the intersection of any rights-of-way.

(b) *Easements.* Signs shall not be erected in any easement or public right-of-way, except for government regulatory signs and emergency or warning signs erected by a governmental agency, public utility company, or contractor doing authorized work within the public right-of-way.

(c) *Transmission interference.* All signs shall be constructed and grounded to avoid interference with radio, television, or other communication transmissions.

(d) *Illumination.* Only permanent signs may be illuminated. Lighting on signs which are not internally illuminated shall be shielded with an opaque shade and directed so as to produce no glare on roadways or surrounding properties. The use of neon is prohibited except in window signs.

(e) *Signs at closed establishments.* A sign shall be presumed to be an off-premises sign when an establishment has been closed or relocated for more than 120 days and the establishment's sign face has not been changed. Within 60 days after a sign is deemed to be an off-premises sign, the property owner shall replace the face of the sign with a blank sign face, except that notice to sell or lease the property shall be allowed.

(f) *Maintenance.* All signs, including their structural components, shall be maintained so as to ensure the structural integrity of the sign and compliance with the issued permit. Painted areas and sign surfaces shall be kept in good condition, and any illumination shall be maintained in good repair and safe working order. The building official may order the repair or removal of any sign not maintained in accordance with the provisions of this section and the requirements of the issued permit.

##### **§ 30-503. Permits**

(a) Except as exempted in Table 1, it shall be unlawful for any person to erect a sign without first obtaining a validly-issued permit from the city. A permit shall not be required to repaint any sign surface, change any sign message, or change the face of any sign where the structure of the sign is not changed.

(b) Application. To obtain a sign permit, a completed application form provided by the city shall be submitted to the building department by the property owner or an individual providing written authorization from the property owner to install a sign. As a minimum, the application shall include the following information:

- (1) Name, address, and telephone number of the applicant.
- (2) Name, address, and telephone number of the property owner. If the owner is an entity other than an individual, list the contact person's name.
- (3) Name, address, and telephone number of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name.
- (4) Name, address, telephone number, and license number of the sign contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name.
- (5) Address and legal description of the property upon which the sign is to be located. This may be obtained from a certified boundary survey.
- (6) Lot frontage on all streets and public rights-of-way.
- (7) In feet and inches, the location of the sign in relation to property lines, public rights-of-way, easements, buildings, and other signs on the property.
- (8) For freestanding signs, a boundary survey which has been prepared within the 24 months before the permit application date, has been signed and sealed by a land surveyor or engineer licensed in Florida, and shows the sign's proposed location.
- (9) For wall-mounted signs, the façade elevation with dimensions, drawn to scale, along with the location and dimensions of windows, doors, and other openings.
- (10) Sign dimensions and elevation, drawn to scale.
- (11) Maximum and minimum height of the sign.
- (12) Dimensions of the sign's supporting structure.
- (13) Type, placement, intensity, and hours of sign illumination.
- (14) Three copies of the plans, specifications, calculations, and details signed and sealed by a Florida-licensed engineer; specifications meeting the required windload; and electrical specifications meeting the minimum requirements of the applicable electric code, if applicable.
- (15) Number, type, location, and surface area of all existing signs on the same property.
- (16) Landscape plan, as applicable.
- (17) Signature of applicant.
- (18) If the sign's value is \$2,500.00 or greater, a certified copy of notice of commencement.

(c) Application review. A sign permit application shall be submitted to the building department for review by the building official to determine whether the proposed sign meets applicable zoning laws and requirements of this article. A sign permit shall be either approved, approved with conditions based on requirements in this article, or disapproved. A written decision shall be provided to the applicant, shall include the reason(s) for any disapproval, and shall be reviewed by the city attorney before being provided to the applicant.

- (1) The building official's decision shall be made within 45 days following receipt of a completed application and required application fee, not counting the day of receipt or any Saturday, Sunday, or legal holiday which falls upon the first or forty-fifth day after receipt. If no decision is rendered within the 45-day review period, the application shall be deemed disapproved, and the application fee shall be refunded.
- (2) Incomplete applications. An application which is materially incomplete or not accompanied by the required fee shall be deemed unaccepted, and the time for review shall not commence until a complete application and required fee are submitted. However, the building official shall keep a record of all unaccepted applications as required by applicable public record laws. Within 45 days following receipt of an unaccepted application, the building official shall send the applicant a written explanation of the application's deficiencies, request that the deficiencies be remedied, and inform the applicant that the application review will be suspended until a corrected application is submitted. This written explanation shall be reviewed by the city attorney before being sent to the applicant.
- (3) Request for reconsideration. If an application is approved with conditions or disapproved for any reason, the applicant may request reconsideration on the grounds that information supporting a different decision was not considered. A written request for reconsideration containing such additional information shall be filed with the building official within ten calendar days after the decision is made or the 45-day review period has expired without a decision. Upon the timely filing of a request for reconsideration, the building official's original decision shall be stayed. The building official shall make a decision on the reconsideration request within seven days of receipt by the city, not counting any intervening Saturday, Sunday, or legal holiday. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. No fee shall be required for a request for reconsideration.
- (4) Date of decision. All decisions shall be mailed, transmitted electronically, or hand-delivered to the applicant, and a record shall be kept of the date of such action. For the purpose of calculating compliance with the deadlines specified in subsections 30-503(c)(1), (2), and (3), a decision shall be deemed made when deposited in the mail, transmitted electronically, or hand-delivered to the applicant.
- (5) Deadline exceptions. As exceptions to the foregoing, the 45-day and seven-day deadlines shall be suspended as follows:
  - a. Until a final decision is made on any variance, rezoning, or comprehensive plan amendment request regarding the property.
  - b. Until the applicant makes any change(s) to the application necessary to obtain an unconditional approval.

c. Until approval required from any other government agency is obtained.

(6) An applicant may elect to forego any action(s) in subsection 30-503(c)(5) and instead request a decision on the sign permit application as submitted. In that event, the building official shall make a decision on the application within five business days after receiving such request. If a decision is not made in that time, the application shall be deemed disapproved, and the application fee shall be refunded.

(7) *Judicial review.* Any person aggrieved by the building official's decision on his/her sign permit application may seek judicial review in any court of competent jurisdiction. For the purpose of such appeal, the building official's approval, approval with conditions, or disapproval shall be deemed the city's final decision on the permit application. The city shall not oppose an applicant's request to the court for an expedited review of the city's decision.

(Ord. No. 996, § 5, 10-15-08)

## § 30-504. Allowed signs

Only the following types of signs shall be allowed within the city, and these signs shall be allowed only on-premises:

(a) *Freestanding signs.* All freestanding signs, except those in Table 1, shall be monument signs.

(1) *Number and size.* The number and size of freestanding monument signs per property shall be determined by the property's linear footage of roadway frontage.

a. Properties with fewer than 200 linear feet of roadway frontage shall be allowed one freestanding sign per property. Maximum height of the sign shall be eight feet, maximum width shall be 11 feet, and maximum depth shall be two feet. On each of the sign's two sides, the copy area shall not exceed 60 percent of the sign area, and the architectural area shall comprise at least 40 percent of the sign area. Maximum size of the sign area shall be 88 square feet. When the setback requirements of subsection 30-504(a)(3) would cause this sign to be located in or behind a parking stall or obstruction that interferes with the visibility of the copy area from the frontage or arterial roadway, the height of the monument base may be increased up to a maximum of six additional feet, for a total height of up to 14 feet for the entire sign. Increasing the height of the base shall not increase the allowable size of the copy area.

b. Properties with 200 or more linear feet of roadway frontage may have either one large sign or two signs described in subsection 30-504(a)(1)a, placed at least 100 feet apart. Maximum height of the large sign shall be 14 feet, maximum width shall be 15 feet, and maximum depth shall be two feet. On each sign's two sides, the copy area shall not exceed 60 percent of the sign area, and the architectural area shall comprise at least 40 percent of the sign area. Maximum size of the sign area shall be 166 square feet.

c. Properties with 500 or more linear feet of roadway frontage may have a maximum of two signs, placed at least 100 feet apart. Maximum height of these signs shall be 14 feet, maximum width shall be 21 feet, and maximum depth shall be two feet. On each sign's two sides, the copy area shall not exceed 60 percent of the sign area, and the architectural area shall comprise at least 40 percent of the sign area. Maximum size of the copy area shall be 150 square feet, and the maximum aggregate copy area of both signs shall be 250 square feet.

(2) *Street address numbers.* All freestanding monument signs shall have street address numbers which are at least six inches high and clearly visible from the frontage roadway. These numbers shall be located according to one of the following two options:

a. Street address numbers shall be centered atop the sign. One additional foot of sign height shall be allowed to accommodate the numbers, and the width of the street address portion of the sign shall be no greater than necessary to accommodate the address numbers; or

b. Street address numbers shall be prominently located in the top one-third of the sign;

(3) *Setbacks.* For all freestanding monument signs, minimum setbacks shall be ten feet from a street right-of-way and 25 feet from adjacent property lines.

(4) *Zoning districts.* Freestanding monument signs shall be allowed in all zoning districts except residential. However, freestanding monument signs shall be allowed for multi-family buildings containing six or more residential units and in the RM3 and RM4 districts for businesses at locations with non-conforming uses at the time this article is adopted and businesses with legally-established conditional and commercial uses.

(b) *Wall signs.*

(1) *Number and size.* Multiple wall signs may be placed on any side of a building that faces a public street or parking lot. The aggregate square-footage of the sign area of all wall signs on such building side shall not exceed the linear footage of the building side. The area of the regular geometric shape of the sign area shall be used to calculate the sign area of each sign.

(2) *Projection and height.* No wall sign shall project above the fascia or beyond the wall of the structure to which the sign is attached, project into the public right-of-way, or project more than 12 inches from the wall or fascia to which the sign is attached.

(3) *Zoning districts.* Wall signs shall be allowed in all zoning districts except residential. However, wall signs shall be allowed for multi-family buildings containing six or more residential units and in the RM3 and RM4 districts for businesses at locations with non-conforming uses at the time this article is adopted and businesses with legally-established conditional and commercial uses.

(c) *Projecting signs.*

(1) *Number and size.* One projecting sign may be substituted for a wall sign if the sign area of the projecting sign does not exceed the allowable sign area of the substituted wall sign.

(2) *Setback.* Minimum setback shall be five feet from any adjacent business.

(3) *Projection and height.* No projecting sign shall extend more than four feet from the building wall or fascia on which the sign is attached. The top of a projecting sign shall not extend more than 20 feet above ground level and shall not extend above the building fascia. Projecting signs shall have a minimum clearance of eight feet from the bottom of the sign to the standing surface and shall not project into the public right-of-way.

(4) *Under-canopy signs.* Instead of a sign projecting from a wall, each separate business may have one projecting sign which hangs from a horizontal surface, such as a canopy, awning, or marquee, as long as the sign area is no larger than four square feet and maintains a minimum clearance of eight feet from the bottom of the sign to the standing surface.

(5) *Zoning districts.* Projecting signs shall be allowed in all zoning districts except residential. However, projecting signs shall be allowed in the RM3 and RM4 districts for businesses at locations with nonconforming uses at the time this article is adopted and businesses with legally-established conditional and commercial uses.

(d) *Other signs.* The types of on-premises signs listed in Table 1 shall also be allowed, subject to the restrictions on their use as shown in the table.

(e) *Authorized.* No signs other than those authorized by this section shall be allowed within the city.

**Table 1. Allowable Signs**

Type of Sign	Zoning Districts		Maximum Number	Display Period	Maximum Size (sq. ft.)	Maximum Height (ft.)	Minimum Setbacks (ft.)		Permit Required
	Residential (R)	Non-residential (N-R)					Front	Side	
Banners	no	yes	1	30 days, 2x/year	32	N/A	10	15	yes
Construction	yes	yes	1/fronting street	permit to CO	R, 6 N-R, 32	6	10	15	no
Dedication Plaques	yes	yes	1	permanent	6	N/A	N/A	N/A	no
Directional	yes	yes	N/A	permanent	2	6	5	0	no
Directory	yes	yes	1 per building	permanent	6	8	N/A	N/A	no
Flagpoles	yes	yes	1 per lot	permanent	N/A	32	10	15	no
Garage/Yard Sale	yes	yes	2	during event	6	6	N/A	N/A	no
Identification, Development	yes	yes	1 monument or 2 perimeter-wall per entrance	permanent	24 per sign	7' from top of sign to crown of road	monument, 5' Note	monument, 10' Note	yes
Identification, Occupant	yes	yes	1/unit	permanent	2	8	10	15	no
Menu	no	yes	N/A	permanent	40	7	front wall of principal structure	5	yes
Political Campaign	yes	yes	see footnote	N/A	6	6	5	0	no
Public Convenience/Warning	yes	yes	1/50' of lot line	anytime	2	6	5	0	no
Real Estate	yes	no	1/street	thru closing	6	6	5	15	no
Real Estate	no	yes	1/street	thru closing	32	8	5	15	no
Real Estate, Open House	yes	yes	1/street	during event	6	6	5	15	no
Special Event, Commercial	no	yes	1	10 days, 3x/year	32	N/A	10	15	yes
Special Event/Drive, Other	no	yes	1	event + 7 days	32	10	10	15	yes
Window	no	yes	N/A	N/A	10% of window area	N/A	N/A	N/A	no



Except conditional uses with a minimum lot area of 40,000 square feet.

Number and size of flags on a pole are not regulated.

Perimeter-wall signs are exempt from setbacks.

One sign per candidate and referendum issue per lot or unit.

(Ord. No. 972, § 17, 8-15-07; Ord. No. 996, § 6, 10-15-08)

### **§ 30-505. Murals**

Murals, which shall not be deemed to be signs, shall be allowed if content is not related to the business being conducted on the premises.

### **§ 30-506. Prohibited signs**

The following types of signs, which are not intended to limit the types of prohibited signs, are specifically prohibited: beacon signs; billboard signs; snipe signs; animated signs; A-frame signs; off-premises signs; parked advertising signs; roof signs; swinging signs; bench and shelter signs; portable signs; signs placed on city property; signs which contain statements, words or pictures which are obscene or pornographic; signs that contain untruthful advertising; signs that emit sound, odor or visual effects; signs which are intended, or may be construed, to be traffic signs, signals or warnings; signs which may be confused with the lights of emergency or road-equipment vehicles; signs which hide from view any traffic or street sign, signal or device; signs which would obstruct the view at or around corners, intersections or curves; and signs placed on or over any private property without the written consent of the property owner. In addition, signs without a validly-issued permit and signs deemed by the building official to be a hazard to public safety shall be deemed nuisance signs and shall be prohibited.

(Ord. No. 996, § 7, 10-15-08)

### **§ 30-507. Nonconforming signs**

The following shall apply to signs which are made nonconforming by this article:

- (a) No nonconforming sign shall be modified in a way which increases the nonconformity or be replaced by another nonconforming sign.
- (b) A nonconforming sign may be maintained and repaired, except that if the cost of repairs during any 12-month period equals or exceeds 50 percent of the replacement cost of the sign, the sign shall be removed. Replacement cost shall be determined by the building official and, if necessary, the building official may require three bids from authorized sign contractors.
- (c) In any event, all nonconforming signs shall be brought into compliance with the provisions of this article no later than December 31, 2010. However, any monument sign constructed or permitted between November 30, 2004, and October 15, 2008, shall have until subsection (b) requires its removal or the property is redeveloped pursuant to a new site plan.
- (d) Within 180 days after business closes or relocates, both the property owner and the permittee shall be obligated to remove all nonconforming signs.
- (e) Notwithstanding the foregoing provisions of this section, an existing nonconforming freestanding sign which cannot meet the setback requirements of subsection (a) may be retrofitted into a conforming monument sign through December 31, 2010, without a variance, as long as the retrofitted sign remains within the footprint of the existing sign, otherwise complies with the permit requirements for a new sign, complies with visibility triangle requirements, and does not encroach into any right-of-way. A retrofitted sign shall not be required to comply with existing setback requirements for monument signs in the district in which the sign is located, and this setback exemption shall run with the land for any future signs placed within the same footprint as the retrofitted sign.

(Ord. No. 946, § 7, 8-16-06; Ord. No. 972, § 18, 8-15-07; Ord. No. 996, § 7, 10-15-08; Ord. No. 1026, § 1, 2-17-10)

## § 30-508. Severability

Without diminishing or limiting in any way any declaration of severability set forth in this Code or any adopting ordinance, if any part of this article whatsoever is declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect the following:

- (a) Any other part of this article generally;
- (b) Any other part of this article, even if such severability results in less speech, such as by subjecting previously-exempt signs to permitting or otherwise; and
- (c) Any other part of this article that pertains to signs prohibited under section 30-506

(Ord. No. 996, § 8, 10-15-08)

## § 30-509. Reserved

### Division 2. Accessory Structures

## § 30-510. Accessory structures

(a) *Applicability.* This section shall apply to accessory structures only in single-family and duplex residential zoning districts.

(b) *Generally.* There are three types of accessory structures: enclosed buildings (storage/utility sheds, cabanas, etc.), open structures (gazebos, etc.), and customary yard structures (barbecue pits, playground equipment, etc.).

(c) *Enclosed buildings and open structures.* A lot may contain one enclosed building and one open structure, subject to the following requirements:

- (1) A permitted principal structure exists on the lot, or construction of such principal structure has commenced before construction of the accessory structures.
- (2) The accessory structures comply with this chapter's requirements regarding the principal structure, unless provided otherwise in this chapter.
- (3) The accessory structures are not erected in a required building setback adjacent to a public street or closer to a public street than any wall of the principal structure on the same lot, whichever is more restrictive.
- (4) The accessory structures are not erected within a recorded easement or right-of-way.
- (5) The accessory structures are included in all calculations of impervious surface and surface water runoff.
- (6) The accessory structures are shown on all development plans required by the city, with full supporting documentation as required by this chapter.
- (7) The accessory structures are secured to a minimum four-inch-thick concrete slab.
- (8) The accessory structures are not erected in a front or side yard and do not encroach into an easement. When the lot is located on two streets, the accessory structures shall be erected in the rear yard, no closer to the secondary street than the main structure. Accessory structures 100 sq. ft. or smaller shall have minimum rear and side setbacks of five feet. Those larger than 100 sq. ft. or higher than seven feet shall have minimum rear and side setbacks of ten feet.

(d) *Enclosed buildings.*

- (1) Enclosed buildings shall not exceed 150 square feet in floor area. Walls shall not exceed seven feet in height. No enclosed building shall exceed ten feet in overall height. A maximum two-foot overhang is permitted, except there may be a maximum four-foot overhang over doorways.
- (2) Enclosed buildings shall have exterior walls constructed of wood, glass, aluminum, or masonry, provided that stucco or another nonmetallic finish is applied to masonry surfaces.
- (3) Roofs shall be secured directly to the walls.

(e) *Gazebos.* Maximum floor area shall be 200 square feet. Maximum height shall be twelve feet. All sides shall be open. A maximum two-foot overhang is permitted.

(f) *Customary yard structures.* Customary yard structures shall be allowed provided they are not located in a front yard or within five feet of the rear or side property lines and do not exceed ten feet in height. In no event shall they encroach into any easement of record.

Exceptions:

- 1. Water fountains may be permitted within the front or side yard provided they shall not encroach into any easement of record. Fountains shall not exceed six feet in height, 11 inches in water depth, and ten feet in width or length.
- 2. Basketball hoops shall be permitted in the front or side yard provided they are not located within any right-of-way.

3. Lawn ornaments such as birdbaths, statues of humans, animals or birds or similar likeness not exceeding 48 inches in height and nine square feet in size.

(g) *Prohibited uses.* Accessory structures shall not be used for living quarters, garages, business uses, home occupations (other than storage), commercial equipment, or commercial kennels.

(h) *Use of vehicle as storage/utility building.* Vehicles, including cargo or utility trailers and mobile homes, shall not be used as storage or utility buildings, except that trailers may be temporarily used in construction if a building permit has been issued. The trailer shall be removed within ten days after a certificate of occupancy is issued.

(Ord. No. 972, § 19, 8-15-07)

## **§§ 30-511--30-514. Reserved**

### **Division 3. Fences And Walls**

#### **§ 30-515. Purpose**

The purpose of this division is to regulate the location and character of fences, walls, and pool enclosures to ensure compatible relationships between abutting properties, provide for public safety, and foster an attractive community appearance.

#### **§ 30-516. Setback, height, and construction of fences**

(a) Fences shall not be erected in front of the outside corners of a house or encroach into a setback adjacent to a street. On a corner lot, a side-yard fence shall be set back at least five feet from the property line abutting the side street. The only exception shall be that a decorative wall may extend beyond the front corner of the house as long as the wall meets the minimum front-yard setback and has the same color and facade texture as the house.

(b) Fences shall not exceed six feet in height above the finished grade of the property, with the following exceptions:

(1) If two homes with a common property line have a difference between the finished floor elevations, the height of the fence between the properties may be increased one inch for every inch of difference between such elevations, to a maximum increase of 12 inches. No fence shall exceed seven feet in height. Adequate data must be provided to the building official to confirm the difference between finished floor elevations.

(2) Tennis courts may have regulation-height fences, with a maximum opaqueness of 30 percent.

(3) A fence or wall may be up to eight feet in height if between residential zoned properties and non-residential properties.

(4) Columns within a block wall may be up to seven feet in height provided the column width does not exceed 30 inches with a minimum spacing of eight feet.

(c) *Masonry walls may be used for fencing.* Except for decorative masonry block walls, all masonry block walls shall have a painted stucco, brick veneer, or other painted masonry surface on both sides.

(d) All fences located east of Highway A1A shall be constructed of plastic-coated chainlink, ultraviolet-resistant polyvinyl chloride (PVC), or aluminum. A fence shall not have more than 30 percent of any vertical surface areas per running foot constructed of opaque materials.

(e) For any fence adjacent to a street, the posts and stringers shall face the interior of the fenced property.

(Ord. No. 972, § 20, 8-15-07)

#### **§ 30-517. Swimming pool and spa fences**

(a) An outdoor swimming pool or spa deeper than 12 inches shall be completely surrounded by a fence, pool enclosure, or masonry wall at least four feet in height and constructed so that a four-inch diameter sphere cannot pass through any opening.

(b) All pedestrian-access gates or doors in the fence, enclosure, or wall shall be equipped with a self-closing and self-latching device, but the door of any dwelling which forms a part of the enclosure need not be so equipped. Any gate wider than six feet must be locked in the closed position when not in use.

(c) During construction, all unattended pools shall be enclosed with a temporary fence at least four feet in height. Such temporary fences can be utilized for a maximum of 90 days after the permit is issued. After 90 days, a temporary fence shall be replaced with a permanent fence.

(d) Fences required by this section shall be maintained in good condition for safety reasons. Any repairs to these fences shall be completed within 24 hours of notification by a city official.

(e) Refer to the Florida Building Code for additional requirements.

### **§ 30-518. Dangerous fences**

Barbed-wire fences, electric fences, and fences with broken glass, spikes, or other sharp points that may cause injury are prohibited.

### **§ 30-519. Permit for construction, relocation, or replacement of fences**

A permit shall be required to construct more than 24 feet of permanent fence within a 12-month period. For existing fencing, replacement of more than 50 percent feet of permanent fence within a 12-month period shall require a permit. No permit shall be required to repair any fence in the same location.

### **§ 30-520. Nonconforming fences**

Fences or walls that do not meet the requirements of this division at the time of adoption of this ordinance may be replaced provided the nonconformity is not increased and the fence or wall is located west of Highway A1A. Fences or walls east of Highway A1A must comply with subsection 30-516(d) of this Code if replaced or if the repairs exceed the thresholds in subsection 30-423(c)(3) of this Code.

(Ord. No. 972, § 21, 8-15-07)

### **§ 30-521. Walls between districts**

A masonry wall with a minimum height of six feet and maximum height of eight feet in height shall be constructed between commercial or industrial properties and residential properties by the developer of the property. When property is rezoned, the wall shall be provided by the developer of the rezoned property.

(Ord. No. 972, § 22, 8-15-07)

### **§§ 30-522—30-523. Reserved**

## **Division 4. Docks, Piers, Boat Ramps, Mooring Piles, Boat Lifts, Boat Slips, And Davits**

### **§ 30-524. Applicability**

This division shall apply to all docks, boatlifts, boatramps, boats, piers and mooring piles that are to be constructed within the city limits of Satellite Beach, except lots located on the Banana River so long as such structures are regulated by the State of Florida.

### **§ 30-525. Generally**

(a) Structures shall not extend into the water more than 20 feet or 20 percent of the canal's width, measured at mean high water, whichever is less except mooring piles on the Grand Canal may extend into the water no more than 30 feet.

(b) Every portion of any structure set forth in section 30-524 shall be set back at least ten feet from the extended side-yard property line.

- (c) Except as provided in paragraph (g) below, no structure shall be higher than the owner's seawall or, if there is no seawall, no higher than three feet above mean high water. Maximum height of mooring piles shall be ten feet above mean high water.
- (d) No untreated wood shall be allowed.
- (e) Tires shall not be affixed as fenders.
- (f) Structures must permit the clear flow and cleansing action of the water.
- (g) Structures over water may be covered with a roof as long as the following restrictions are met:
- (1) Maximum roof area shall be 600 square feet, including overhang;
  - (2) Minimum roof pitch shall be 4-in-12;
  - (3) Maximum roof height shall be 15 feet above mean high water;
  - (4) Structure shall be open on all sides; and
  - (5) Construction above the roofline (i.e., sitting areas, sunbathing areas, etc.) shall be prohibited.

(Ord. No. 972, § 23, 8-15-07; Ord. No. 1064, § 2, 4-17-13)

### **§ 30-526. Docked and moored boats**

- (a) Boats shall not be docked or moored at any shoreline or structure in the waterways of the city so as to impede navigation. Boats shall not extend from a bulkhead or shoreline more than 35 feet or 30 percent of the waterway's width, measured at mean high water, whichever is less.
- (b) Boats shall maintain a five-foot setback from the extended side-yard property line.
- (c) Canals lying north and south of Samsons Island. In addition to the other requirements of this section, structures and moored boats in these canals shall leave open at least 17 feet of waterway on each side of the center of the canal.

### **§ 30-527. Permits**

Before a building permit is issued by the city, copies of all permits required by other government agencies must be furnished.

### **§ 30-528. Maintenance**

All docks, piers, boat ramps, mooring piles, boat lifts, boat slips, and davits shall be maintained so as to prevent them from becoming deteriorated, structurally unsound, unsafe, hazardous to navigation, or otherwise not in compliance with applicable provisions of this article.

### **§§ 30-529. Reserved**

## **Division 5. Swimming Pools And Spas**

### **§ 30-530. Location**

Swimming pool and spa tanks, decks, and enclosures:

- (a) Shall not be constructed in any front yard, except that a property on a corner lot may have a pool in the front yard facing the secondary street if the yard is enclosed with a six-foot fence. In that event, a pool or spa enclosure shall be prohibited.
- (b) Shall have minimum setbacks of five feet from the rear and side property lines and ten feet from the canal shoreline or bulkhead. The contractor shall be responsible for ensuring that said structures comply with minimum setback requirements and do not encroach upon any easement of record. Whenever any of said structures is within 24 inches of an easement or setback, the contractor shall submit a sealed survey from a registered surveyor showing the structure location after forms are in place and before a steel inspection. If the contractor certifies that the structure is not within 24 inches of an easement or setback and the building official does not concur, a sealed survey from a registered surveyor shall be submitted.

### **§ 30-531. Landscaping or deck**

There shall be at least three feet of pool deck or landscaped area between the interior wall of the swimming pool or spa and the exterior wall of the house.

### **§ 30-532. Height of above-ground pools**

In addition to complying with the foregoing requirements, a swimming pool designed to be installed above ground and its associated deck shall be a maximum of four feet above grade.

### **§ 30-533. Sediment collection during construction**

A 55-gallon barrel with an open top and no holes in the side or bottom shall be used when pumping water into city rights-of-way, and the contractor shall empty the barrel before the sand reaches the top of the barrel. The building official is authorized to stop construction at any time that this procedure is not followed. Pool construction sand and debris which is deposited into city rights-of-way, including the storm drain invert which collects the pumped water, shall be cleaned up as needed and before each inspection.

### **§ 30-534. Pumping of water during construction**

The pumping of water during construction or refinishing of a swimming pool or spa shall not exceed seven consecutive days for each phase of construction, except for causes such as unusual rainy weather, large amounts of underground water, or circumstances beyond the contractor's control. In any event, the contractor shall seek authorization from the building official to pump water for more than seven consecutive days.

### **§ 30-535. Pumping of water**

The pumping of water except for construction shall be discharged on the pool owner's property and not into the street, canal or ocean.

## **Division 6. Driveways, Parking Pads, Patios, Decks, And Tennis Courts**

### **§ 30-536. Driveways, parking pads, street rights-of-way, patios and decks**

(a) At least one driveway that connects to the required garage or parking space shall be constructed of concrete, asphalt, interlocking paver blocks or similar materials with a minimum width of ten feet for one-car garage and 16 feet in width for a two-car garage. All other driveways and parking pads located on private property may be constructed of any material, such as gravel, pavers, mulch, asphalt and concrete. Concrete and interlocking paver block driveways and parking pads shall be set back five feet from side and rear property lines and shall not encroach into any easement of record. Driveways located within the street right-of-way shall be constructed of pavers, asphalt or concrete and comply with section 30-537 of this Code.

(b) Uncovered patios and decks shall not be located within any front yard setback and shall be at least five feet from the side and rear property lines and shall not encroach into any easement of record if constructed of concrete. Said structures shall also be set back at least ten feet from any canal shoreline or bulkhead. In addition, the following may be built along a canal to the rear canal shoreline or bulkhead if the following conditions are met:

(1) Plastic or pressure-treated wood deck along a canal may be built to the rear lot line if the following conditions are met:

- a. Every portion of the deck is set back at least 20 feet from the side property line.
- b. The deck flooring is constructed with nominal two-inch-thick boards, which shall be spaced approximately one-eighth-inch apart.
- c. The deck does not exceed the height of the finished floor level of the principal structure or 30 inches above the finished grade or bulkhead cap, whichever is lower.

d. Where decking will be installed over lawns and yard areas which drain toward a body of water, soil-erosion protection is installed under the decking to prevent erosion and discharge of the underlying soils into the water body from overland flow of water or rainfall, one of the following methods of stabilization shall be constructed:

- i. A cellular soil-confinement system with minimum height or thickness of cells to be 1.5 inches. In-place soils or other granular material shall be used to fill the cells and anchor the confinement system into the ground. All installations shall be in accordance with the manufacturer's instructions and guidelines.
- ii. Permeable geotextile fabric covered with a six-inch to twelve-inch blanket of gravel or stone. The perimeter of the geotextile fabric shall be anchored into the underlying soils in accordance with the manufacturer's instructions and guidelines.
- iii. Other systems and methods if it can be shown to the building official that their use will not allow soil erosion greater than the methods in (i) and (ii) above.

(2) Pavers along a canal may be built within one foot of the bulkhead if the following conditions are met:

- a. Every portion of the paver deck is set back at least 20 feet from the side property line; and
- b. Along the bulkhead cap there shall be a minimum one foot width of permeable geotextile fabric covered with a six-inch to twelve-inch blanket of gravel or stone. The perimeter of the geotextile fabric shall be anchored into the underlying soils in accordance with the manufacturer's instructions and guidelines; or
- c. The paver deck shall be sloped away from the bulkhead so that the surface water run-off from the paver deck will not be directed into the adjacent canal.

(Ord. No. 946, § 8, 8-16-06; Ord. No. 972, § 24, 8-15-07)

### **§ 30-537. Driveways within street rights-of-way**

(a) In addition to section 30-536 of this Code, all lots within the city shall conform to the following driveway requirements, as applicable:

(1) Except for single-family and duplex lots, one driveway per lot shall be permitted for properties with up to 150 feet of street frontage, and an additional driveway shall be permitted for each additional 150 feet or fraction thereof of street frontage. Driveways shall be located at least 50 feet apart measured from the closest driveway edge at the right-of-way line, and at least 30 feet from the nearest street intersection measured from its nearest right-of-way line. No driveway or curb cut shall be permitted on the radii of any intersection.

(2) For all single-family and duplex lots, no driveway shall be located within five feet of the projected property line or within 25 feet of any intersection, measured from the closest edge of the driveway to the right-of-way line of the side street. The total aggregate width of all driveways on said lots shall not exceed 36 feet.

(3) Except for single-family and duplex lots, driveways shall be at least 15 feet wide for one-way traffic and a minimum 24 feet wide for two-way traffic, measured at the right-of-way line, and provided no driveway shall exceed 30 feet in width.

(4) All driveways shall be constructed of concrete, paving, interlocking paver blocks or similar materials with a minimum of ten feet in width from the street to the garage or required parking stall. In no case shall driveways be constructed of mulch, gravel or similar materials. If the city or utility company is required to remove part or all of a driveway located within the right-of-way or easement, the city or utility company will replace the driveway at a cost not to exceed the cost of poured concrete.

(Ord. No. 946, § 9, 8-16-06; Ord. No. 972, § 25, 8-15-07)

### **§ 30-538. Tennis courts**

The purpose of these provisions is to provide an opportunity for development of tennis and similar recreational courts as accessory uses in residential districts, to protect the integrity of neighboring residential areas, and to mitigate any deleterious impacts on proximate properties. Tennis courts and similar recreational courts may be developed as accessory uses in residential districts when such courts are located on the same lot as the main residential use subject to the provisions of this chapter except no restrictions shall apply to the R1-A zoning district.

(a) *Tennis court fencing requirements.*

(1) Fences up to ten feet in height, as measured from the finished grade outside the court, shall be permitted, when located behind the required setback areas.

(2) For court fencing located at least 25 feet from all property lines, a fence eight of 12 feet shall be allowed.

(3) All portions of fencing exceeding six feet in height shall be of an open mesh such as chain link.

(4) Windscreens and similar devices shall be prohibited above the six-foot height.

(b) *Landscaping and screening.* All courts visible from the public streets shall be screened by landscaping. Landscaping shall be submitted to the building official for approval and must indicate plants of sufficient height and density to screen the court.

(c) *Artificial illumination.* Artificial illumination of tennis courts shall be subject to a conditional use permit.

(d) *Non-conforming tennis courts.* All tennis courts that are non-conforming on the adoption of this ordinance shall be allowed to repair or replace all fencing, nets, courts and other related items provided said tennis courts are not relocated or expanded.

## **§ 30-539. Reserved**

### **Division 7. Dish And Other Antennas**

#### **§ 30-540. Dish antennas**

- (a) Dish antennas which do not exceed 18 inches in diameter shall be exempt from regulation by the city.
- (b) Dish antennas exceeding 18 inches in diameter shall be permitted in the city subject to the following conditions. Such antennas:
- (1) Shall be considered a structure requiring a building permit from the city prior to installation. Before the permit may be issued, the applicant shall provide the building official with two sets of structural drawings signed and sealed by a licensed architect or engineer.
  - (2) Shall be limited to one per principal structure.
  - (3) Shall be made of optically nonreflective material, with a maximum diameter of ten feet, and a maximum height of 13 feet in any position.
  - (4) Shall not be placed in any front or side yard and shall not encroach into any easement or setback. If adhering to this restriction hinders reception, the permittee may request an exception to this requirement by demonstrating the hindered reception to the building official and requesting an alternative location. If the building official deems the proposed location to be unsafe, the building official shall reject the location.
  - (5) Shall not be mounted on the roof of any structure in R1 and R2 zoning districts. In all other zoning districts, roof-mounted dish antennas shall be allowed on any structure higher than two stories, provided that the antenna does not exceed four feet in diameter.

#### **§ 30-541. Other antennas**

- (a) Other roof- and tower-mounted antennas which do not exceed six feet in dimension or do not extend higher than five feet above the highest point of the roof shall be exempt from regulation by the city.
- (b) Other roof- and tower-mounted antennas which exceed six feet in dimension or extend higher than five feet above the highest point of the roof shall be permitted in the city subject to the following conditions.
- (1) A tower or antenna shall be considered a structure requiring a building permit from the city prior to installation. Before the permit may be issued, the applicant shall provide the building official with two sets of structural drawings signed and sealed by a licensed architect or engineer.
  - (2) Only one tower shall be permitted per principal structure. This tower may have more than one antenna.
  - (3) Towers and antennas shall be set back from all property lines a distance equal to the maximum height of the tower and antenna.

#### **§ 30-542. Nonconforming antennas**

Any lawfully-installed dish or other antenna that is made nonconforming by this article shall be made conforming when the antenna is replaced or relocated.

## **§§ 30-543--30-545. Reserved**

### **Division 8. Other Provisions**



## **§ 30-546. Sea turtle protective lighting**

(a) The following provisions shall apply during sea-turtle nesting season (May 1 through October 31):

Exterior artificial lighting shall be shielded so that the source of light, including any translucent covering, is not visible from any point lower than five feet above any point on the beach. Light fixtures made nonconforming by this section shall be made conforming when the fixtures are replaced for any reason.

Campfires, bonfires, and flashlights without red filters or red LED light sources are prohibited on the beach.

(b) Parking areas and roadways shall be designed and located to prevent vehicular headlights from directly or indirectly illuminating the beach or ocean. Berms, vegetation, or other physical barriers blocking illumination shall be used to the maximum extent feasible.

## **§ 30-547. Sidewalks**

Sidewalks shall be provided for all new construction in the city. New sidewalks shall be:

- (a) Constructed of concrete at least four inches thick and five feet wide;
- (b) Located at least one foot from the edge of the right-of-way;
- (c) Connected to street paving at intersections; and
- (d) Aligned with and connected to any existing sidewalk(s) on abutting properties.

## **§ 30-548. Septic systems**

Septic systems shall be prohibited within the city. Any septic system in existence when this chapter is enacted shall be removed when renovations are made to the principal structure which exceed 2/3 of the structure's assessed value.

## **§ 30-549. Maintenance generally**

(a) The exterior of every structure shall be maintained in good repair, in a safe and sanitary condition, and free of deterioration, broken glass, loose shingles, crumbling stone or brick, excessive chipping or peeling paint, broken stucco, and other damaged building materials and components.

(b) Paved areas shall be maintained in good repair, free of potholes and other deterioration.

(c) The entire premises shall be maintained so as not to constitute blight or detract from the general appearance of any nearby properties.

(d) Above ground piping, concrete footings, poles and similar materials which have been abandoned and no longer serve the purpose for which they were intended shall be removed.

(Ord. No. 972, § 26, 8-15-07)

## **§ 30-550. Roof overhang**

A minimum of one foot of roof overhang is required on all single-family residential construction.

(Ord. No. 972, § 27, 8-15-07)

## **§ 30-551. Roof pitch**

In all single and two-family districts, minimum roof pitch for the primary structure shall be three vertical in 12 horizontal.

## **§ 30-552. Roof coverings**

Roof coverings for pitched roofs three vertical units in 12 horizontal units or greater shall be either tile, asphalt shingle, or metal.

(Ord. No. 982, § 1, 12-19-07)

## **Editor's Note**

Ord. No. 972, § 28, adopted Aug. 15, 2007, repealed § 30-552 in its entirety. Formerly, said section pertained to roof coverings as enacted by Ord. No. 896, § 1, adopted Nov. 30, 2004.

Ord. No. 982, § 28, adopted Dec. 19, 2007, added new provisions as set out herein.

## **§ 30-553. Exception to height requirement**

(a) Chimneys, television and radio towers and antennas, steeples, cooling towers, elevators, parapets, east side of Highway A1A, open guardrails only along the east side (ocean) and other necessary mechanical appurtenances are exempt from the height limitation.

(b) Cupolas and ornamental towers and spires shall be allowed on structures provided that:

- (1) They have a combined footprint of less than ten percent of the structure and a profile extending less than 20 percent of the length and width of the structure.
- (2) Their maximum height does not exceed 20 percent of the structure's height.

## **§ 30-554. Underground utilities**

Within the community redevelopment district, all new development, additions, expansions, renovations, remodeling or upgrading of utilities that require any new above ground utilities or poles shall be required to place all said new utilities underground at the owner's expense. This will include any new above ground utilities and poles that are not on the site for the proposed or existing development.

## **§ 30-555. Floor level**

The floor level of the living area of residential buildings and the level of the first floor of commercial, institutional and industrial buildings or structures must be a minimum of 18 inches above the highest point of any abutting street.

## **§ 30-556. Drainage**

All single-family and two-family new construction shall direct all surface water to the street unless said development is within an approved master surface water runoff management system.

## **§ 30-557. Lighting**

All exterior lighting shall be positioned to prevent glare or spillover onto adjacent properties and be in compliance with section 30-546, "sea turtle protective lighting".

## **§ 30-558. Permit fees**

The city council shall establish by resolution reasonable application, review, permit and inspection fees in relation to the city's cost in administering the provisions of this chapter. All required fees shall be paid at the time of issuance of each permit. Every reinspection shall require an additional fee payable before such reinspection. Refunds shall not be made for any unused or expired applications or permits. A schedule of such fees shall be maintained by the city and provided to interested parties on request.

## § 30-558.1. Demolitions of structures

When a permit is issued by the building department to demolish the only primary structure for which a site plan and development permit have not been approved and issued for redevelopment of the primary structure, the owner shall also remove all accessory structures and foundations except for required walls in accordance with section 30-521. All land then must be stabilized within 30 days of the removal of the primary structure with sod or grass seed to prevent soil erosion.

(Ord. No. 972, § 29, 8-15-07; Ord. No. 1008, § 1, 4-1-09)

### Editor's Note

Section 29 of Ord. No. 972 provided for the addition of § 30-558. Inasmuch as § 30-558 was previously codified at the direction of Ord. No. 896, § 1, adopted Nov. 30, 2004, the provisions of Ord. No. 972, § 29, have been included as § 30-558.1 at the discretion of the editor.

## § 30-559. Site work and earthwork for utilities

(a) *Applicability.* The work covered by this section consists of all operations in connection with excavation and trenching for utilities, including dewatering, shoring, bracing, backfilling, compacting, protective slabs, restoration of surfaces (paved or otherwise) and disposal of surplus materials when installing utility lines (gas, electric, telephone, sewer and television cable, etc.) within the rights-of-way of the city.

(b) *Trench excavation generally; maintenance period.* All trench excavations shall be of sufficient size to permit proper laying and jointing of the utilities. The amount of trench to be open at any one time shall be limited at the discretion of the city, to minimize public inconvenience and damage to life or property, provide trench crossings as necessary to accommodate public travel, and permit convenient access at all times. The excavated materials shall be deposited neatly at the sides of the trench in such a manner as to least inconvenience traffic. Should any trench settle below grade during a period of one year after the work is performed, the utility owner shall promptly correct the settlement with placement of appropriate material to the satisfaction of the city and at no cost to the city.

(c) *Protection of underground pipes, conduits, etc.; liability for damage.* Any pipes, conduits, wires, mains, footings or other underground structures encountered in trenching shall be carefully protected from injury or displacement. Any damage thereto shall be fully, promptly and properly repaired to the satisfaction of the city and the owner thereof.

(d) *Cutting of pavement.* When excavations are to be made in paved surfaces, the pavement shall be cut by means of pneumatic or other suitable tools to provide a clean, uniform edge with minimum disturbance of remaining pavement.

(e) *Testing.* In order to ensure that all backfilling and pavement repair are accomplished in a manner which is likely to ensure against future failures, a series of testing requirements are defined in this section. The requirements for testing may be waived for a period up to one year, or for a specific project. Such a waiver may be granted by the city manager where in his opinion the utility has demonstrated by past performance a capability and willingness to comply with the requirements of this section. This waiver may be withdrawn or renewed at the discretion of the city manager. In reaching a decision to grant or withdraw a waiver, the city manager should be guided by advice from the building official and city engineer.

(f) *Backfill.*

(1) *Material.* Material for backfill around and over the utility shall be carefully selected from the excavated material or from other sources as may be required. Such materials shall be granular and shall be free from organic matter debris. The material shall be compacted by rolling, tamping or flooding, and proper allowance shall be made for settlement.

(2) *Unpaved areas.* After any section has been successfully completed, the trench shall be carefully backfilled with selected earth, free of any wood, paper, glass, metal or organic matter. Backfill shall be placed in appropriate lifts and be compacted by tamping, flooding or some other method acceptable to the city to a minimum of 95 percent of maximum density as determined by AASHO, Method T 180.

(3) *Paved areas.* Backfilling of trenches under roadways and areas to be paved shall be placed in six-inch maximum layers after filling one foot above the utility. Each layer shall be compacted to a minimum density of 98 percent of maximum density as determined by AASHO, Method T 180.

(4) *Tests.* In order that all parties concerned may be assured that the compaction requirements set out in this subsection have been successfully met, the following test shall be performed by a licensed engineering testing laboratory and submitted by the utility owner at no cost to the city:

Description	Test	Frequency
In-place density	AASHO T 147-54	Along utility lines, at least one every 500 feet for each foot of fill.

(g) *Pavement repair.*

(1) *Generally.* Existing pavement removed, disturbed or destroyed by the construction work shall be repaired or replaced by methods and materials which will provide a finished pavement at least equal in all respects to the pavement existing before construction commenced. Base material shall be placed upon completion of backfilling and the street or alley then opened to traffic. The new base shall be the same material and thickness or equal to the original base. Until the final wearing surfacing material is placed, the surface of the base shall be maintained in a smooth riding condition.

(2) *Patching pavement.*

- a. *Backfilling.* Backfilling of trenches under roadways and areas to be paved shall be placed in layers after filling one foot above the utility. Each layer shall be compacted to a minimum density of 98 percent of maximum density as per AASHO, Method T 180.
- b. *Removal of curbs.* Concrete curbs shall not be disturbed when it is practical to tunnel underneath. Where tunneling is not possible, the curb shall be removed to the nearest joint and replaced with identical sections.
- c. *Pavement repair standards.*
  1. The minimum pavement repair shall consist of the following:
    - i. *Subbase.* The subbase shall be an eight-inch compacted thickness of material with a Florida Bearing Value of 50 psi, compacted to a minimum of 100 percent of maximum density as per AASHO T 180, Method A.
    - ii. *Base for trenches wider than eight feet.* The base shall be six-inch compacted limerock or approved cemented coquina, compacted to 100 percent maximum density as per AASHO T 180, Method A, and rolled and shaped to a proper contour, for trenches wider than eight feet.
    - iii. *Base for trenches narrower than eight feet.* A four-inch layer of 3,000 pounds per square inch concrete shall be installed for trenches narrower than eight feet.
    - iv. *Prime coat.* The base shall be primed with a minimum of 0.2 gallons per square yard of RC-1S and sanded as required.
    - v. *Surface.* The surface shall be a one-inch compacted thickness of plant mix, state department of transportation hot mix type 11, modified to 2,300 pounds Hubbard-Field Stability. The surface shall be finished to the proper grade and cross section to match the original pavement.
  2. Where the pavement removed is superior to the minimum specifications as set forth in this subsection, the patch shall be equal to the pavement removed.
  3. For all flexible type pavements, the existing pavement shall be cut back vertically and horizontally a minimum of one-foot beyond any area where the base was disturbed in a straight line, and the edge of the existing pavement and base shall be painted with RC-1S or RC-3.
  4. For all rigid pavements (concrete) the pavement shall be first cut with a saw and then broken out so as to leave a straight edge a minimum of a one-foot distance beyond any area where the base was disturbed.
  5. Should any pavement repairs fail or settle during the one-year maintenance period, the utility owner shall promptly repair or replace such pavement to the satisfaction of the city and at no cost to the city.
  6. In order that all parties concerned may be assured that the requirements set out in this subsection have been successfully met, the following tests shall be performed by a licensed engineering testing laboratory and submitted by the utility owner at no cost to the city:
    - i. *Stability and gradation of asphalt:* One per 2,000 square feet or one per day of installation of asphalt.
    - ii. *In-place density tests of base and subbase:* One per 2,000 square feet or one per patch per six inches of depth.
    - iii. *Florida Bearing Values of subbase:* One per 2,000 square feet or one per patch per eight inches of depth.

(3) *Pavement repair procedures.* To maintain good and efficient traffic on public roads, the contractor shall comply with the following procedures:

- a. Backfilling shall be completed immediately after installation of the utility.
- b. The surface grade of the backfilled material shall be maintained to the proper grade and cross section.
- c. Within one week after backfill is installed, the subgrade and base material must be installed to final grade.
- d. The utility owner must prime the surface of the base or keep it dampened and to proper grade, to reduce dusting.
- e. The utility owner must maintain the base to proper grade.
- f. The utility owner must recut and reshape material and apply primer and place the final wearing surface as soon as practicable.

(4) *Resurfacing streets.* Where streets are to be resurfaced instead of patched, the base shall be finished to fit the existing crown and a one-inch surface course applied as outlined in subsection (2) of this subsection.

(5) *Stabilized streets and alleys.* Where limerock, clay, shell or other forms of street and alley stabilization exist, the top one-foot shall be separately removed for the width of the trench and kept separate from the general excavation. Additional stabilizing material meeting the approval of the city shall be added as required to restore the street or alley to not less than its original condition.

(6) *Sidewalk, curb and driveway repairs.* Where existing concrete sidewalks, curbs or driveways are damaged or destroyed in the performance of this work, they shall be repaired so as to provide a finished repair at least equal in all respects to the existing structures prior to construction.

(7) *Lines installed parallel to pavement.* Where utility lines run parallel to pavement, it will be incumbent upon the utility owner to prevent damage to the adjacent curbing and pavement by sheeting or shoring.

(h) *Grassing.* All lawns or other grassed areas within or adjacent to the right-of-way that are disturbed or damaged by the construction operation shall be restored by resodding. Sod shall be similar to the type of grass in place. In rural areas, or at other points along the construction route, disturbed areas of grass may, with the approval of the city, be restored by seeding and mulching. Such areas shall be agreed upon and approved prior to excavation and shall be grassed and mulched as specified in this subsection.

(1) *Seed.* The grass seed shall be scattered uniformly at a rate of 60 pounds per acre. During the period of March 15 to October 15, the seed mixture shall be 30 pounds of Argentine Bahia and 30 pounds of hulled Bermuda. During the remainder of the year the mixture shall be 20 pounds each of Bahia, Bermuda and rye grass seed.

(2) *Mulch.* The mulch material shall be straw or hay, consisting of oats, rye or wheat straw, or of Pangola, peanut, Bermuda or Bahia grass hay. The mulch shall be spread at a rate of nine tons per acre and shall be free from undesirable weeds or other undesirable grasses.

(3) *Fertilizer.* A 50 percent organic fertilizer, with chemical designation 6-6-6, shall be spread uniformly at the rate of 1,200 pounds per acre.

(i) *Overall area grading.* Within the limits of construction and the outer limits of clearing and grubbing, all holes and other depressions shall be filled, all mounds and ridges cut down and the area brought to a sufficiently uniform contour that the subsequent mowing operations will not be hindered by irregular terrain.

(j) *Cleanup.* During the progress of the work, the utility owner shall clean up the work areas as portions of work are completed. Upon completion of the work, all trash, debris and excess material must be hauled away and disposed of to the satisfaction of the city. The completed work shall be cleaned and graded to a condition at least equal to that existing before the start of construction, including the replacement of shrubs and sodding removed or damaged while in the course of construction.

(k) *Permit required; emergency work.*

(1) A permit, authorized by the city, must be obtained from the building official prior to any excavation, construction or work of any type which disturbs the established paving on public streets, sidewalks, driveways or rights-of-way within the city. A copy of this permit shall be provided by the building official to the heads of all other city departments. The permit shall include the estimated date that construction is to commence, the location of the construction and the estimated date of completion.

(2) The permit shall be issued at no charge to the utility.

(3) The requirement for a permit is waived where emergency repairs are necessary outside normal work-hours. In such cases, the police department shall be notified before any work is begun and the building official shall be contacted on the next workday following completion of the emergency repairs.

(l) *Penalty.* Any person found guilty of a violation of any of the provisions of this section shall be sentenced to pay a fine of not more than \$500.00. Each day any such violation of the provisions of this section takes place shall constitute a separate offense and subject the person convicted to a separate fine.

## **§§ 30-560--30-600. Reserved**

# **Article VI. Supplemental Regulations**

## **Division 1. Home Occupations**

### **§ 30-601. Intent**

This section recognizes that the intended purpose of residential zoning is the quiet enjoyment of one's home. Home occupations are not authorized by residential zoning; they are allowed only when specifically authorized by the city council. While there are always other locations to conduct any business, residential areas are the only place where city residents can peacefully enjoy their homes. Accordingly, any home occupation that interferes with another's quiet enjoyment of home is inappropriate in a residential area.

### **§ 30-602. General provisions**

(a) The use of a residence for any home occupation shall be clearly incidental and subordinate to its use as a residence.

(b) There shall be no change in the residential character or outside appearance of the structure or premises or other visible evidence of the conduct of such home occupation.

(c) No interruption, congestion, or change to the character of the neighborhood in terms of appearance, noise, traffic, or vehicular parking shall result from operation of the home occupation.

**§ 30-603. Business tax receipt required**

Any person desiring to conduct a home occupation in or from a residence must obtain a business tax receipt from the city. The issuance, suspension, or revocation of any local business tax receipt shall be governed by chapter 58, article 3, of this Code.

(Ord. No. 958, § 1, 2-7-07; Ord. No. 972, § 30, 8-15-07)

**§ 30-604. Business vehicles**

(a) No on-street or on-lawn parking of business vehicles shall be permitted except as provided in subsection 30-604(b).

(b) No more than one business vehicle shall be parked within view of the surrounding properties. This business vehicle may be a trailer provided it is less than eight feet high, less than 22 feet long and is stored behind the front outside corners of the home or within the garage. On corner lots, parking of such vehicles shall be allowed behind a 95 percent opaque fence as long as it is not visible over the top of the fence.

(Ord. No. 972, § 31, 8-15-07)

**§ 30-605. Business activities**

(a) No business activity, materials, equipment, or merchandise shall be visible from the street, sidewalk, or surrounding properties.

(b) Loading and unloading of goods and materials shall be limited to one hour per day. Deliveries to any home-occupation residence shall be limited to vehicles with no more than three axles.

(c) No business activity, equipment, tools, or process shall create a nuisance or hazard due to noise, traffic, vibration, glare, fumes, odors, or electro-magnetic interference.

**§ 30-606. Prohibited uses**

(a) Any use which brings clients, prospects, customers, buyers, patients, patrons, or traffic to the home.

(b) Painting or repair of any kind of vehicle or vessel.

(c) Tourist or transient residential units, including any business commonly referred to as a bed and breakfast.

(d) Any business or occupation conducted in or from a residence where the business owner does not reside full-time.

(e) Except for state-licensed family daycare homes, any business which cannot be conducted totally indoors. The use of a residential outdoor swimming pool for daycare activities shall be prohibited.

(Ord. No. 946, § 10, 8-16-06)

**§§ 30-607--30-609. Reserved****Division 2. Other Provisions****§ 30-610. Establishments selling or dispensing alcoholic beverages**

Establishments selling or dispensing alcoholic beverages shall be located at least 500 feet from the nearest church and 1,000 feet from the nearest school; playground; or adult bookstore, dancing establishment, or motion picture theater. The distance shall be measured as a straight line between the points where the respective property lines are nearest to each other. Additional provisions in the Conditional Uses Table shall also apply. No variance to this setback requirement shall be allowed. An establishment shall be exempt from the foregoing setback requirements, provided that:

(a) The alcohol license is limited to a 1APS, 2APS, or SBX series license from the Division of Alcoholic Beverages and Tobacco; or

(b) The business is licensed by the Department of Business and Professional Regulation as a public food service establishment pursuant to F.S. ch. 509; has a 1COP, 2COP, or SRX series license from the Division of Alcoholic Beverages and Tobacco; provides seating; and serves alcoholic beverages for on-premises consumption only.

## **§ 30-611. Trash, debris, and waste**

### *(a) Disposal.*

(1) All trash and waste shall be deposited in dumpsters or waste cans, which shall have lids closed at all times except when trash or waste is being deposited. No trash, debris, or waste of any kind shall be buried or burned within the city limits. It shall be prohibited to deposit any refuse, waste material, or other noxious or malodorous material onto or into any property, street, Indian River Lagoon system, canal, or ditch within the city.

(2) All construction sites shall have trash cans or wire enclosure receptacles, which shall be used to collect and control trash such as paper, cardboard, plastics, cans, bottles, etc. This trash shall be removed when the receptacle is full. All other debris shall be removed from construction sites before final inspection.

(3) Trash collection in residential areas. Trash shall be placed within four feet of the curb, but not on the paved street surface or sidewalk or within 15 feet of a fire hydrant. Garbage and household trash shall not be placed at the collection point prior to 5:00 p.m. on the day before collection, and emptied containers shall be removed by 8:00 p.m. on collection day.

### *(b) Containers.* All dumpsters, waste cans, recycling bins, and waste container areas shall be:

(1) Hidden from the street and adjacent properties except for waste cans provided by the solid waste franchisee which shall be placed next to the principal structure;

(2) Maintained in a manner which prevents the accumulation of trash, garbage, and debris in the vicinity of the receptacles and prevents such materials from being blown by the wind to other portions of the site or to streets or other properties; and

(3) Maintained in good repair in a clean and sanitary condition so as not to create an offensive odor, health hazard, or other nuisance.

(Ord. No. 972, § 32, 8-15-07)

## **§ 30-612. Outside storage areas**

All outside storage areas shall be hidden from the street and adjacent properties.

## **§ 30-613. Portable storage containers**

Portable storage containers may be placed on a parcel of land within the city subject to the following conditions:

(a) A permit shall be obtained from the city for each portable storage container. The permit application shall include a drawing which shows where the container will be placed.

(b) The portable storage container shall be located totally on private property and shall not be located on any sidewalk or right-of-way.

(c) Except for portable storage containers used for construction sites which have a valid building permit, the maximum amount of time a portable storage container may be placed on any lot shall be 30 days within a 12-month period. If the lot has multiple separate entities in occupancy, each entity may have one container for a maximum of 30 days within a 12-month period.

(d) At no time shall a portable storage container be used for temporary outside sales except as authorized by a "special events permit".

(Ord. No. 946, § 11, 8-16-06)

## **§ 30-614. Underground petroleum storage tanks**

Whenever a business which dispenses petroleum products stops dispensing said products, all underground petroleum storage tanks shall be removed within 180 days after the business stops dispensing said products.

## § 30-615. Commercial and recreational vehicles in residential areas

(a) *Commercial vehicles.* It shall be unlawful for any person to park or store a commercial vehicle in a residential area at any time, except that such vehicles may be parked for a period not to exceed eight hours during loading or unloading, or for construction, transportation, or other services rendered to residential property at the location where parked.

(b) *Recreational vehicles.*

(1) It shall be unlawful for any person to park or store a recreational vehicle in a residential area for longer than three days, irrespective of whether consecutive or non-consecutive, in any 30-day period, except on improved residential lots behind the front outside corners of the primary structure or in a covered garage. A maximum of three hours per day shall be allowed for loading/unloading without triggering a full day event. On corner lots, parking of such vehicles shall be allowed behind a 95-percent opaque fence and not be visible over the top of the fence. It shall be unlawful to locate, park, or store any recreational vehicle in a right-of-way or sidewalk, or part thereof, whether paved or unpaved.

(2) The site upon which recreational vehicles are stored or parked shall be well kept and free from weeds and other growth. Recreational vehicles may be stored or parked on grass or on any pervious surface such as marl, mulch, gravel, or any combination thereof. No permit shall be required for such surfaces. If concrete, interlocking paver blocks, asphalt, or similar hardened surface is to be used for storage or parking of a recreational vehicle, a permit shall be required prior to construction thereof. In addition, the requirements of section 30-536 of this chapter, or any amendments thereto, shall be met.

(3) No vehicle shall be used for living, sleeping, housekeeping, or other residential purpose, or for office or commercial purposes in any location not approved for such use under the land development regulations of the city.

(4) All recreational vehicles shall have attached, at all times, a current vehicle registration and license plate.

(c) *Variances.* No variance may be granted to any provisions of this section.

(Ord. No. 972, § 33, 8-15-07; Ord. No. 993, § 2, 6-18-08)

## § 30-616. Street address numbers

All principal structures shall have their official street address number affixed to the front of the structure, or to a separate curb-side structure in front of the principal structure (mailbox, post, wall, etc.) in a manner that is clearly visible and legible from the fronting right-of-way. All numbers shall be Arabic block numbers, all portions of which shall be at least one-half inch wide and have a color which contrasts with the immediate background of the structure to which affixed. Numbers affixed to the principal structure shall be at least four inches high. Numbers affixed to a separate curb-side structure shall be at least three inches high and be clearly visible to both directions of traffic.

## § 30-617. Visibility triangles

(a) As shown in Figure 1, where a driveway intersects a street right-of-way, a visibility triangle shall be created on each side of the driveway. Two sides of this triangle shall extend at least ten feet each way from the point of intersection of the driveway pavement and the right-of-way. The third side of this triangle shall be a line connecting the ends of the other two sides.



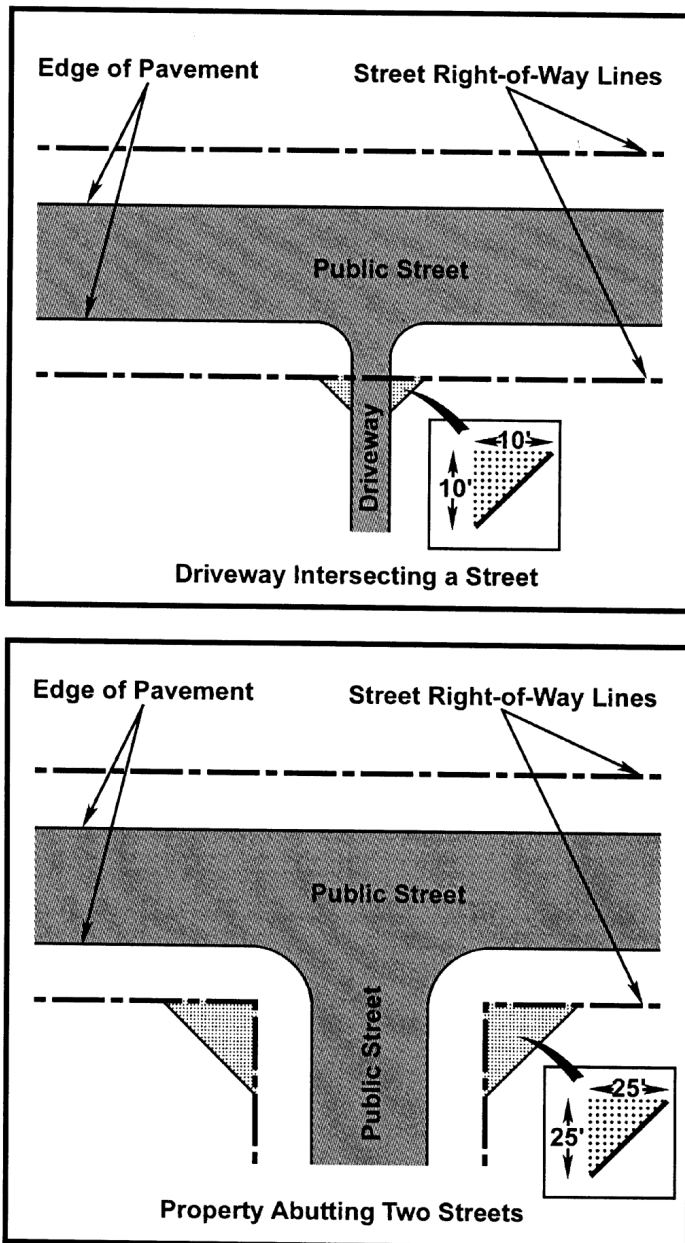


Figure 1. Visibility Triangles

(b) As shown in Figure 1, where a property abuts the intersection of two street rights-of-way, a visibility triangle shall be created at such intersection in addition to any visibility triangles required for driveways. Two sides of this triangle shall extend at least 25 feet along the abutting right-of-way lines, measured from the point of intersection or the point of intersection established when the lines are extended in a straight line so as to intersect. The third side of this triangle shall be a line connecting the ends of the other two sides.

(c) Required visibility area. Visibility shall be unobstructed at a level between 32 inches and six feet above the crown of the adjacent roadway. Vegetation shall be trimmed so that no limbs or foliage extend into the required visibility area.

(d) Alternative visibility triangles. Alternative visibility triangles may be required in individual cases if they are deemed necessary by the building official to ensure adequate traffic safety. If alternative visibility triangles are required, they shall result in traffic safety equivalent or superior to the minimum requirements of this subsection.

## § 30-618. Garage sales

(a) *Frequency and hours of operation.* Garage sales shall be limited to no more than three sales in a one-year period and each sale limited to the daylight hours of three consecutive days.

(b) *Display of garage sale property.* Personal property offered for sale may be displayed only within a residence, in a garage, and/or front yard. No personal property offered for sale shall be displayed in the side or rear yard areas of any such premises or in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yards.

(c) *Provision, control of parking.* The owner or tenant of the lot on which the sale is conducted shall ensure that vehicles are parked in such a way as to avoid creation of a hazardous or unsafe condition and shall not impede the passage of traffic on any street.

(d) *Responsibility for conduct of persons on the premises.* The owner or tenant of the property on which the sale is conducted shall be responsible for the maintenance of good order and decorum. There shall be no loud or boisterous conduct on the premises.

*Exemptions:*

(a) Persons selling goods pursuant to an order or a process of a court of competent jurisdiction.

(b) Persons acting in accordance with their powers and duties as public officials.

(c) Any bona fide charitable, educational, cultural, or governmental institution or organization when the proceeds from the sale are used directly for the charitable purposes of the institution or organization and the goods or articles are not sold on a consignment basis.

## **§ 30-619. Required surveys**

(a) *Lot survey.* All lots must be surveyed and staked by a registered surveyor to reflect the location of all corners of the lot prior to commencement of any construction. A copy of the survey shall be provided to the building official, showing all setback dimensions.

(b) *Elevation survey.* Within those incorporated areas of the city designated as special flood hazard areas by the flood maps, all building permit applications for the construction or substantial improvement of residential and nonresidential structures shall be accompanied by a survey, signed and sealed by a professional surveyor licensed by the state, which designates the existing ground elevation of the property and the proposed first-floor elevation of such new structure, or substantial improvement to existing structures. Such survey shall be attached to the building permit application and must be approved as meeting the requirements of this article by the building official of the city prior to the issuance of a building permit.

(c) *Certification of lowest floor elevation.* All construction or substantial improvement of residential and nonresidential structures, including prefabricated or mobile homes, shall have the lowest floor elevation certified by a registered surveyor licensed by the state, as being at or exceeding the 100-year flood elevation for the appropriate flood hazard zone. Such certification shall take place after the completion of the foundation or slab for the intended structure and no further construction shall take place pending submission and review of the certification. The building official, or his authorized agent, shall authorize continuation of construction, provided that the certification indicates the lowest floor of the structure is elevated to or exceeds the designated 100-year flood elevation of the appropriate flood hazard zone.

(d) *As-built survey.* Before a certificate of occupancy is issued for the structure an as-built survey shall be submitted to the building official and the building official shall inspect the premises to ensure that the requirements of this chapter have been met.

## **§ 30-620. Limitations on rezoning commercial property**

Zoning changes from commercial to residential will not be authorized unless the loss of commercial land is offset by at least a 1:1 area ratio of other land changed to commercial use (i.e., there will be no net loss of land zoned commercial.) (Comprehensive Plan Future Land Use Policy 1.1.14)

(Ord. No. 1030, § 3, 2-17-10)

## **§ 30-621. Pain management clinics**

(a) Pain management clinics shall be allowed only in the C, commercial district of the city and shall be prohibited as home occupations. Pain management clinics are subject to the following supplemental regulations:

(1) On-site sale, provision, or dispensing of those substances identified in Schedules I, II, III and IV in F.S. § 893.03, and those identified in and by F.S. §§ 893.035 and 893.0356, is prohibited, unless otherwise expressly permitted by state or federal law.

(2) Any parking demand created by a pain management clinic shall not exceed the parking spaces located or allocated on site, as required by the city's parking regulations. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the pain management clinic will be sufficient to accommodate traffic and parking demands generated by the pain management clinic, based upon a current traffic and parking study prepared by a certified professional. Traffic and parking analyses shall be predicated in part upon traffic and parking impacts from existing pain management clinics in Florida. The source of any such information shall be provided to the city for purposes of verification. City staff shall be required to verify the information contained in traffic and parking study(ies) with the appropriate official(s) of the local government(s) where the comparable information is derived.

(3) No pain management clinic shall limit the form of payment for goods or services to cash only.

(4) No pain management clinic shall be located within 1,000 feet of any school, as defined in section 10-36, Satellite Beach City Code.

(5) Pain management clinics may operate daily during the hours of 8:00 a.m. to 8:00 p.m.

(6) Each business day, on a form promulgated by the city, pain management clinics shall provide to the Satellite Beach Police Department a daily summary containing the following information from the prior business day:

- a. The total number of prescriptions written that day by each person authorized by law at the pain management clinic to prescribe drugs;
- b. The total number of doses of drugs sold and/or dispensed by the pain management clinic that day (including samples), indicating which doses were sold or dispensed; the person prescribing same; and the manner of payment by each person who was dispensed drugs at said clinic that day;
- c. The total number of persons seen by the pain management clinic that day; and
- d. The state of residence of each person to whom drugs were prescribed or dispensed that day.

Information required under this section shall be provided under oath by the medical director and/or the person prescribing or dispensing the drugs. To the extent such information is not otherwise required to be maintained by any other law, the back-up for the required daily summary shall be maintained by the pain management clinic for 24 months.

(7) Each application for a certificate of occupancy or business tax receipt for a pain management clinic shall disclose each owner and operator of such clinic, and the individual principals of any entity that owns such clinic. Such information shall be updated within 30 days of any change in ownership or the principals of any owner.

(8) No pain management clinic shall be wholly or partially owned by, or have any contractual relationship (whether as a principal, partner, officer, member, managing member, employee, independent contractor, or otherwise) with any physician, pharmacist, or any other person who prescribes drugs and who, within five years prior to the receipt of any application for a certificate of occupancy or business tax receipt, (i) has been suspended, had his or her license revoked, or been subject to disciplinary action for prescribing, dispensing, administering, providing, supplying, or selling any controlled substance in violation of any state, federal, or similar law where such person is licensed to practice; (ii) has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, a violation of any state, federal, or similar law where such person is licensed to practice related to drugs or alcohol, specifically including but not limited to, prescribing, dispensing, administering, providing, supplying, or selling any controlled substance; (iii) has been suspended, had his or her license revoked, or been subject to disciplinary action by any state, federal, or other governmental entity where such person is licensed to practice; (iv) has had any state, federal, or other governmental entity where such person is licensed to practice take any action against such person's license as a result of dependency on drugs or alcohol; or (v) has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, any felony or crime involving moral turpitude.

(9) No pain management clinic shall be wholly or partially owned by, or have as a principal, partner, officer, member, managing member, or otherwise where the owner is an entity, any person who (i) has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, a violation of any state, federal, or similar law where related to drugs or alcohol, or (ii) has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, any felony or crime involving moral turpitude.

(10) No pain medication clinic shall employ any person who has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, any felony or crime involving moral turpitude within any five-year period before any application for a certificate of occupancy or business tax receipt. Any application for a certificate of occupancy or business tax receipt shall include an affidavit, under oath, by the medical director, attesting that neither the medical director nor any other person employed in any capacity by the pain management clinic, whether an employee, independent contractor, or otherwise, (i) has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, a violation of any state, federal, or similar law related to drugs or alcohol, specifically including but not limited to, prescribing, dispensing, administering, providing, supplying, or selling any controlled substance; or (ii) has been convicted of, pled nolo contendere to, or violated any plea agreement regarding an arrest for, any felony or crime involving moral turpitude. The failure to provide the required affidavit shall result in the automatic revocation of the pain management clinic's right to operate in the city.

(11) A pain management clinic shall be operated by a medical director who is a Florida-licensed physician, board-certified in pain medicine.

(12) In order to obtain a certificate of occupancy or business tax receipt, a pain management clinic shall provide with its application (i) an inventory of diagnostic equipment to be located at the clinic, (ii) a natural disaster management plan, and (iii) a floor plan showing the location and nature of adequate security measures, including those required by the State of Florida for controlled substances, to safeguard all drugs to be dispensed in the course of its business.

(b) Any remedies related to enforcement of the regulations recited herein are in addition and supplemental to those existing by law.

(Ord. No. 1033, § 4, 6-16-10)

**§§ 30-622--30-700. Reserved**

## **Article VII. Resource Protection**

## Division 1. Landscaping

### § 30-701. Purpose of article

This article sets forth regulations to protect the city's natural and manmade resources from the effects of land development; protect soils and groundwater from harmful pollutants; conserve and promote fisheries, vegetative communities, and wildlife habitats; reduce flood hazards, erosion, and storm damage; and preserve and enhance the city's attractive appearance. As such, these regulations supplement the requirements of the state department of environmental protection. In the event of conflict between state requirements and requirements of this article, the most stringent requirements shall apply.

### § 30-702. Landscaping in all zoning districts

The following provisions shall apply in all zoning districts within the city.

(a) *Required plantings.*

- (1) All developed lots within the city shall be landscaped in accordance with the provisions of this division. All lots to be developed or redeveloped shall be landscaped before a certificate of occupancy is issued.
- (2) All pervious areas shall be designed and maintained in a manner which allows water to percolate into the ground and prevents erosion from wind or rain.
- (3) The principles of Florida-friendly landscaping, as defined in F.S. ch. 373, shall be used for all new development and redevelopment. Excluding the grass lawn, at least 50 percent of the number of ground covers, grasses, vines, shrubs, and trees comprising the landscape shall be native plants. A list of native trees and plants known to survive within this region is listed in section 30-704
- (4) Plants in the Florida Exotic Pest Plant Council's most current list of invasive species shall be removed from a property during development or redevelopment and shall not be used in landscapes.
- (5) Each lot shall contain at least one tree and five shrubs for each 2,000 square feet of lot area. At least 50 percent of the trees and shrubs shall be placed between the principal structure and any abutting street(s). Palm trees with at least six feet of clear trunk may be substituted for required trees at a ratio of three palms per required tree.
- (6) Property owners shall obtain a permit from the city before planting any tree or shrub in a right-of-way. The city reserves the right to remove any tree or planting within any right-of-way.
- (7) Any perimeter earth berm required by the St. Johns River Water Management District shall be landscaped in accordance with (3) and (4) above. Such landscaping shall provide continuous ground cover within one year of planting.

(b) *Maintenance.*

- (1) Landscaping shall be maintained in a neat and attractive manner and shall meet the following standards:
  - a. Landscaping shall be healthy and free of weeds, refuse, debris, and pests.
  - b. Grass and weeds shall be no higher than six inches on improved lots and 12 inches on unimproved lots, except that native grasses in landscapes and publicly-owned conservation areas do not need to be cut as long as they are healthy and free of pests and weeds and do not constitute a fire hazard.
  - c. Landscaping shall not interfere with overhead utility lines or underground utility cables or pipes.
- (2) Except where the city regularly maintains landscaping in the right-of-way, property owners shall be responsible for maintaining landscaping in the right-of-way abutting their property. The area required to be maintained shall extend to the street pavement, including easements and rights-of-way on the property, regardless of the placement of any fence on the property.
- (3) It shall be prohibited to create nuisances or safety hazards such as any vegetation growing in or upon improved roadways, gutters, or sidewalks; standing pools of water; holes; or windblown soil or soil erosion caused by the absence of landscaping.
- (4) Correction of violations by city.
  - a. *Failure to comply with notice of violation; authority of code enforcement officer.* Upon the failure, neglect or refusal of any owner, or agent of such owner, to comply with an order from the code enforcement officer to eliminate a violation of section 30-702 (b) within:
    - (1) Fifteen days after receipt of written notice of violation;
    - (2) Fifteen days after the date of such notice if the notice is returned to the city because of inability of the postal service to make delivery thereof, provided that the notice was properly addressed to the last known address of the owner, or the agent of such owner; or
    - (3) Fifteen days of personal service of such notice upon the owner, or the agent of the owner;

the code enforcement officer may authorize the removal of such violations by the city and the code enforcement officer may authorize payment for the services necessary to remedy the violation. The city and its agents, employees or contractors are authorized to enter upon the property described in this notice to remedy the violations. The code enforcement officer shall invoice the owner of the property for the services rendered pursuant to this section. The remedies provided in this section are cumulative to those otherwise provided by law.

b. *Lien for payment of costs.* Where the amount due the city is not paid by such owner within 30 days after the services are performed to remedy the violation by or on behalf of the city under section 30-763, 30-768 or 30-769 the city manager shall cause to be recorded in the public records of the county a sworn statement showing the cost and expenses incurred for the work done and the date, place and property on which such work was done. The recordation of such sworn statement shall constitute a lien on the property for the amount due in principal labor, administrative costs and fees incurred by the city, plus interest and costs of court, if any, for collection, including reasonable attorney's fees, until payment has been made. The effective date of such lien shall relate back to the mailing of the invoice provided for in this article. Such costs and expenses shall be collected in the manner fixed by law for the foreclosure of mortgages or, alternatively, for the foreclosure of special assessment liens, and, further, shall be subject to interest at the highest rate established by law. Sworn statements recorded in accordance with the provisions of this subsection shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the amount is due and collectible as provided by law. A lien created under this section shall have the same force, effect, stature and character of liens for special assessments authorized pursuant to F.S. ch. 170, with the same penalties and with the same rights of collection, foreclosure, sale, payment, fees and costs and all other rights and remedies that pertain to special assessment liens. Specifically, the lien shall remain in force as long as it shall remain unpaid.

(c) *Removal or relocation.*

- (1) Property owners shall obtain a permit before removing or relocating a protected tree. As a condition for issuing the permit, the building official may require the permittee to allow the city or its designee to relocate the tree at the expense of the city or designee. The building official shall require that the tree be relocated in a timely manner that does not cause more than minimal delay for development activities on the site.
- (2) Property owners shall trim or remove any trees or shrubs, or parts thereof, which overhang or interfere with visibility triangles, traffic control devices, public sidewalks, rights-of-way, or property owned by the city.
- (3) Property owners shall remove within 60 days any tree or shrub that has died or become severely diseased or damaged.
- (4) The city shall have the authority to order the removal of any problem tree, shrub, or part thereof.
- (5) If the removal of any tree or shrub causes the number of remaining trees and shrubs to fall below the minimum number required by this division, a replacement tree or shrub shall be planted within 30 days after removal.

(Ord. No. 972, § 34, 8-15-07)

## **§ 30-703. Landscaping in all zoning districts except single-family and duplex zoning districts**

In addition to the provisions in section 30-702, the following provisions shall apply in all zoning districts except single-family and duplex zoning districts.

- (a) At every interval of no more than ten parking spaces, there shall be a pervious landscaped area of at least 100 square feet containing at least one tree. When a site has more than 50 parking spaces, additional landscaping totaling at least five percent of the paved surface area shall also be planted throughout the parking area. The trees required by this subsection may be counted toward the trees required by subsection 30-702(a)(5).
- (b) In addition to the requirements in subsections 30-702(a)(5) and 30-703(a), a landscaped buffer shall be provided between the parking spaces and all abutting properties and rights-of-way. Such buffers shall be at least ten feet wide. These buffers shall contain at least one tree and ten shrubs in each 25-foot interval. Shrubs shall be planted to form a continuous hedge and shall be at least 30 inches high at the time of planting. If planting occurs on a mound, the height calculation may include the height of the mound. All trees and shrubs shall be planted to meander within the ten-foot buffer.
- (c) A buffer containing at least one tree other than a palm tree for each 25-foot interval shall be provided along any property line which abuts or is within 50 feet of single-family and duplex zoning district. When rezoning creates a nonconformity with this subsection's buffer requirements, the owner of the rezoned property shall install the required tree buffer.

(Ord. No. 946, § 12, 8-16-06; Ord. No. 972, § 35, 8-15-07)

## **§ 30-704. List of trees and plants**

### **LEGEND**

+ Cold tolerant

- Cold intolerant

A	Aquatic
G	Ground cover
GR	Grass
LT	Large tree: average mature height over 60 feet
MT	Medium tree: average mature height over 20 feet
P	Palm
S	Shrub
ST	Small tree: average mature height of at least ten feet and less than 20 feet
V	Vine
W	Wildflower

**GRASSES**

		Cold Tolerance	
Beach Grass	<i>Panicum Amarulum</i>		+
Muhly Grass	<i>Muhlenbergia Capillaris</i>	+	
Seashore Dropseed	<i>Sporobolus Virginicus</i>	+	
Dwarf Fakahatchee	<i>Tripsacum floridanum</i>		+
Salt meadow cord grass	<i>Spartina Patens</i>	+	
Smooth Cord Grass	<i>Spartina Alteriflora</i>		+
Salt grass	<i>Distichlis Spicata</i>		+
Sand Cord grass	<i>Spartina Bakeri</i>	+	
Eastern Gama Grass	<i>Tripsacum Dactyloides</i>		+
Love grass	<i>Eragrostis spectabilis</i>		+
Blue-eyed grass	<i>Sisyrinchium atlanticum</i>	+	

**GROUND COVER**

		Cold Tolerance	
Adams Needle	<i>Yucca Filamentosa</i>		+
Beach Elder	<i>Iva Imbricata</i>		+
Bracken Fern	<i>Pteridium Aquilinum</i>		+
Coontie/Arrowroot	<i>Integrifolia, Angustifolia</i>	+	
Coontie/Arrowroot	<i>Zamia Floridana, Pumilia</i>	+	
Florida Beargrass	<i>Nolina Atopocarpa</i>		+
Florida Beargrass	<i>Nolina Brittoniana</i>		+
Glaswort	<i>Salicornia Spp Native</i>		+
Golden Creeper	<i>Ernodea Littoralis</i>	-	
Gopher Apple	<i>Licania Michauxii</i>		+
Penny Royal	<i>Piloblephis Rigida</i>		+
Prickly Pear	<i>Opuntia Humifusa Compressa</i>	+	
Prickly Pear	<i>Opuntia Stricta</i>	+	
Rosemary	<i>Creatiola Erocoides</i>		+
Runner Oak	<i>Quercus Pumila</i>	+	
Sea Oats	<i>Uniola Paniculata</i>	+	
Spanish Dagger	<i>Yucca Aloifolia</i>	+	
St Johns Wort	<i>Hypericum Spp</i>	+	

**LARGE TREES**

		Cold Tolerant	
Bald cypress	*Taxodium distichum		+
False dogwood or southern soapberry	Sapindus saponarina		+
Gumbo Limbo	Bersera simaruba	-	
Laurel oak	Quercus hemisphaerica	+	
Live oak	Quercus virginiana		+
Magnolia			+
Slash pine	Pinus elliottii		+
Soapberry	Sapindus marginatus		+

\* Commercial applications around retention areas

**MEDIUM TREE**

		Cold Tolerant	
American elm	Ulmus americana	+	
Black ironwood	Krugiodendron ferreum	-	
Black mangrove	Avicennia germinans	+	
Bolly	Guapira discolor	-	
Cherry laurel	Prunus caroliniana		+
Dahoon holly	Ilex cassine		+
Florida maple	Acer saccharum	+	
Green buttonwood	Conogarpus erectus		-
Mastic tree	Mastichodendron foetidissimum	-	
Persimmon	Diospyros virginiana		+
Pigeon	Coccoloba diversifolia	-	
Pignut hickory	Carya glabra	+	
Red bay	Persea borbonia	+	
Red mangrove	Rhizophora mangle		-
Red maple	Acer rubrum		+
Sand pine	Pinus clausa		+
Satin leaf	Chrysophyllum oliveforme		-
Scrub hickory	Carya floridana	+	
Silk Bay	Persea humilis		+
Southern red cedar	juniperis silicicola		-
Swamp bay	Persea pustris		+
Winged elm	Ulmus alata		+

**PALMS**

		Cold Tolerant	
Cabbage palm	Sabal Palmetto	+	
Florida silver palm	Cocco thrinax-argentata	-	
Parotis palm	Acoelorrhaphe wrightii	+	
Royal palm	Roystonea elata	-	

**SHRUBS**

		Cold Tolerance	
Firebush	<i>Hamelia patens</i>	-	
Simpson stopper	<i>Myrcianthes simpsonii</i>	+	
White stopper	<i>Eugenia axillaris</i>	+	
Salt bush	<i>Baccharis halimifolia</i>		+
Myrtle oak	<i>Quercus myrtifolia</i>		+
Running oak	<i>Quercus pumila</i>	+	
Wild lime	<i>Zanthoxylum fagara</i>		+
Beauty berry	<i>Callicarpa americana</i>		+
Blueberry	<i>vaccinium native sp</i>		+
Carolina aster	<i>Aster carolinanus</i>	+	
Cassia	<i>Cassia ligustrina</i>	-	
Cassia	<i>Cassia chapmanii</i>	-	
Christmas berry	<i>Lycium carolinianum</i>	+	
Coral bean	<i>Erythrina herbacea</i>		+
Dwarf live oak	<i>Quercus minima</i>	+	
Fetter bush	<i>Lyonia Lucida</i>		+
Florida privet	<i>Foresteria segretata</i>		+
Frostweed	<i>Verbesina virginica</i>		+
Lantana	<i>Lantana depressa</i>	+	
Lantana	<i>Lantana involucrata</i>	+	
Marlberry	<i>Ardisia escallonioides</i>		+
Marsh elder	<i>Iva imbricata</i>		-
Necklace pod	<i>Sophora tomentosa</i>		-
Needle palm	<i>Rhapidophyllum hystrix</i>	+	
Saw palmetto	<i>Serenoa repens</i>	+	
Small privet	<i>Foresteria pinetorum</i>		+
Snow berry	<i>Chiococca alba</i>	+	
Staggerbush	<i>Lyonia ferruginea</i>	+	
Staggerbush	<i>Lyonia fruticosa</i>	+	
Walters viburnum	<i>Viburnum obovatum</i>		+
Wax myrtle	<i>Myrcia cerifera</i>	+	
Wild coffee	<i>Psychotria nervosa</i>		-
Wild coffee	<i>Psychotria sulzneria</i>		-

#### SMALL TREES

		Cold Tolerant	
American holly	<i>Ilex opaca</i>	-	
Chapman oak	<i>Quercus Chapmanii</i>		+
Coco plum	<i>Chrysobalanus icaco</i>		-
Fiddlewood	<i>Citharexylum fruticosum</i>	-	
Firebush	<i>Hamelia patens</i>	-	
Florida privet	<i>Forestiera segregata</i>		+
Guiana plum	<i>Drypetes lateriflora</i>		-
Inkwood	<i>Exothea paniculata</i>		-
Jamaica caper	<i>Capparis cyanophallophora</i>		-
Lancewood	<i>Nectandra coriacea</i>		-
Limber caper	<i>Capparis flexuosa</i>	-	
Myrtle oak	<i>Quercus myrti Folia</i>		+



Myrsine	Myrsine floridana	-		
Salt bush	Baccharis halimifolia			+
Sand live oak	Quercus geminata			+
Scrub oak	Quercus inopino		+	
Sea grape	Coccoloba uvifera			-
Simpson stopper	Myrcianthes simpsonii	+		
Southern sumac	Rhus copallina		+	
Spanish stopper	Eugenia foetida	-		
Sweet acacia	Acacia farnesiana		+	
Tough bumelia	Bumelia tenax		+	
Varnish leaf	Dodonaea viscosa			-
Wax Myrtle	Myrica cerifera		+	
White mangrove	Laguncularia racemosa	-		
White stopper	Eugenia axillaris		+	
Wild lime	Zanthoxylum fagara			+
Yaupon holly	Ilex vomitoria			+

#### VINES

		Cold Tolerant	
Beach Bean	Canavalia Obtusifolia		-
Beach Morning Glory	Ipomea Stolonifera		-
Coral honeysuckle	Lonicera Sempervire		+
Corky stem passion vine	Passiflora Suberosa	-	
Grapes	Vitis Native Spp		+
Gray Nickerbean	Caesalpinia Bonduc Crista	-	
Maypop	Passiflora incarnata		-
Morning Glory	Ipomea Spp		+
Railroad Vine	Ipomea pes-caprae		-
Virginia Creeper	Parthenocissus Quinque Folia		+

#### WILDFLOWERS

		Cold Tolerant	
Beach Croton	Croton Punctatus		+
Beach Sunflower	Helianthus Debilis		+
Beach Verbenia	Verbenia Maritima		+
Black eyed susan	Rudbeckia hirta	+	
Blazing Star	Liatris Tenufolia		+
Blue Curl	Trichostema Dichotomum		+
Blue Eyed Grass	Sysyrinchium Atlanticum	+	
Firewheel	Gaillardia Pulchella		+
Goldenrod	Solidago Spp		+
Horse Mint	Monarda Puncata		+
Partridge Pea	Cassia Spp		+
Pink Purslane	Portulaca Pilosa		+
Purslane	Portulaca Rubricaulis		+
Sea Oxide Daisy	Borrichia Spp		+
Sea Purslane	Sesuvium Portula Castrum		+
Seaside Evening Primrose	Oenothera Humifusa		+

Seaside Gentian	Eustoma Exaltatum		+	
Spider Lily	Hymenocallis Latifolia		+	
St. Johns Wort	Hypericum Spp	+		
Standing Cypress	Ipomopsis Rubra		+	
Tampa Verbenia	Verbenia Tempensis		+	
Tropical Sage	Salvia Coccinea		+	
Twin Flower	Dyschoriste Spp			
Wild Cotton	Gossypum Hirsutum			
Wild Petunia	Ruellia Caroliniensis			+
Wild Plumbago	Plumbago Scandens		+	
Yellow Top	Flaveria Linearis		+	

**DAMP TO WET AREA PLANTS**

				Cold	Salt
W	Alligator lily	Hymenocallis palmeri		-	+
G	Batis	Batis maritima		+	+
S	Beauty berry	Callicarpa americana		+	+
GR	Blue eyed grass	Sisyrinchium atlanticum	+	+	
W	Blue flag iris	Iris hexagona		-	-
W	Bushy aster	Aster dumosus		+	-
W	Canna lily	Canna flacida		-	-
S	Buttonbush	Cephalanthus occidentalis		+	-
W	Cardinal flower	Lobelia cardinalis	+	-	
V	Climbing aster	Aster carolinianus		+	-
S- ST	Coastal plains willow	Salix caroliniana		+	+
W	Coreopsis	Coreopsis leavenworthii		+	+
ST	Dahoon holly	Ilex cassine		+	+
A	Duck potato	Sagittaria sp		+	+
GR	Eastern gamma grass	Tripsacium dactyloides		+	+
S	Elderberry	Sambucus canadensis		+	-
S	Gallberry	Ilex glabra		+	+
WF	Goldenrod	Solidago sp.		+	-
S	Hibiscus	Hibiscus coccinea or grandiflora		-	+
G	Lemon bacopa	Bacopa caroliniana		+	+
MT	Loblolly bay	Gordonia lasianthus		+	-
ST	Mangroves			+	+
W	Narrow-leafed sunflower	Helianthus angustifolius	+	+	
A	Pickeralweed	Pontederia cordata		+	+
W	Rayless sunflower	Helianthus radula		+	-
P	Sabal palm	Sabal palmetto		+	+
G	Sand Cordgrass	Spartina bakeri	+	-	
G	Sandweed	Hypericum fasciculatum		+	+
W	Sea ox-eye daisy	Borrchia frutescens		+	+
W	Sea purslane	Sesuvium portulacastrum		+	+
W	Seaside gentian	Eustoma exaltatum		+	+
A	Softrush	Juncus effusus		+	+
W	Spiderwort	Tradescantia ohiensis		+	+
G	St. Andrews cross	Hypericum hypericoides		+	+
G	Sunshine Mimosa	Mimosa strigillosa		+	+
W	Swamp Milkweed	Asclepias incarnata		+	+

MT	Sweet bay	Magnolia virginica		+	+	
W	Vanilla plant	Carphephorus paniculatus		+	+	
W	Violets	Viola affinis		-	-	
G	Water dropwort	Oxypolis filiformis		+	+	
G	Water hyssop	Bacopa monnieri		+	+	
W	Yellowtop	Flaveria linearis		+	+	
G	Glaswort	Salicornia spp			+	+
	Leather fern	Acrostichum dandeifolium		-	+	
S	Saltmarsh mallow	Kosteletzkaya virginica		+	+	
LT	Bald cypress	Taxodium distichum			+	+

### § 30-705. Plants along the A1A corridor

(a) Plants approved for use along the A1A corridor.

However, Elaeagnus shall not be a plant eligible for funding under the Façade Grant Program.

Indian Hawthorne	Rhaphiolepis Indica "Alba"
Juniper—Parsoni	Juniperus chinensis "Parsonii"
Juniper—Torulosa	Juniperus chinensis "Torulosa"
King Sago	Cycas Revoluta
Buttonwood Green	Conocarpus erectus
Buttonwood Silver	Conocarpus erectus sericeus
Cord Grass	Spartina Bakeri
Necklace Pod	Sophora Tomentosa
Bird of Paradise	Strelitzia Reginae
Elaeagnus	Elaeagnus pungens
Arbicola	Schefflera Arboricola
Coco Plum	Chrysobalanus Icaco
Natal Plum	Carissa Macrocarpa
Pittosporum Green/Varigated	Pittosporum tobira
Palmetto	Sabal Palmetto
Madagascar Olive	Norohnia Emarginata
Sea Oats	Uniola Paniculata
Gallardia	Gaillardia pulchella
Coontie	Zamia Pumila
Zamia	Zamia Maritima
Confederate Jasmine	Trachelospermum Jasminoides
Pindo Palm	Butia Capitat
Cabbage Palm	Sabal palmetto
Sprengeri Fern	Asparagus densiflorus
Fiddlewood	Citharexylum spinosum
Dune Sunflower	Helianthus Debilis
Gazania Daisey	Gazania

(b) The following plants may be used along the A1A corridor if protected from the direct wind and salt spray:

Liriope	Liriope "Evergreen Giant"
Oleander Dwarf/Standard	Nerium oleander
Ligustrum	Ligustrum Lucidum
Florida Privet	Forestiera Segregata
Yaupon—Weeping	Ilex vomitoria pendula
Walter's Viburnum	Viburnum Obovatum
Podocarpus	Podocarpus macrophyllus
Ilex Schillings	Ilex vomitoria "Stokes Dwarf"
Ixora	Ixora
Jatropha	Jatropha
European Fan Palm	Chamaerops Humilis
Coconut Palm	Cocos nucifera
Hibiscus	Hibiscus
Snow Bush	Breyneia Disticha
Simpson's Stopper	Myrcianthes Fragrans
Croton	Codiaeum Variegatum
Allamanda	Allamanda cathartica
Agapanthus	Agapanthus arfricanus
Blue Daze	Evolvulus glomeratus
Hibiscus	Hibiscus
East Palatka Holly	Ilex attenuata "East Palatka"
Geiger Tree	Cordia sebestena
Foxtail Palm	Wodyetia bifurcata
Bismarkia Palm	Bismarckia nobilis
Paurotis Palm	Acoelorrhaphe wrightii
Fountain Grass	Pennisetum setaceum
Crinum Lily	Crinum lily
Society Garlic	Tulbaghie violacea

(Ord. No. 982, § 2, 12-19-07)

### § 30-706. Nuisance trees

The following trees are considered non-native noxious invasive species and must be removed by a date to be announced by the city.

Brazilian Pepper (schinus terebinthifolius)

Melaleuca (melaleuca quinquenervia)

Australian pine (causarina equisetifolia)

(Ord. No. 972, § 36, 8-15-07; Ord. No. 982, § 3, 12-19-07)

### Editor's Note

**§§ 30-707--30-709. Reserved****Division 2. Surface Water Runoff Management****§ 30-710. Applicable regulations**

The design and performance of surface water runoff management systems within the city shall comply with applicable federal and state regulations, rules of the St. Johns River Water Management District, and the provisions of this article. In the event of any conflicting provisions in these regulations and rules, the most restrictive provision shall apply.

**§ 30-711. Performance standards**

All development and redevelopment shall be designed, constructed, and maintained so that the characteristics of surface water runoff shall approximate the rate, volume, quality, and timing of runoff that occurred under the site's natural unimproved state, except that at least the first inch of runoff shall be treated in an on-site retention system.

**§ 30-712. Design standards**

Surface water runoff management systems, which shall be certified by a licensed engineer as meeting the requirements of this chapter, shall be designed to meet the following minimum standards:

- (a) Have a design service life of at least 50 years.
- (b) Treat the surface water runoff that originates on the site and have sufficient capacity to allow water from adjacent lands to flow unimpeded across the site, without adversely affecting any conservation easement.
- (c) Use on-site percolation to the maximum extent practicable.
- (d) Slope the banks of detention and retention areas to accommodate appropriate native vegetation. Bank slopes shall be no steeper than a one-foot-vertical to four-foot-horizontal ratio.
- (e) To the maximum extent practicable, achieve water reuse and conservation by incorporating the surface water management system into landscape irrigation systems.
- (f) Along the edge of all surface waters, retain or create vegetated buffers of sufficient width to prevent erosion.
- (g) Be easily accessible for maintenance and repair.
- (h) Shall not direct surface water runoff into sanitary sewers.
- (i) Shall not impede the performance of other drainage systems.
- (j) Shall not use natural surface waters as sediment traps.
- (k) In phased developments, the surface water management system serving each phase of development shall meet all the requirements of this division.

**§ 30-713. Dedication and maintenance**

If the city engineer determines that a surface water runoff management system will function as an integral part of the city's system, the facilities shall be dedicated to the city. All other surface water runoff management systems shall be operated and maintained in accordance with the performance and design standards of this division by the property owner or legal entity having control of the property.

**§ 30-714. Wells**

- (a) [Reserved.]

(b) Wells shall not flow unrestricted.

(c) Wells shall discharge only when the water is being used for its intended purpose (e.g., irrigation or water-to-air heat exchange). Any water discharged from a well must be contained on the property.

(d) No irrigation system shall spray water onto any paved portion of a public right-of-way.

(e) Any well made nonconforming by this section shall be made to conform when the equipment is replaced or the building official determines that current conditions are creating undue harm.

(f) The property owner shall hire a state-licensed water-well contractor to do the following:

(1) Within 30 days after installation of a new artesian well is completed, grout all other artesian wells on the property. The only exceptions shall be that multiple artesian wells shall be allowed if needed to (a) provide sufficient capacity to meet water needs demonstrated in the permit application, (b) return discharged water to the originating aquifer, or (c) avoid problems certified by the contractor or a licensed engineer regarding feedback from multiple uses of the water or other specifically-identified engineering problems.

(2) Within ten days after discovery that a well is free-flowing, repair or grout the well.

(3) Within five days after discovery that water is flowing outside a well casing, repair or grout the well.

(4) Within 30 days after an artesian well has been abandoned, grout the well. Capping an abandoned artesian well shall be prohibited. A well shall be considered abandoned when it has been permanently discontinued for any reason or when the building official deems that its state of disrepair makes it impracticable for the well to serve its intended purpose.

(Ord. No. 972, § 37, 8-15-07)

### **§ 30-715. Water source heat pump systems**

In addition to complying with the provisions regarding wells in section 30-714, water source heat pump systems shall also meet the following requirements:

(a) *Use of artesian wells.* Water discharged from water source heat pump systems shall be returned to a subterranean level in a manner that prevents localized flooding. No person shall attach such system to an existing artesian well or drill an artesian well for use with such system, unless a second well of equal or greater size and depth is drilled to return withdrawn water to the aquifer of origin. This requirement shall not apply to artesian wells with such systems in existence when this division was adopted, but shall apply to (1) any replacement of the well or heat pump or (2) any air conditioner water discharge that is disconnected from any surface water runoff management system.

(b) *Use of shallow wells.* Water source heat pump systems using shallow wells to withdraw water from the surficial aquifer may be installed as a single-well system.

### **§ 30-716. Deed restrictions**

Deed restrictions pertaining to developments within the city shall encourage plantings, structures, and practices that would reduce the harmful impacts of surface water runoff on the Indian River Lagoon.

### **§§ 30-717--30-719. Reserved**

## **Division 3. Shoreline Protection**

### **Division 3A. Environmentally-Sensitive Lands**

#### **§ 30-720. Environmentally-sensitive zones generally**

(a) *[Intent].* It is the intent of this ordinance to establish regulations governing shorelines and wetlands within the City of Satellite Beach. It is acknowledged that both the state and federal governments have regulations governing these issues and that certain areas of regulation in this field have been preempted to the State of Florida or the United States. However, in the event of conflict between the regulations contained herein and any non-preempted state or federal regulations, the most restrictive regulations shall prevail.

(b) *Establishment.* There are hereby established within the city two environmentally-sensitive zones in which special restrictions on activities and uses shall apply. These zones (hereinafter "protection zones") shall be known as the ocean bluff protection zone and the estuarine shoreline protection zone.

(c) *Request for determination of zone boundaries.* A determination of the boundaries of a protection zone may be obtained by submitting a request for same to the building department. The request must set forth an adequate description of the land; the nature of the requestor's right to ownership or control of the land; a survey of the land which includes the location of any ocean bluff, dune crest and slopes, armoring, and wetlands; and any other information the building official requests to make the determination.

(d) *Permits.* All activity not specifically allowed by this article is prohibited, notwithstanding the ability to obtain a state or federal permit, unless controlling authority is preempted to the state or federal government. Activities requiring permits shall not commence until all required permits have been issued by the city and all other applicable regulatory agencies. Permits from other agencies shall be provided to the city before the city will issue its permit. All permit applications shall be accompanied by the required application fee.

(e) *Restoration required.* In both protection zones, where activities in violation of any provision of the city code have negatively impacted a dune or wetland, even to the extent that the area no longer meets the definition of a dune or wetland, the owner of the property shall be required to restore the area to its original condition. Any violative activities shall be suspended until corrective action is completed.

## § 30-721. Allowed activities and uses

Except where noted otherwise, the provisions of this section shall apply in both protection zones. Except where provided otherwise, all allowed activities shall require a permit from the city. Only the following activities and uses shall be allowed, subject to the provisions of this article and requirements of applicable regulatory agencies:

- (a) In the ocean bluff protection zone, construction, repair, or replacement of wooden or plastic dune crossovers. In the estuarine shoreline protection zone, construction, repair, or replacement of wooden or plastic catwalks and boardwalks, docks, piers, boat ramps, mooring piles, boat lifts, boat slips, and davits. Pilings shall be set to the desired depth by the least disruptive method. All structures shall be designed to minimize beach, ocean bluff, dune, and wetland disruption. Permits are required for these activities from the city and other applicable regulatory agencies.
- (b) Construction, repair, or replacement of armoring, to include any necessary excavation. Permits are required for these activities from the city and other applicable regulatory agencies.
- (c) Sand replenishment in the ocean bluff protection zone. Permits are required for this activity from the city and other applicable regulatory agencies.
- (d) Planting, restoration, or enhancement of native vegetation indigenous to the ocean coastline or Banana River shoreline in Brevard County.
- (e) Removing exotic vegetation.
- (f) Surface water runoff discharge in the estuarine shoreline protection zone. Permits are required for this activity from the city and other applicable regulatory agencies.
- (g) Aids to navigation in the estuarine shoreline protection zone.
- (h) Scenic, historic, wildlife, or scientific preserves.
- (i) Recreational fishing and beach activities.

## § 30-722. Construction limitations

(a) No equipment or wheeled or tracked vehicles shall be used in the protection zones except to construct, repair, replace, or remove armoring and for the return of sand to the beach or dunes. Any damage due to such equipment or vehicle shall be repaired to restore the impacted area to at least its pre-disturbance condition.

(b) Jetties, groins, and other construction which diverts drifting sand onto the local beach and dune system or alters the natural coastal currents are prohibited.

## § 30-723. Design standards

Except where noted otherwise, the provisions of this section shall apply in both protection zones. To minimize adverse impacts, the activities and uses allowed by this section:

- (a) Shall not impede the movement of nesting sea turtles or disturb sea turtle nests in the ocean bluff protection zone, and shall not impede the movement of shallow-water aquatic life in the estuarine shoreline protection zone.
- (b) Shall not impede surface-water flows in the estuarine shoreline protection zone.
- (c) Shall maintain existing public access to the beach in the ocean bluff protection zone.
- (d) Shall maintain existing flood-channel capacity in the estuarine shoreline protection zone.
- (e) Shall not undermine dune-bluff or shoreline embankments. If necessary, permits shall impose dune-bluff or shoreline stabilization requirements during any period activity is undertaken.

- (f) Shall not introduce silt or other sediment onto the beach or into waterways except within the conditions of a permitted activity. If sediment is introduced, it shall be removed by the property owner or permittee.
- (g) Shall be performed in the least intrusive manner possible without damage to any lands.
- (h) May be limited to an area delineated by the building official.

## § 30-724. Vegetation

Except where noted otherwise, the provisions of this section shall apply to both protection zones.

### (a) *Removal.*

- (1) Exotic vegetation shall be regularly removed by the least damaging means. All cleared vegetation shall be removed from the site and not piled elsewhere in the protection zones.
- (2) In the estuarine shoreline protection zone, permits from the city and other applicable regulatory agencies shall be required to remove native vegetation from wetlands and any wetland buffer zones designated by other agencies. Such removal shall be permitted only for activities and uses authorized by this article.

### (b) *Planting.*

- (1) *Restoration.* Any soil or coastal- or estuarine-shoreline native vegetation within the protection zones that is disturbed or damaged shall be restored to its condition prior to disturbance or damage. Vegetation of equal kind and coverage shall replace the native vegetation damaged, killed, or removed during any construction activity. Coastal- or estuarine-shoreline native vegetation, as applicable, shall replace removed exotic vegetation. Such restoration shall occur within 90 days of any damage, destruction, or removal except as otherwise provided within this article. These requirements shall be in addition to any other penalties that may be imposed by law for such damage, destruction, or removal.
- (2) *Plant selection.* The species mix of selected plants shall be formulated to approximate that of any nearby natural dune communities. Only plants from nurseries or other legitimate donor sites shall be used; plants collected from wild or semi-wild areas are prohibited.
- (3) *Plant density.* Plants should be arranged in random groupings, and the number of plants should be based on an average spacing of 12 to 18 inches.
- (4) *Fertilization.* Fertilization shall be allowed for 18 months after planting.
- (5) *Irrigation.* Temporary irrigation systems may be installed above the ground and shall be removed or disconnected from the water source no later than 18 months after planting. Systems shall be designed and operated to encourage deep-rooting of the vegetation and shall be under separate control from irrigation systems serving the upland property.
- (6) *Trimming.* In the ocean bluff protection zone, only sea grape and saw palmetto plants may be trimmed. Unless more restrictively provided by state or federal regulation, no trimming shall be allowed below four feet above the ground. Trimming in the estuarine shoreline protection zone shall be in accordance with State of Florida requirements. A permit from the city is required for this activity.

## § 30-725. Sand replenishment

Owners of all properties in the ocean bluff protection zone may add sand to their dune to compensate for sand losses. The following conditions shall apply to all permits issued pursuant to this section:

- (a) *Purpose.* Sand shall be placed only for dune restoration or armoring cover.
- (b) *Sand source.* All sand shall come from a source west of the coastal construction control line or from a source authorized by the city and by the Florida Department of Environmental Protection pursuant to Chapter 16B-41, FAC.
- (c) *Sand quality.* All sand shall be beach-quality sand.
- (d) *Non-impactive design.* All additions of sand shall be designed for minimum impact on existing coastal native vegetation. If there are any state or federal endangered or threatened plant species on the site, special care shall be taken to avoid covering these plants. If the addition of sand will unavoidably impact such plants, the property owner must relocate those species within the dune system. Any such plant which will not survive relocation shall be replaced with a specimen of the same species which is expected to survive, normally a nursery-grown specimen.
- (e) *Restoration planting.* Restoration planting shall be required in areas where sand is added and where coastal native vegetation is damaged as a result of the sand addition. Vegetation must be planted from the toe of the restored dune to the upland area.
- (f) *Trash removal.* All trash on the beach or dune must be removed. Dead wood, seaweed, and other biological matter may be left on the beach. In addition, all trash on the dune shall be removed every six months until coastal native vegetation is established on the filled area.

## § 30-726. Dredging and filling



In the estuarine shoreline protection zone, both dredging and filling are prohibited except for environmental restoration projects undertaken by, or in conjunction with, the city.

## **§ 30-727. Waste disposal**

In both protection zones, it shall be prohibited to discharge the following into any waterway, surface water runoff management system, or protection zone by any means which allows wastes to seep, leach, or otherwise enter into these areas: (i) water containing heavy metals, herbicides, pesticides, or any other toxic substances in excess of concentrations established by county, state, or federal guidelines; and (ii) sludge, sewage, or septic-system effluent. In addition, water from the construction, maintenance, or repair of any pool or spa shall not be discharged directly into any waterway.

## **Division 3B. Armoring**

### **§ 30-728. Generally**

(a) No armoring shall block public access to the ocean beach at mean high tide; impede the normal flow of boat traffic; or create a hazard to swimming, marine life, water sports, other armoring, or adjoining property.

(b) Before new armoring is constructed or existing armoring is replaced, property owner(s) and person(s) having a security interest in such property shall consent in writing to: (i) authorizing a special assessment to repair, replace, or remove any armoring and place any sand to fulfill the requirements of section 30-730, and (ii) acknowledging that any lien imposed as a result of such assessment is of the same dignity and priority as those imposed by F.S. ch. 170.

(c) The building official shall periodically inspect the condition of all armoring within the city. If the building official determines that any portion of any armoring violates any provision of this article or is not being maintained according to permit specifications, the building official shall provide written notice to the owner to correct the deficiency. The notice shall require the work to be completed within 30 days of the notice date. The building official may grant an extension upon a showing of good cause for an extension. If the deficiency is not corrected in the time provided in said notice, the city may contract to have the necessary work performed in accordance with section 30-736.

(d) Armoring shall be maintained so as to prevent it from becoming deteriorated, structurally unsound, unsafe, or otherwise not in compliance with applicable provisions of this article.

### **§ 30-729. Construction of new armoring**

Except where noted otherwise, the provisions of this section shall apply to the ocean bluff protection zone. New armoring shall be permitted subject to the following:

(a) Permits issued by the city to construct armoring shall include a readily-visible disclaimer containing the following provisions:

(1) Issuance of a permit by the city does not constitute an assertion or representation that the city warrants the design or construction for proper armoring function.

(2) The city will replace sand if the owner fails to comply with section 30-730, but will not repair or replace damaged armoring.

(3) The owner shall remove rubble resulting from damaged armoring.

(b) The seaward top of any vertical armoring shall not extend farther than 22 feet from the primary structure to be protected.

(c) All vertical armoring that does not directly tie into adjacent armoring shall have return walls constructed to prevent erosion behind the armoring. The return wall shall not extend farther than 15 feet from the primary structure to be protected. A return wall shall be no closer to the side property line than is required to fully maintain sand in front of the return wall as provided for in section 30-730. However, if the primary structure is too close to the property line to make this possible, the return wall may be placed as close to the property line as the adjoining property owner is willing to allow in writing, and the owner of the return wall must maintain the required covering of sand seaward of the wall.

(d) In the estuarine shoreline protection zone, new armoring shall be sloping coquina revetment or other alternative determined by the city and the Florida Department of Environmental Protection to be at least equally environmentally acceptable. For such new armoring, the toe of the revetment shall extend no farther than necessary to construct a stable revetment, up to a maximum of three feet waterward of the mean low-tide line. However, in no event shall it extend farther than one-foot waterward of any platted property line.

(e) In the ocean bluff protection zone, any new armoring may be constructed provided that the new armoring is a coquina revetment system and is in compliance with section 30-728 and section 30-730. The toe of the revetment system must not be any further seaward than that of the toe of the dune. Coquina returns must be constructed along each side if no adjacent armoring is in existence.

### **§ 30-730. Armoring cover**

This section shall apply to the ocean bluff protection zone.

- (a) For armoring in existence when this article was enacted, the owner of the armoring shall maintain sufficient beach-quality sand seaward of the armoring and return walls to maintain at least a five-foot-wide strip of sand between the armoring and the seasonal high-water line. This sand profile shall be restored within six months after it fails to meet these requirements.
- (b) For armoring constructed after adoption of this article, the owner of the armoring shall at all times maintain sufficient beach-quality sand seaward of the armoring and along the sides of all return walls to cover the armoring and walls to within one-foot of their top.
- (c) All sand must be vegetated in accordance with section 30-724 of this article.

### **§ 30-731. Replacement of armoring**

Unless noted otherwise, this section shall apply to both protection zones. Armoring may be replaced subject to applicable provisions in sections 30-728, 30-729, and 30-730 and the following requirements:

- (a) In the estuarine shoreline protection zone, vertical armoring may be replaced with either vertical armoring or sloping coquina revetment; sloping coquina revetment may be replaced only with sloping coquina revetment.
- (b) No replacement armoring shall extend farther than one foot waterward of the top of earth bearing component of the existing armoring. Such components consist of the rigid, earth-bearing material (usually sheet piles, corrugated panels, concrete or wooden planks) holding the soil in place behind the armoring. The only exception shall be that, in the estuarine shoreline protection zone, the toe of a sloping coquina revetment which replaces vertical armoring shall extend no farther than necessary to construct a stable revetment with its top at the same elevation as the original armoring, but in no event farther than three feet waterward of the armoring being replaced. Notwithstanding the foregoing allowances, in no event shall armoring extend farther than one foot waterward of any platted property line. The extensions described in this paragraph are a one-time extension which may not be repeated for any subsequent replacement.
- (c) In the ocean bluff protection zone, existing armoring may be replaced provided that the new armoring is a coquina revetment system and is in compliance with section 30-728 and section 30-730. The toe of the revetment system must not be any further seaward than that of the existing armoring. Coquina returns must be constructed along each side if no adjacent armoring is in existence.

(Ord. No. 972, § 38, 8-15-07)

### **§ 30-732. Nonconforming armoring**

- (a) In both protection zones, whenever more than half the length of any nonconforming armoring is replaced within a three-year period, the replacement armoring shall conform to the provisions of this article.
- (b) In the ocean bluff protection zone, whenever a primary structure being protected by nonconforming armoring is damaged beyond 2/3 of its assessed value, such armoring shall be removed and may be replaced as long as the new armoring conforms to the provisions of this article. However, the nonconforming armoring may remain if (i) the underground utilities, foundation, concrete floors, and exterior walls of the primary structure are each at least 95 percent intact and (ii) the exterior envelope of the repaired primary structure will nowhere extend beyond its pre-damage configuration.

### **§ 30-733. Unarmored shorelines**

In both protection zones, the owner of property containing an unarmored shoreline embankment shall stabilize it with coastal or estuarine shoreline native vegetation to hold the soil and protect the embankment in accordance with section 30-724(b).

### **§ 30-734. Development of ocean shoreline property where setbacks prevent construction**

The ocean bluff line setback requirement shall not prevent construction of a single-family residence where the structure is the minimum size allowed in that zoning district, all other requirements are complied with, and the intrusion beyond the ocean bluff line setback is the minimum feasible. Armoring shall be allowed provided all requirements for new armoring are complied with.

## **§ 30-735. City correction of violations**

(a) Failure to comply with notice of violation. Upon the failure of any owner or owner's agent to comply with an order from the building official to eliminate a violation of this Article within the time allotted in section 30-728(c) or within 15 days after the date of written notice was sent pursuant to section 2-348 to the owner's last known address at the county property appraiser's office if the postal service returned the notice as undeliverable, the building official shall report to the city council and request a resolution authorizing the work to be done and the cost assessed against the property in accordance with the procedure for levying special assessments pursuant to law. Any lien imposed for such work shall be payable at the time and manner set forth in the resolution. Any such lien shall be co-equal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, title, and claims until paid. At any public hearing set to confirm the lien and order the work, the property owner may present evidence that the work is not necessary; that the condition of the applicable land, vegetation, or structure does not violate the provisions of this article; or that the cost exceeds the quotes obtained by the city for said work.

(b) Where a special assessment does not apply, the city shall pursue correction of violations in accordance with the code enforcement provisions of the city code.

(c) Conditions causing irreparable harm. When the building official or code enforcement officer determines that a condition exists which is likely to result in irreparable harm to the environment or adjacent properties, the city may seek any and all legal and equitable remedies available to it, including injunctive and nuisance-abatement actions. In any such action, the city shall be entitled to recover attorney's fees and costs against the defendant(s) in any such action.

(d) The provisions of this section are cumulative to any other remedies available to the city to remedy violations of this article.

## **§§ 30-736--30-800. Reserved**

## **Article VIII. Telecommunications Facilities**

### **§ 30-801. Communication towers, structures and stations**

(a) *Findings.*

(1) The Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act"), grants the Federal Communications Commission (FCC) exclusive jurisdiction over all the following:

- a. Evaluating the environmental effects of radio frequency emissions from personal wireless service telecommunications facilities and the city may not regulate the placement, construction and modification of such facilities on that basis.
- b. The regulation of radio signal interference among users of the radio frequency spectrum.

(2) The city's regulation of towers and telecommunications facilities will not prohibit, or have the effect of prohibiting, the provision of wireless telecommunications services.

(b) *Purposes.*

(1) The general purpose of this section is to regulate the placement, construction and modification of towers and telecommunications facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Satellite Beach, Florida.

(2) Specifically, the purposes of this section are:

- a. To regulate the location of towers and telecommunications facilities in the city;
- b. To protect residential areas, environmentally sensitive lands and other land uses from potential adverse impacts of towers and telecommunications facilities;
- c. To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- d. To promote and encourage shared use (co-location) of towers and antenna support structures as a primary option rather than construction of single-use towers;
- e. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for the erection of new towers to support antennae and telecommunications facilities;
- f. To avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified and maintained, and removed when no longer used or determined to be structurally unsound.
- g. To ensure that towers and telecommunications facilities are compatible with surrounding land uses, and to minimize any potentially adverse impacts of such towers and facilities.

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

- (1) "*Antenna support structure*" means any building or other structure other than a tower which can be used for the location of telecommunications facilities.
- (2) "*Applicant*" means any person that applies for a tower development permit.
- (3) "*Application*" means all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the city concerning a request by the owner of property within the city (or his agent) to develop, construct, build, modify or erect a tower and telecommunications facilities upon such property.
- (4) "*Engineer*" means any engineer licensed by the State of Florida. Radio frequency engineers do not have to be licensed by the state; however, for purposes of this section, their qualifications must include specific experience in the field and employment or retention by the telecommunications provider in a professional technical capacity.
- (5) "*Guyed tower*" means a tower that is supported, in whole or in part, by guy wires and ground anchors.
- (6) "*Monopole tower*" means a tower consisting of a single pole or spire self-supported by a permanent foundation, and constructed without guy wires and ground anchors.
- (7) "*Owner*" means any person with fee title or a long-term leasehold (lease with a minimum of ten years remaining in its term, with options to renew excluded from a determination of the term) to any property within the city who desires to develop, construct, build, modify or erect a tower upon such property.
- (8) "*Self-support lattice tower*" means a tower that is constructed without guy wires and ground anchors.
- (9) "*Stealth tower*" means any tower or telecommunications facility which is designed to enhance compatibility with, or blend into, adjacent uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower, such as light poles, power poles and trees.
- (10) "*Telecommunications facilities*" means any cables, wires, lines, wave guides, antennae and any other equipment or facilities associated with the transmission or reception of telecommunications which a person seeks to locate or have installed upon or near a tower or antenna support structure. However, the term telecommunications facilities shall not include:
  - a. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
  - b. Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
- (11) "*Tower*" means a self-supporting lattice, guyed or monopole structure constructed from grade which supports telecommunications facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

(d) *Applicability.* Except as provided below, these provisions shall apply throughout the corporate limits of the City of Satellite Beach, and no telecommunications tower or antenna shall be permitted except in compliance with these provisions:

- (1) *Exceptions.*
  - a. Any telecommunication tower or antenna that is owned and operated by a federally licensed amateur radio operator or is used exclusively for receive-only antenna.
  - b. Any telecommunication antenna which is not attached to a telecommunication tower or antenna support structure which is accessory to any commercial, industrial, institutional, multifamily, or public utility use and structure provided that:
    1. The telecommunication antenna does not exceed 20 feet above the highest point of the structure or the height limitation for the district, whichever is less. This shall include ground-mounted satellite dish antennas which shall be regulated as structures;
    2. The telecommunication antenna complies with all applicable FCC and FAA regulations; and
    3. The telecommunication antenna complies with applicable building codes.

(e) *Development of towers.*

- (1) No tower shall be built, constructed or erected in the city unless the tower is capable of supporting another operating telecommunications facility comparable in weight, size and surface area to the telecommunications facilities installed by the applicant on the tower.
- (2) No tower shall exceed 85 feet in height from the crown of the road. No variances shall be granted for height.
- (3) An application to develop a tower shall include:
  - a. The names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within the city and within one-half mile of the boundary of the city, including any on publicly owned property, as well as the location of same. If the applicant is not the owner of the parcel of land upon which the tower is to be located, the written consent of the owner, under oath, shall be evidenced in the application.
  - b. An affidavit demonstrating that the applicant made diligent efforts for permission to install or co-locate the applicant's telecommunications facilities on all publicly owned towers or usable antenna support structures located within a one-half-mile radius of the proposed tower site.
  - c. An affidavit demonstrating that the applicant made diligent efforts to install or co-locate the applicant's telecommunications facilities on towers or usable antenna support structures owned by any other person located within a one-half-mile radius of the proposed tower site.

- d. A description of the technological design plan proposed by the applicant in the city. An applicant must demonstrate why design alternatives to a tower, such as microcell design, cannot be utilized to accomplish the provision of applicant's proposed telecommunications services. An applicant must also demonstrate with full disclosure of technical data why the proposed site is required for the applicant's telecommunications network.
- e. Written, technical evidence from a qualified radio frequency engineer, under oath, that the proposed tower or telecommunications facilities cannot be installed or co-located on another person's tower or usable antenna support structure located within a one-mile radius of the proposed tower site because of the coverage requirements of the applicant's wireless communications system.
- f. A written statement from a qualified radio frequency engineer, under oath, that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent residential and nonresidential properties.
- g. Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in section 30-801(h), "structural requirements."
- h. Written, technical evidence from a qualified engineer(s) acceptable to the fire marshal and the building official that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, corrosive or other dangerous chemicals.
- i. A written statement from a qualified radio frequency engineer, under oath, that the proposed tower and telecommunications equipment and facilities will be installed and constructed so as not to cause radio frequency interference to other telecommunications equipment to be located on such tower, specifically including co-location of equipment.
- j. Full-color photo-simulations showing the proposed site of the tower with photo-realistic representations of the proposed tower as it would appear viewed from nearby residential properties and from adjacent roadways.
- k. The power density of applicant's telecommunications facilities and how such facilities meet the FCC's regulations on the environmental effects of radio frequency emissions. Such information may be made available to the general public upon request. Applicant shall meet or exceed all such FCC regulations now or hereinafter adopted, and in the event, by federal law or regulation, jurisdiction is relinquished over wireless telecommunications facilities with respect to the environmental effects of radio frequency emissions, applicant shall meet or exceed any applicable city and other governmental regulations thereafter adopted.
- l. Letters from the Federal Communications Commission, Federal Aviation Administration and department of defense documenting that each of the foregoing agencies has no objection to the proposed location of the telecommunications tower or other telecommunications facilities.
- m. Any and all radio frequency power density contour maps required to be filed with any public agencies reflecting safety limits and expected peak levels for any telecommunication towers and/or facilities. Actual measured level contour maps shall be provided after completion of construction but prior to issuance of a certificate of occupancy.
- n. The applicable application fee.
- o. Statement by the applicant, under oath, that applicant will in good faith offer and negotiate with other telecommunications providers for co-location on any tower or telecommunications facilities, it being expressly understood by applicant that consideration of any application is predicated upon good faith performance of such requirement.
- (f) *Conditional uses.* No person shall build, erect or construct a telecommunications facility upon any plot of land within any zoning district set forth below unless a conditional use permit shall have been approved by the Satellite Beach City Council. A conditional use for a telecommunications tower shall be valid for a period of one year and shall be considered a constructed tower for the purpose of measuring separation between towers. If construction of the tower and ancillary structures has not been completed within one year of the date of adoption of any ordinance authorizing any such facility, the conditional use shall expire.
- (1) Towers and monopoles may be authorized as a conditional use only in the RM-3, Commercial and Institutional zoning districts. However, no towers or monopoles shall be located on Samsons Island or any waters within the jurisdiction of Satellite Beach.
- (2) Modification of tower sites in any zoning district shall require a conditional use.
- (3) Factors to be considered in granting conditional use permits:
- a. The City of Satellite Beach shall consider the following factors in addition to those set forth in section 30-409 in determining whether to issue a conditional use:
1. Height of the proposed telecommunication tower and concomitant fall radius of such tower;
  2. Proximity of the telecommunication tower 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 telecommunication tower, with particular reference to stealth design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  7. Availability of suitable existing telecommunications towers and other structures. No new communication tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City of Satellite Beach that no existing communication tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing communication tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing telecommunication towers or structures are located within the geographic area required to meet applicant's engineering requirements, which must be supported by technical data supporting such position.
- (b) Existing telecommunication towers or structures are not of sufficient height to meet applicant's engineering requirements, which must be supported by technical data supporting such position.
- (c) Existing telecommunication towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on existing telecommunication towers or structures, or the antenna on the existing telecommunication towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs, or contractual provisions required by the owner in order to share an existing telecommunication tower or structure or to adapt an existing communication tower or structure for sharing are unreasonable. Costs exceeding new telecommunication tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing telecommunication towers and structures unsuitable.
- b. The City of Satellite Beach may add restrictions or waive or reduce the burden on the applicant of one or more of these criteria if the City of Satellite Beach concludes that the goals of this division are better served thereby.
- (g) *Setbacks.*
- (1) All towers shall be set back on all sides a distance of 1¼ feet for each foot of height, but in no case less than the underlying setback requirement in the applicable zoning district.
- (2) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel on which it is located. All structures included with the tower shall be included in determining the setback.
- (3) Guy wires and anchors shall meet the minimum setbacks for the district in which they are located or 25 feet, whichever is greater, and shall be located on the same parcel as the tower.
- (4) A minimum setback of ten feet from all overhead utilities shall be required for any structure, other than a tower, in addition to any other setbacks required by either this division or any other requirements of the city's land development regulations.
- (h) *Structural requirements.* All towers must be designed and certified by an engineer to be structurally sound and, at a minimum, in conformance with the city's building code, and any other standards outlined in this section. All towers must also be certified and constructed to meet or exceed all wind load requirements of any applicable codes. All towers shall operate from a fixed location. All guy wires, tower components, hardware and any other part of the tower shall be galvanized and protected against corrosion and electrolytic action, or be certified by an authority acceptable to the city, based upon accepted engineering standards, to be unaffected by corrosion or electrolytic action.
- (i) *Separation or buffer requirements.*
- (1) The separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially used or zoned property shall be measured from the base of a tower to the closest point of residentially used or zoned property.
- (2) Towers shall be separated from all residentially used or zoned property, other than RM-3, by a minimum of 200 feet or a distance equal to 200 percent of the height of the proposed tower, whichever is greater. The minimum tower separation distances from residentially used or zoned property and from other towers shall be calculated and applied irrespective of municipal or county jurisdictional boundaries.
- (3) Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but not yet constructed, irrespective of jurisdiction, at the time a development permit is granted pursuant to this section:
- a. Monopole towers shall be separated from all other towers, whether monopole, self-support lattice or guyed, by a minimum of 2,630 feet.
- b. Self-support lattice or guyed towers shall be separated from all other self-support or guyed towers by a minimum of 2,630 feet.
- c. Self-support lattice or guyed towers shall be separated from all monopole towers by a minimum of 2,000 feet.
- (j) *Method of determining tower height.* Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto. Tower height shall be measured from the crown of the road.
- (k) *Illumination.* Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). If lighting is required by federal law and the tower is to be located a distance from residentially used or zoned property equal to or less than 300 percent of the tower height, dual mode lighting shall be requested from the FAA and installed upon FAA approval.
- (l) *Exterior finish.* Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility, and blends with adjacent uses, as approved by the appropriate reviewing body.
- (m) *Landscaping.* Landscaping shall be required on all property containing towers, antenna support structures or telecommunications facilities. In addition to the landscaping that may otherwise be required in the zoning district where the tower, antenna support structure or telecommunications facilities are located, the following items shall be required:
- (1) A continuous hedge shall be required on the exterior side of the perimeter fencing which shall be a minimum of three feet in height at the time of planting and must be capable of growing to a minimum of six feet in height. The hedge must be of sufficient density to create an opaque screen outside the fence and be a minimum of ten feet in depth.

(2) Approved trees must be planted ten feet apart and must be at least six to eight inches DBH and at least ten feet tall at the time of planting.

(n) *Fencing.* All parcels containing freestanding towers or telecommunications facilities, other than stealth facilities, shall be fenced. Unless more stringent fencing requirements are required by FCC regulations, a fence or wall as provided in section 30-516 shall completely surround all such facilities, and shall be located coterminous with the setback lines. Landscaping shall be located between the property line and the fence/setback line.

(o) *Signs and advertising.* No signs or advertising shall be placed on any tower unless otherwise required by law, except the property may be posted to prohibit trespassing.

(p) *Access.* Property upon which a tower is located must provide access to at least one unpaved vehicular parking space on site

(q) *Security.* All towers must be reasonably posted and secured to protect against trespass. All towers must be constructed to preclude any person from climbing upon or scaling any such towers.

(r) *Stealth.* All stealth towers must be approved as a conditional use.

(s) *Structures.* A telecommunications facility may include a structure to house equipment associated with the facility. Any such structures shall not exceed 800 square feet in area or 12 feet in height.

(t) *Telecommunications facilities on antenna support structures.*

(1) Any telecommunications facilities which are not attached to a tower may be permitted on antenna support structure only in RM-3, Commercial and Institutional zoning districts. The owner of such structure (or his agent) shall, by written certification to the building official, establish the following at the time plans are submitted for a building permit:

a. That the height of the telecommunications facilities shall not exceed the height of the antenna support structure by more than 20 feet.

b. That the antenna support structure and telecommunications facilities comply with the city's building code.

c. That any telecommunications facilities and their appurtenances, to be located on or above the primary roof of an antenna support structure, will be set back one-foot in height above the primary roof for each one-foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances to be located on the primary roof of an antenna support structure, if such facilities will be appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the city. Such setback requirements shall not apply to stealth antennas to be mounted to the exterior of antenna support structures below the primary roof, and which will not protrude more than 18 inches from the side of such antenna support structure. Primary roof means the roof that has the greatest square footage.

d. That the antenna support structure is at least 35 feet in height. Requests to install telecommunications facilities on antenna support structures of less than 35 feet in height will be considered by the building official upon submission of full-color photo-simulations showing that such telecommunications facilities will be appropriately screened.

(2) Telecommunications facilities on an antenna support structure which were in compliance with the zoning regulations applicable at the time such facilities were established and for which all required permits were issued may continue in existence as a nonconforming structure.

(u) *Modification of existing towers.*

(1) A tower which was in compliance with the zoning regulations applicable at the time the tower was established and for which all required permits were issued may continue in existence as a nonconforming structure or use, either or both of which may apply. If a nonconforming structure, the structures may be modified, or demolished and rebuilt without complying with any of the additional requirements of this section, except for section 30-801(i), "separation or buffer requirements," section 30-801(v), "certification and inspections," and section 30-801(w), "maintenance," provided that:

a. The tower is being modified or demolished and rebuilt for the sole purpose of accommodating (within six months of the completion of the modification or rebuild) additional telecommunications facilities comparable in weight, size and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.

b. An application for a development permit is made pursuant to section 30-801(e) and (f). The grant of a development permit pursuant to this section allowing the modification, demolition and rebuild of an existing nonconforming tower shall not be considered a determination that the modified, or demolished and rebuilt tower is conforming.

c. The height of the modified or rebuilt tower and telecommunications facilities attached thereto shall not exceed the height of the original tower.

(2) Except as provided in this section, nonconforming towers and telecommunications facilities shall be regulated by section 30-419

(v) *Certifications and inspections.*

(1) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the city's building codes, federal and state law. All telecommunications facilities shall comply with all radio frequency requirements imposed by the Federal Communications Commission or any other federal, state or other regulatory agency.

(2) Monopole towers for which a certificate of occupancy has been issued on or after the effective date of this section shall contain the certification required by subsection (1) and shall be inspected and certified every year as being in conformance with the requirements of the city's building codes, National Electric Safety Code and all FCC, state and local regulations. Existing monopole towers shall be so certified within 60 days of the effective date of this section and then every year thereafter. Lattice or guyed towers for which a certificate of occupancy has been issued on or after the effective date of this section shall be inspected and certified every year as being in conformance with the requirements of the city's building codes, National Electric Safety Code and all FCC, state and local regulations. Existing lattice or guyed towers shall be so certified within 60 days of the effective date of this section and then every year thereafter. All such certifications and inspections shall be made by and at the sole cost of the tower owner or his agent and submitted to the city. A tower may be required by the city to be more frequently certified should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

(3) The city or its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with all applicable laws and regulations.

(4) The city reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owners or operator. All expenses related to such inspections by the city shall be borne by the tower owner or operator.

(5) All radio frequency reports, contour maps, audits, filings and similar documents required to be filed with the Federal Communications Commission, or any other federal, state or other regulatory agency, shall be filed with the city at such time as any person governed by this section files such item(s) with any such agencies.

(w) *Maintenance.*

(1) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(2) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the city's building codes, this section, National Electric Safety Code and all FCC, state and local regulations, and in such manner that will not interfere with the use of other property.

(3) All towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(4) All maintenance or construction on towers, telecommunications facilities or antenna support structures shall be performed by licensed maintenance and construction personnel.

(5) All towers shall maintain compliance with current radio frequency emission standards of the FCC or any superseding city, state and county regulations.

(6) In the event the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.

(x) *Criteria for tower development modifications.*

(1) The planning and zoning advisory board shall review and recommend, and the city council may grant, a conditional use in accordance with section 30-801(f) to allow site plan development modifications to setbacks, separation or buffer requirements and maximum height based upon the following criteria:

a. In addition to the requirement for a tower application, the application for modification shall include the following:

1. A description of how the plan addresses any adverse impact which might occur as a result of approving the modification.
2. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.
3. A technical study which documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by a qualified radio frequency engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
4. For a modification of the setback requirement, the application shall identify all property where the proposed tower could be located, attempts by the applicant to contact and negotiate an agreement for location or co-location and the result of such attempts.
5. The city may require the application to be reviewed by an independent engineer under contract to the city to determine whether the antenna study supports the basis for the modification requested. The cost of review by the city's engineer shall be reimbursed to the city by the applicant.

b. Consideration of the application for modification shall be based on the following criteria:

1. That the tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties, and further, will not create any threat to the public health, safety and welfare.
2. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
3. In addition, the board may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the modification.
4. The location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area or change the character of the neighborhood in which the tower is proposed to be located.

(2) In addition to the requirements of section 30-801(f), the applicant for the following modifications must also demonstrate with written evidence:



- a. In the case of a requested modification to the setback requirement pursuant to section 30-801(g):
1. That the size of the property upon which the tower is proposed to be located makes compliance impossible, and the alternative for the person is to locate the tower at another site which poses a greater threat to the health, safety and welfare of the public or which is closer in proximity to a residentially used or zoned property; or
  2. That a modification to the setback requirement will reduce the visual impact of the tower, such as placement near trees.
- b. In the case of a request for modification from the requirements of section 30-801(i), "separation or buffer requirements," with respect to distance from residentially used or zoned property, the person provides written technical evidence from a qualified radio frequency engineer, under oath, that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially used or zoned property.
- c. In the case of a request for modification of section 30-801(e)(2) with respect to the maximum height for towers and telecommunications facilities, that the modification is necessary to:
1. Facilitate co-location of telecommunications facilities in order to avoid construction of a new tower; or
  2. Meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from a qualified radio frequency engineer, under oath, that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.
- d. Any request for relief under this subsection must meet the criteria set forth in section 30-205(b)(3) for granting a variance. The city council shall hear all requests for relief hereunder, and any relief must be approved by the concurring vote of four members of the city council.
- (y) *Insurance.* Each applicant shall, as a condition of the grant of a development permit, secure and maintain the following insurance policies insuring the applicant, the owner if different, the city, and the city's elected and appointed officers, officials, agents, and employees, if located on city property, as co-insured:
- (1) Comprehensive general liability insurance with limits not less than:
    - a. \$5,000,000.00 for bodily injury or death to each person;
    - b. \$5,000,000.00 for property damage resulting from any one accident; and
    - c. \$5,000,000.00 for all other types of liability.
  - (2) Automobile liability for owned, nonowned and hired vehicles with a limit of \$3,000,000.00 for each person and \$3,000,000.00 for each incident.
  - (3) Worker's compensation within statutory limits, and employer's liability insurance with limits of not less than \$1,000,000.00.
  - (4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than \$3,000,000.00.
  - (5) The liability insurance policies required by this section shall be maintained by the applicant throughout the life of any permitted telecommunications facilities and/or towers, and any period of removal of its telecommunications facilities and/or towers. Each such insurance policy shall contain substantially the following endorsement:
 

It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the city, by registered mail, of a written notice addressed to the city manager of such intent to cancel or not to renew.
  - (6) Within 60 days after receipt by the city of such notice, and in no event later than 30 days prior to such cancellation, the applicant shall obtain and furnish to the city replacement insurance policies meeting the requirements of this section.
- (z) *General indemnification.* Each applicant shall include, to the extent permitted by law, applicant's express undertaking to defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the applicant or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this section or by a grant agreement made or entered into pursuant to this section.
- (aa) *Performance and construction surety.* Before a development permit is granted pursuant to this section, and as necessary thereafter, the applicant shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the city as may be required by this section or by an applicable license or franchise agreement if constructed on city property, in amount necessary to construct such tower or to disassemble that portion of the tower assembled if not completed within 60 days of commencement.
- (bb) *Security fund.* Each applicant shall establish within 60 days from the date of any conditional use granting the right to construct any telecommunications facilities and/or towers, but prior to commencement of construction, a permanent security fund with the city by depositing \$50,000.00 with the city in cash, which fund shall be maintained at the sole expense of applicant so long as any of grantee's telecommunications facilities and/or towers are located within the city, or the fund is otherwise refunded to the applicant by the city.
- (1) The fund shall serve as security for the full and complete performance herein, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the applicant to comply with any code, ordinance, rule, regulation or permit of the city. It shall also be available to the city for purposes of removing any abandoned telecommunications facilities and/or towers, and making any repairs necessitated by the failure of the applicant to perform same.

- (2) Before any sums are withdrawn from the security fund, the city shall give written notice to the applicant:
- a. Describing the act, default or failure to be remedied, or the damages, cost or expenses which the city has incurred by reason of applicant's act or default;
  - b. Providing a reasonable opportunity for applicant to first remedy the existing or ongoing default or failure, if curable;
  - c. Providing a reasonable opportunity for applicant to pay any monies due the city before the city withdraws the amount thereof from the security fund, if applicable;
- (3) Applicant shall replenish the security fund within 14 days after written notice from the city that there is a deficiency in the amount of the fund.

(cc) Abandonment. If the use of any telecommunications facilities and/or tower is discontinued for the purpose for which it was constructed for a period of six consecutive months, or any applicant fails to reimburse the security fund as required by subsection 30-801(bb) or fails to maintain insurance for such tower and/or facilities as required by subsection 30-801(y), such telecommunications facilities and/or tower shall be deemed to be abandoned. Any telecommunications facilities and/or tower which has been abandoned shall be removed within 60 days of the date such facilities and/or tower are determined to be abandoned. For purposes of rendering a determination of abandonment, the city shall provide notice to the applicant that it intends to seek a determination of abandonment. Notice of intent shall be sent certified mail, return receipt requested, to the applicant's address maintained on file with the city. It shall be the obligation of the applicant to maintain a current address on file with the city. Notice may also be forwarded to the owner, if different from the applicant, at the address listed in the most recent records of the tax collector. Failure of the owner to receive such notice shall not affect any proceedings regarding abandonment. A public hearing on the issue shall be held; however, any documentation to be submitted by the applicant in defense of such action by the city must be provided to the city no less than 20 days prior to any hearing. After consideration of the evidence presented to it, the city council shall determine whether the tower has been abandoned, at which time, the notice requiring removal shall be forwarded. If not removed within 30 days of such notice, the city may remove the tower and/or telecommunications facilities and reimburse itself from the fund required pursuant to subsection 30-801(bb). Any funds remaining shall be returned to the person providing same. If the funds are insufficient, the city shall cause a lien to be filed upon the property upon which the tower and/or telecommunication facilities were located for any amount over that held in the security fund, which shall bear interest at 18 percent per annum.

## **§§ 30-802--30-899. Reserved**

### **Article IX. Planned Unit Development (Pud) Pelican Coast**

#### **§ 30-900. Purpose**

This district is intended to carry out the following objectives:

- (1) Promote innovative and creative design of residential and nonresidential areas;
- (2) Promote efficient use of land by facilitating a more economic arrangement of buildings, infrastructure, circulation systems, land use and facilities;
- (3) Encourage high standards in the layout, design and construction of residential and nonresidential development and promote opportunities for varied housing types;
- (4) Conserve, protect and enhance the natural environment through flexibility of design and development within a PUD, and preserve environmentally sensitive lands;
- (5) Provide more useable and suitably located open space and recreation facilities, as well as other public and common facilities than would otherwise be provided under conventional land development planning practices; and
- (6) Achieve harmonious building and site designs.

#### **§ 30-901. Conformance with comprehensive plan and zoning code**

Any PUD submitted for approval shall be consistent with all provisions of the city's comprehensive plan, this chapter and all land development regulations of the city. In the event of a conflict between the provisions of this article and any other provision of this chapter, the provisions set forth in this article will prevail. Each development segment within the PUD shall be assigned a future land use map designation and internal zoning district(s) based upon the approved conceptual development plan, which shall serve as the underlying zoning for purposes of determining development characteristics within the PUD.

#### **§ 30-902. Compliance with subdivision regulations**

All PUD applications shall be reviewed pursuant to provisions of this article. In addition, PUD applications shall comply with provisions of the city's subdivision regulations presently set forth in Article III, subdivision and platting of land, except for the following:

- (1) That construction and occupancy of residential units located south of the roadway designated as Patrick Drive shall be allowed subject to the following:

(a) Construction of residences may be commenced on lots designated and approved on a preliminary development plan approved by the city council, and

(b) Certificates of occupancy shall not be issued for any such residences until final inspection of the residence(s) have been completed and approved and the construction of associated streets and utilities necessary for use and occupancy of said residence(s) are constructed, inspected and approved to allow safe and beneficial use of said residence(s).

Review time for plats shall conform to provisions of this article.

(2) Lots North of Patrick Drive shall be allowed subject to the following:

(a) *Performance and payment bond.* Construction of residential units on lots designated and approved on a preliminary development plan approved by the city council and located north of the roadway designated as Patrick Drive shall be allowed, subject to the applicant guaranteeing the construction and installation of all required infrastructure improvements by filing a performance and payment bond executed by a surety company authorized to do business in the State of Florida by the State of Florida Insurance Commissioner with a minimum AAA Best Rating; a tri-party agreement; a money order, cashier's check, certified check, or a letter of credit issued by a Florida bank or savings and loan association located in the State and licensed by the United States of America or State of Florida Comptroller to do business in Florida as a bank or savings and loan association; or cash. Said guarantee(s) shall be in the amount of 120 percent of the construction costs of any required infrastructure improvements that have not been started, as well as 120 percent of any uncompleted required infrastructure improvements within the confines of the preliminary development plan, as determined by the city engineer or actual bid prices, and shall bind the applicant and surety to payment to the city to assure completion of all required infrastructure improvements (including any off-site improvements). All guarantee(s) shall be in form and substance satisfactory to and approved by the city attorney and the city council.

(b) *Interest on cash security.* All amounts given as security in cash or by certified or cashier's check shall at the sole and absolute option of the city be deposited in a special account in a commercial bank in an interest-bearing account, or with the approval of the applicant, invested in some other manner. Any interest which may be earned on such security provided by the applicant shall be due and payable to the applicant upon satisfaction of the requirements and conditions for which the security was given.

(c) *Failure to complete required infrastructure improvements.*

1. If the required infrastructure improvements are not completed within the time provided by the city council pursuant to an approval authorizing same and/or the time provided in the accepted performance/payment bond, the city council may declare the applicant and/or performance/payment bond to be in default and require that all improvements be installed and completed regardless of the extent of any building development or construction at the time said bond is declared to be in default. Notice of default shall be deemed given to the applicant and any surety upon depositing said notice in the United States mail, certified, return receipt requested, at the address(es) provided for said notices in the performance/payment bond. The city will complete, or cause to be completed, the required infrastructure improvements. Upon completion of said required infrastructure improvements, the city in its sole discretion will either accept the required infrastructure improvements or turn over control of same to the appropriate homeowner's, townhome or condominium association.

2. If an applicant elects to construct any required infrastructure improvements prior to approval and recording of the final plat, and fails to complete said improvements within the time required by the city, all approvals for the preliminary plat and any construction plans shall be deemed automatically rescinded and such preliminary plat and construction plan approval shall be null and void and of no legal effect. The status of the land shall revert to its status prior to the any actions take by an applicant seeking plat approval for said lands.

(d) *Transfer of interest with reference to unapproved final plat.* No sale, conveyance or transfer of any interest of, in or to any lot or tract of land with reference to any unrecorded final plat or any preliminary plat shall be valid.

(e) *Certificate of completion.* In order to obtain a certificate of completion, and a release of any performance/payment bond, an applicant shall provide the city with the following:

(1) A mylar copy of each construction plan sealed by the applicant's engineer for comparison with the actual finished work;

(2) Copies of all measurements, tests and reports performed on any and all of the required infrastructure improvements during construction;

(3) Certificate of completion, signed and sealed by the applicant's engineer, certifying that the required infrastructure improvements were constructed under the supervision of that engineer, and the required infrastructure improvements were completed in conformance with the approved preliminary plat, construction plans and all other applicable provisions of this Code and other laws governing construction of such required infrastructure improvements;

(4) A complete set of "as-built" drawings certified by the applicant's engineer, together with operating manuals and parts lists for any mechanical illustrations;

(5) Evidence by reference to plat book and page number that the approved final plat was recorded;

(6) Statement from the applicant's surveyor verifying completion of all required survey work and installation of all required permanent reference monuments, permanent control points and lot corners; and

(7) Release of lien from all persons providing labor or material for the land that may be capable of filing a claim of lien for such labor or materials.

Upon delivery, review and approval of all such information by the city engineer, and such additional information as the city engineer may deem appropriate to supplement such information provided by the applicant, the city shall issue a certificate of completion for the required infrastructure improvements and release the applicant from further liability under the performance/payment bond, including the refund of any funds paid by the applicant to the city.

(f) *Certificate of occupancy.* No certificate of occupancy shall be issued for any residential unit constructed pursuant to the exemption provided in this section until a final plat/development plan has been approved by city council and properly recorded.

## § 30-903. PUD residential planned unit development

This article provides specific regulations governing the development of the area known as "Pelican Coast", which is designated primarily for residential and supplemental commercial development as reflected on the comprehensive land use plan map of the city.

(1) *Permitted uses.* The following land uses are permitted within a PUD district, subject to compliance with all other provisions of this Code: single-family attached or detached dwellings, duplex, and multifamily housing.

(2) *Accessory structure and uses.* The following accessory structures and uses are permitted within a PUD: tool, garden and storage buildings; gazebos; piers and docks; satellite dish antennas; home occupations; swimming pools; pool enclosures; tennis courts and similar minor recreational facilities.

(3) *Conditional uses.* The following uses shall be the only uses allowed as a conditional use within a PUD: Churches, publicly operated parks and recreation facilities and private recreation facilities, child care, eating and drinking establishments, mini-storage, culture institutions, public and private utilities and repair service establishments. All conditional uses are subject to the requirements of the city governing the grant of conditional uses presently contained in division 6, article II of the City Code, as well as the performance standards listed in section 30-228(c).

(4) *Commercial uses.* The following uses are permitted within the PUD designated for commercial development: Retail stores, sales and display rooms; personal service establishments, including but not limited to beauty salons, barbershops, laundry and dry cleaning facilities, tailor shops and shoe repair shops; professional offices, studios, clinics, laboratories, general offices, business schools and similar uses; general offices and printing establishments; financial institutions; eating and drinking establishments subject to outside seating being limited to the hours of 8:00 a.m. to 10:00 p.m. and be setback a minimum of 50 feet from residential property; veterinary clinics, excluding boarding except in conjunction with customary veterinary practices; commercial recreation structures such as theaters and bowling alleys; public and private clubs and lodges and government buildings and facilities. Such uses shall be subordinate to the predominantly residential character of the PUD, and shall be designated to primarily serve the needs of the residents of the planned development in which they are located. Such commercial uses shall be designed to maintain and protect the residential character of the planned development and adjacent residential neighborhoods. As a result, the following requirements on commercial development shall be imposed in addition to those otherwise required by section 30-228:

a. *Enclosure.* Commercial uses shall be conducted within a completely enclosed building with no outside display, except those uses which by their nature must be conducted outside a building. Any such outside use shall be reviewed by the planning and zoning advisory board and city council. If found acceptable, such use shall be screened by a masonry wall or fence or a combination berm and landscaping with a wall or fence and shall provide a 90 percent opaque screen.

b. *Commercial area.* The maximum total developed area within the PUD (i.e., all structures, at-grade off-street parking, loading areas and landscaping in connection therewith), devoted to commercial uses shall not exceed five percent of the overall area of the PUD.

c. *Issuance of building permits.* No building permit for any commercial use shall be issued, nor may any building be used, for a commercial use before building permits for no less than 50 dwelling units in the PUD project have been issued and the developer pursues any construction provided by said permits.

(5) *Size and dimension regulations:*

a. *Maximum density:* Comprehensive plan land use designation shall govern the maximum density permitted for overall development of the PUD.

b. *Minimum common recreation and open space:* A portion of the gross site acreage shall be delineated as tracts for common recreation and open space to be weighted based upon the mixture of residential uses in the PUD according to the following:

Multifamily = 25%

Single-family with lots <= Two acre = 15%

Single-family with lots > Two acre = 0%

Regardless of the above, common recreation open space shall be provided at a minimum rate of 1.5 acres per 100 residential units, regardless of type.

c. *Frontage and accessibility:* Every dwelling unit or other use permitted in the PUD shall have vehicular access to a public street either directly or via an approved private driveway, court, or other area dedicated to public use, private use or common element guaranteeing access.

d. *Trash and utility plant screens:* All refuse, trash and garbage collection containers shall be screened from sight or located in such a manner that will comply with the provisions of section 30-234.

e. *Signs:* Signs shall be permitted only in accordance with an approved sign plan submitted with the development plan; however, no signs prohibited elsewhere in the Code of Ordinances shall be allowed. Such sign plan shall provide for effective sign controls on the type, height, number, size and location of all signs in the development, and shall be designated to minimize sign proliferation and maximize the architectural integration of all signs into the development.

f. *Minimum development size:* The overall size of the PUD shall consist of at least 200 acres.

## § 30-904. General procedure for PUD zoning; conceptual development plan

Any petition(s) for PUD zoning shall be submitted and processed in the same manner as zoning amendments, generally, and in accordance with the following additional special procedures:

(1) *Preapplication conference.* Prior to submitting a formal application for PUD zoning, the petitioner shall confer with the city staff and other agencies and officials involved in the review and processing of any applications and related materials. The applicant is further encouraged to submit a proposed conceptual development plan for review at the conference, and to obtain information on any projected plans, programs or other matters that may affect the proposed planned community. This preapplication conference should address but not be limited to:

- a. The proposed relationship between the anticipated project and surrounding uses, as well as the consistency of the proposed development to the city's comprehensive plan and/or stated planning and development objectives.
- b. The adequacy of existing and proposed streets, utilities and other public facilities to serve the PUD.
- c. The nature, design and appropriateness of the proposed land use arrangement to the size and configuration of property involved.

(2) *Initial filing.* An application for approval of a PUD and conceptual development plan shall be filed together with the requisite fee at the office of the building and zoning department. Such applications shall contain the following materials or data in sufficient quantities for necessary referrals and records:

- a. Evidence of unified control of the proposed planned development and any associated agreements required herein.
- b. A proposed conceptual development plan as prescribed in section 30-908 herein.
- c. Such other materials as the applicant may determine is applicable to and in support of the PUD zoning and conceptual development plan.
- d. Any additional information that may be required by staff, the planning and zoning advisory board or the city council to fully evaluate the application and its concurrency and consistency with applicable law.

(3) *Fee for review.* The fee for filing said application shall be established by resolution of the city council.

(4) *Ownership requirements for application.* PUD zoning and conceptual development plan applications shall be filed in the name of the record owner(s) of the property included in the PUD. However, the application may be filed by an applicant with an equitable interest in the property, or by an attorney or agent for the owner, provided the record owner joins in and executes the application. All applications shall include a verified statement showing each and every individual person having a legal equitable and/or beneficial ownership interest in the property upon which the application for PUD zoning and conceptual development plan approval is sought, except corporations, in which case the names and addresses of the corporation and its principal executive officers shall be provided.

The application(s) shall contain a verified statement of unified control of the entire area within the proposed PUD, as well as a verified statement reflecting that if the applicants, or any successors in interest, proceed with any approved development, that such persons will:

- a. Develop the PUD only in accordance with the officially approved final development plan for the PUD, and such other conditions, amendments or modifications as may be approved by the city.
- b. Provide at the time of final development review such agreements, covenants, contracts, deed restrictions, or sureties acceptable to the city for completion of the undertaking in accordance with the adopted final development plan, as well as for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at general public expense.
- c. Execute and record any and all documents necessary to bind any and all successors in title to any commitments made by the applicant under a. and b.

(5) *Review procedures for PUD zoning.* Each applicant for PUD zoning shall also submit a conceptual development plan in compliance with section 30-908 for review by the city.

a. *Staff review.* Five copies of the conceptual development plan shall be submitted to the building and zoning department. The plan shall be reviewed by the building official, the city engineer, and such other staff or professional consultants as the building official deems appropriate, including any applicable state, federal and county regulatory agencies.

b. *Criteria for review.* The city staff shall present its findings in a written report to the planning and zoning advisory board. The staff review shall address, at a minimum, the following items:

1. *Compliance with the City of Satellite Beach Comprehensive Plan.* Whether the proposed PUD zoning and conceptual development must be consistent with the land use designation denoted on the land use map and the policies contained in the comprehensive plan.
2. *Conformance with applicable ordinances.* Whether the proposed PUD zoning and conceptual development plan shall comply with the requirements of all applicable regulations and ordinances of the city, as well as any state and federal regulations governing the proposed PUD development.
3. *Land use compatibility.* Whether and the extent to which the proposed PUD and conceptual development plan create incompatible land uses, considering the type and location of proposed uses.
4. *Concurrency.* Whether and the extent to which the proposed PUD and conceptual development plan would create demands on public facilities and services that exceed the capacity and/or levels of service for such facilities and services, existing or programmed, including transportation, utilities, drainage, recreation, education, emergency services, and other necessary facilities and services.
5. *Natural environment.* Whether and the extent to which the proposed PUD and conceptual development plan cause adverse impacts on the natural environment, and if so, identify same.

6. *Economic effects.* Whether and the extent to which the proposed PUD and conceptual development plan adversely affect property values in the area surrounding the PUD, as well as the overall property values to the city in general.

7. *Orderly development.* Whether the proposed PUD and conceptual development plan provide orderly and logical development patterns, and if not, specifically identifying the actual and potential negative effects of the proposed development patterns.

8. *Other matters.* Any other matters the city staff determines appropriate or relevant based upon the actual PUD proposal and conceptual development plan.

c. *Review by planning and zoning advisory board and city council.* The planning and zoning advisory board and the city council shall hold separate public hearings on each PUD zoning and conceptual development plan. Notice of any public hearings shall be as required by law.

1. *Considerations by the planning and zoning advisory board.* The planning and zoning advisory board shall review the proposed PUD zoning and conceptual development plan to determine compliance with the intent and requirements of this article and the comprehensive plan. The board shall also consider the recommendations and comments of the staff. The board shall consider the environmental impact statement defined in subsection 30-908(5)c. to identify those areas within the PUD to be of critical environmental sensitivity. The board shall recommend to the city council areas of critical environmental sensitivity to be retained in their natural state or other appropriate measures to protect the areas.

2. *Action by the planning and zoning advisory board.* The board shall recommend to city council the approval, approval with modifications or conditions, or disapproval of the proposed PUD zoning and conceptual development plan.

3. *Consideration by city council.* The city council shall consider the recommendations and comments of the planning and zoning advisory board and staff.

4. *Action by the city council.* The city council shall approve, approve with modifications or conditions, or deny the proposed PUD zoning and conceptual development plan, or may refer same back to the planning and zoning advisory board with directions for further consideration.

5. *Conditions.* In approving a proposed PUD zoning and conceptual development plan, the city council may establish such conditions, and may require such modifications, it deems appropriate. The city council may waive or modify subdivision, site plan or other zoning requirements otherwise applicable to the proposed PUD development and conceptual development plan where such waiver or modification is not in conflict with planned unit development standards and regulations and is not otherwise specifically prohibited by law.

6. *Effect of disapproval.* If either the conceptual development plan or the PUD zoning request is denied by the city council, the application for the other shall be deemed to be denied.

7. *Requests for additional information.* The city council may require the submission of additional information from the applicant if it determines such information is necessary for proper review of either the PUD zoning or the conceptual development plan. The review of such additional information shall follow the procedures applicable to the review of the PUD zoning and conceptual development plan.

8. *Amendments of conceptual development plans.* Once a conceptual development plan has been approved, and there is cause for amendment of same, or any portion thereof, such amendment shall be processed in the same manner as the original application. However, there shall be no requirement to file an amended rezoning application unless the proposed amendment so requires.

9. *Prescribed time limit for development.* The city council may approve a planned unit development and conceptual development plan, subject to a requirement that a preliminary development plan for the site must be submitted and approved not more than 18 months after approval of the PUD zoning and conceptual development plan. If such preliminary development is not approved within the time provided by the city council, approval of the conceptual development shall expire on such date. Upon expiration of any conceptual development plan, a new conceptual development plan must be approved for the site. The city council may also initiate the rezoning of the property to an appropriate zoning classification, pursuant to the procedures outlined in the Satellite Beach Code of Ordinances. The prescribed time limit for the approval of a preliminary development plan may be extended by the city council for good cause if the owner/applicant presents evidence within the time period provided in the approval of the conceptual development plan for submission of the preliminary development plan that the owner/applicant has progressed in good faith toward implementing the conceptual development plan and submitting the preliminary development plan. City council shall also consider the nature and extent of any amendments to the city's comprehensive plan and land development regulations that occurred since the approval of the PUD and conceptual development plan in determining whether to grant such extension.

## **§ 30-905. General procedure for preliminary development plan review**

The granting of a rezoning for a planned unit development and the approval of its accompanying conceptual development plan by the city council shall constitute authority for the applicant to submit a preliminary development plan. The applicant may submit concurrently with the preliminary development plan a final development plan pursuant to section 30-907. The preliminary development plan shall be filed, processed and reviewed pursuant to this section.

(1) *Filing preliminary development plan.* No preliminary development plan shall be filed unless it has been prepared pursuant to the approved conceptual development plan. The city recognizes that planning and construction for the entire SBH will proceed to completion in phases over the next seven years pursuant to the approved conceptual plan. As such, the preliminary development plan for each phase shall be submitted no later than 18 months after the approval of the preliminary development plan for the previously approved phase. However, in no event shall the preliminary development plan(s) for any phase(s) of SBH be submitted later than seven years from the date of approval of the conceptual plan for the entire SBH.

(2) *Fee for preliminary development plan review.* The filing fee for an application for preliminary development plan review shall be established by resolution of the city council.

(3) *Ownership requirements for application.* The unified ownership requirements for preliminary development plan evaluation and approval shall be the same as those required for review of PUD zoning and a conceptual development plan.

(4) *Review procedures for preliminary development plan.* Each applicant for preliminary development plan approval shall submit a proposed plan containing those matters required hereafter for review by the city.

a. *Staff review.* Five copies of the preliminary development plan including a preliminary plat thereof, shall be submitted to the building and zoning department, and shall be reviewed by the building official, the city engineer, and such other staff or professional consultants as the building official deems appropriate, including any state, federal and county regulatory agencies.

b. *Criteria for review.* The city staff shall present its findings in written report to the planning and zoning board.

1. *Compliance with subdivision regulations.* The preliminary development plan shall comply with the preliminary plat requirements of the city's subdivision regulations.

2. *Compliance with zoning regulations.* The elements of the preliminary development plan shall comply with all land development regulations, except as modified by provisions of this article.

(i) *Modified building setbacks:* Subject to the approval by the planning and zoning advisory board and city council, building setbacks may be modified from the provisions of the underlying zoning districts provided that proposed structures do not abut utility easements or otherwise affect the ability to provide and maintain utility service and general and emergency access to each lot.

(ii) *Required perimeter building setback.* No building shall be located closer than 30 feet to any perimeter property line within a PUD. One foot of perimeter setback shall be added for each foot or fraction thereof of building height over 25 feet. The perimeter building setback may be reduced if it is determined by the city council that sufficient landscaping and/or buffers are provided to provide the approximate visibility angle(s) with abutting properties as if the building did not exceed 25 feet.

(iii) *Modification in minimum lot size.* Modifications may be permitted in the minimum lot size provided the proposed lot or lots all have substantial relationship to the common open space (e.g., are directly adjacent to or abut a common open space area) and the arrangement of dwelling units provides for adequate separation of units and the living area of the dwelling unit. In addition, the modification must provide for innovative design that advances the purpose of the PUD as set forth in section 30-900 and in the applicant's statement of project objectives.

c. *Review by planning and zoning advisory board and city council.* The planning and zoning advisory board shall hold a meeting to review the preliminary development plan. Recommendations shall be forwarded to the city council. The city council shall review the plan, and approve said plan prior to the submission of any final development plan.

1. *Considerations by the planning and zoning advisory board.* The planning and zoning advisory board shall review the preliminary development plan to ensure its compliance with the comprehensive plan, the land development regulations and the previously approved PUD zoning and conceptual development plan. The board shall consider the recommendations and comments of the staff. The board shall use the updated environmental impact statement defined in subsection 30-909(1)c. to identify those areas within the PUD constituting areas of critical environmental sensitivity to be retained in their natural state or providing other appropriate measures to protect the areas.

2. *Action by the planning and zoning advisory board.* The board shall recommend approval, approval with modifications or conditions, or disapproval of the proposed preliminary development plan.

3. *Consideration by city council.* The city council shall consider the recommendations and comments of the planning and zoning advisory board and staff.

4. *Action by the city council.* The city council shall approve, approve with modifications or conditions, or deny the preliminary development plan, or may refer same back to the planning and zoning advisory board, with directions for further consideration.

5. *Conditions.* In approving a preliminary development plan, the city council may establish such conditions and may require such modifications as shall assure compliance with all applicable laws. The city council may waive or modify subdivision, site plan or other zoning requirements otherwise applicable to the preliminary development plan when such waiver or modification is not in conflict with said planned unit development standards and regulations and is not otherwise specifically prohibited by law. No preliminary development plan, or part thereof may be recorded for any purpose or reason.

6. *Requests for additional information.* The city council may require the submission of additional information by the applicant if it determines such information is necessary for proper review of the preliminary development plan. The review of such additional information shall follow the procedures applicable to the review of the preliminary development plan.

7. *Amendments of preliminary development plans.* Once a preliminary development plan has been approved, and there is cause for amendment of the same, or any portion thereof, such amendment shall be processed in a like manner as the original application. However, there shall be no requirement to file an amended rezoning application and conceptual development plan, unless the proposed amendment so requires.

8. *Prescribed time limit for development.* The city council may approve a preliminary development plan application subject to a prescribed time limit set forth in subparagraph (1) of this section. If such final development is not approved within the time provided by the city council, approval of the preliminary development plan and conceptual development plan shall expire on such date. Upon expiration of any conceptual development plan, a new conceptual development plan must be approved for the site. The city council may also initiate the rezoning of the property to an appropriate zoning classification, pursuant to the procedures outlined in the Satellite Beach Code of Ordinances. The building official may grant a one time extension of 12 months for the filing of any final development plan approval for any phase located in, and subject to, any preliminary development approval in the SBH, as long as such request is filed before the expiration of the preliminary development plan, as provided herein, and the land development regulations governing development in the affected phase(s) have not been amended since the approval of the preliminary development plan.

The prescribed time limit for the preliminary development plan may be extended by the city council for good cause if the owner/applicant presents evidence within the time period provided in the approval of the preliminary development plan that the owner/applicant has progressed in good faith toward implementing the conceptual development plan and the preliminary development plan. City council shall also consider the nature and extent of any amendments to the city's comprehensive plan and land development regulations that occurred since the approval of the PUD and conceptual development plan in determining whether to grant such extension.

## **§ 30-906. General procedure for final development plan review**

Approval of the preliminary development plan by the city council shall constitute authority for an applicant to submit a final development plan prepared in accordance with the requirements herein, unless such plan is submitted simultaneously for approval with the preliminary development plan. A final development plan, including a plat thereof, shall not be considered approved by the city council and shall not be recorded in the records of Brevard County until it has been approved in a manner prescribed herein.

(1) *Filing final development plan.* No final development plan shall be considered for approval unless it is prepared pursuant to and consistent with a duly approved preliminary development plan. Five copies of a final development plan shall be filed with the office of the building and zoning department together with the requisite fee for processing and reviewing said plan.

(2) *Filing staged final development plans.* A final development plan may be prepared and submitted for the entire planned unit development at one time, or for individual development phases within the PUD. Development by phases shall occur sequentially by number as reflected in the conceptual development plan approved by council.

(3) *Time limit for submission of final development plan.* The final development plan for the first phase of that portion of SBH located north of Patrick Drive, and for each phase thereafter located north of Patrick Drive, shall be filed no later than 18 months from the date of approval of the preliminary development plan for each such phase, or within such extended periods as the council may authorize. The final development plan for each phase of the area south of Patrick Drive shall be filed no later than the completion and approval by all applicable regulatory agencies of all road and utility work being constructed in each phase, with the final development plan for the last phase(s) to be submitted no later than seven years after approval of the conceptual development plan for the entire SBH.

(4) *Fee for review of final development plan.* The filing fee for an application for final development plan approval shall be established by resolution by the city council.

(5) *Ownership requirements for application.* The unified ownership requirements for final development plan evaluation and approval shall be the same as those required for review of PUD zoning and a conceptual development plan.

(6) *Review procedures for final development plan.* Each applicant for final development plan approval shall submit a proposed plan containing those matters required herein for review by the city. The review process shall be carried out pursuant to this article.

a. *Staff review.* The office of the building and zoning department shall transmit the final development plan to the city engineer and such other staff or professional consultants as may be deemed necessary. As part of the staff review, the building official shall review the final development plan to assure that all public improvements are constructed and in place pursuant to the approved plans and specifications, and that no outstanding indebtedness is due for said improvements. As an alternate surety, the applicant may deposit a certified check, cash, or other bonding provision as the city council deems adequate to ensure total compliance. The bond requirement shall be established based on procedures to be adopted by resolution of the city council.

b. *Criteria for final development plan review.* The city staff shall report its evaluation of the final development plan in a written report to the planning and zoning advisory board. The staff report shall evaluate the said plan based on the following minimum criteria:

1. *Compliance with preliminary development plan.* The final development plan shall incorporate all changes, modifications, and conditions required by the approved preliminary development plan. The final development plan shall provide only that portion of the approved preliminary development plan which the applicant purposes to currently record and develop, provided all requirements of this article are satisfied for such portion standing alone.

If the final development plan includes changes from the approved preliminary development plan, the building official shall review the plan to determine the effect of the proposed changes on previous actions of council relative to the site, as well as their consistency with all then existing applicable regulations. The building official shall determine whether any proposed changes are such that the preliminary development plan should be resubmitted to the planning and zoning advisory board. In any case of doubt, the preliminary development plan shall be re-submitted for board approval. All minor changes shall be approved by the city engineer, building official and planning and zoning advisory board at the time of approval of the final development plan.



2. *Compliance with subdivision regulations.* The final development plan, and plat thereof, shall comply with the city's subdivision regulations.

3. *Compliance with final development plan requirements.* The elements of the final plat shall comply with all requirements for form and content of a final development plan herein stated. This information shall be used to evaluate compliance with the purpose and intent of the PUD district. All permitted and conditional uses shall be allowed only in the location shown on the approved final development plan.

4. *Compliance with other regulations, ordinances, and statutes.* The elements of the final development plan shall comply with all land development regulations, and shall comply with all other applicable regulations, ordinances, and statutes of the city, county and state concerning final plats and final development/site plan review.

c. *Review and action by city council.* Upon receipt of the written staff evaluation and recommendation of the board for final development plan review, the city council shall consider the application for the final development plan. Such consideration shall be predicated on criteria listed in the above paragraph and those portions of the city code regarding general site plan approval that apply under the circumstances. The city council shall approve, approve with conditions or modifications, or deny the final development plan.

(7) *Commencement of development.* Following the approval of the final development plan by the city council, the plat of the final development plan, together with any applicable filing fee, shall be submitted by the applicant to the Brevard County Court Clerk for filing in the public records. The applicant shall be authorized to apply for all permits necessary to proceed with the construction and development of the planned unit development project thereafter.

(8) *Failure to comply with approved final development plan.* Failure to comply with the requirements of the approved final development plan and any conditions imposed in its final approval, including time conditions, shall constitute a violation of this article. Upon finding by the city council that the developer failed to comply with the conditions of any staging plans or prescribed time limits, the approval of the final development plan shall be automatically terminated. Prior to continuing with the planned unit development, the developer shall reapply to the city council for approval to continue. The city council may authorize the petitioner to continue under the terms of the final development plan or may require the developer to re-submit the application in conformance with any step outlined in the procedure for preliminary development plan or final development plan approval. One consideration in such determination will be whether any amendments to the city's comprehensive plan and other land development regulations occurred since approval that may require more stringent development requirements than those imposed at the time of the prior plan approval(s). No subsequent plan or re-approval shall effect an increase in the overall project density or change in use as established in the original conceptual development plan approval.

(9) *Minor changes in approved final development plan.* Minor changes from the approved final development plan in the location or siting of buildings and structures or in the landscape plan may be authorized by signature of the city engineer and building official if required by engineering or other circumstances not foreseen at the time the final development plan was approved. No change authorized by this subsection may cause any of the following:

- a. A change in the use or character of the PUD plan;
- b. An increase in overall coverage by structures;
- c. An increase in the intensity of use, or the density;
- d. An increase in estimated traffic counts, circulation requirements and public utilities consumption;
- e. An increase in the quantity and/or rate of discharge of surface water runoff;
- f. A reduction in approved open space;
- g. A reduction in required pavement widths;
- h. A violation of a specific requirement or condition of this article. Changes, erasures, modifications, additions or revisions shall not be made to a final development plat after the city council approval has been given, unless the final development plat is resubmitted for approval.

(10) *Occupancy and use of premises.* Prior to the use or occupancy of any portion of a planned unit development, the developer must satisfy all the provisions of the approved final development plan as stipulated herein, and obtain all necessary permits.

## **§ 30-907. Conceptual development plan form and content**

An application for PUD zoning shall be accompanied by a conceptual development plan. Such plan shall include the following minimum requirements:

(1) *Vicinity map.* A vicinity map drawn to scale clearly showing the site in relation to its surroundings. Where the project exceeds 100 acres in area, an aerial photograph made within the last two years shall accompany the application. The aerial shall be at a scale of at least one inch equals 500 feet showing all property within 1,000 feet of the project boundaries.

(2) *Property boundaries.* A certified survey delineating the location and dimensions of all boundary lines of the proposed PUD, as well as any contiguous lands, including those separated only by a street, canal, or similar feature, in which the developer or property owner presently has any legal interest. Such survey shall also reflect all existing easements, roads, rights-of-way and other ways on and immediately adjacent to the proposed PUD.

(3) *Existing conditions.* The approximate location, nature and extent of all existing easements, streets, buildings, land uses, historic sites, zoning, tree groupings, wetlands, watercourses, and general U.S. Coast and Geodetic sheet topographic contours on the site, the names of the property owners of record and existing zoning and land uses for all property within 300 feet of the proposed PUD; the approximate location and width of all existing or platted streets, drainage ways, utilities, and similar features contiguous to the site.

(4) *Development plan.*

- a. *Land use.* The total project acreage and approximate location of each proposed land use, proposed intensity of land use, acreage by proposed land use, dwelling unit types, general types of proposed nonresidential uses, open spaces, recreational facilities, and other proposed uses.
- b. *Circulation.* A traffic and pedestrian circulation facilities plan showing approximate size, location and type of all access points, sidewalks, ways and major streets.
- c. *Conceptual drainage plan.* A conceptual drainage and stormwater plan approved by the city engineer and consistent with the city's land development regulations.
- d. *Nonresidential square footage.* Approximate square footage of all nonresidential land uses by general type, e.g., offices, neighborhood commercial, industrial, etc.

(5) *Written material.*

- a. *Planning objectives.* A statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
- b. *Development schedule.* A proposed development schedule indicating the approximate starting and completion dates for the entire project and any phases thereof, together with appropriate identification and conceptual description of such phases.
- c. *Environmental impact statement.* A statement explaining the positive and negative environmental impacts of the proposed development on:
  1. Environmentally fragile lands including wetlands, floodplain, and any other significant features;
  2. Natural vegetation, including general tree removal estimates and impact of proposed grading plan and drainage system improvements;
  3. Other significant natural features of the site as defined by the city's comprehensive plan and other state and federal regulatory authority.
- d. *Public facility impact statement.* A statement identifying the estimated impact of the proposed development on public facilities, including:
  1. Quantity of wastewater generated;
  2. Quantity of solid waste generated;
  3. Quantity and rate of surface water runoff;
  4. Quantity of potable water required;
  5. Estimated number of daily vehicle trips starting and/or ending at and within PUD boundaries;
  6. Description of recreation facilities proposed;
  7. Estimated number of school age children expected within the proposed PUD;
  8. Estimated number of persons greater than 65 within the proposed PUD;
  9. Estimated property tax and/or sales tax revenue generated by the PUD by phase;
  10. Estimated impact on local hurricane evacuation times; and
  11. Any other positive or negative impacts that significantly affect infrastructure and other public facilities.
- e. *Additional information.* Any other additional material and information required by city staff, the planning and zoning advisory board or city council.

## § 30-908. Preliminary development plan form and content

A preliminary development plan shall be submitted along with all of the material included in a previously approved conceptual development plan. The preliminary development plan shall include the following data in addition to that submitted with the conceptual development plan:

(1) *Written material.*

- a. *Development schedule.* A development schedule indicating the approximate date when construction of the PUD or stages of the PUD are expected to begin and be completed.
- b. *Quantitative data:*
  1. Total number of dwelling units by type.
  2. Total parcel size of PUD or portion proposed to be presently developed.
  3. Total number of non-dwelling units by type.
  4. Proposed lot or building site coverage by individual and total building and structure type.
  5. Proposed impervious surface coverage by lot and building site.
  6. Gross and net residential density.
  7. Proposed amount of open space.
  8. Proposed amount of public lands, including all dedicated rights-of-way, easements, and other lands dedicated for public use.

c. *Updated environmental impact statement and environmental survey.* A statement explaining any additional information that may have been gathered or calculated since the approval of the conceptual development plan concerning any positive or negative environmental impacts that may be associated with the development. This statement shall include all environmental information that may be submitted as part of a development of regional impact (DRI) review process, if applicable. The updated environmental impact statement shall also include an environmental survey showing the existing and proposed site conditions, including contours at two-foot internals; watercourses; floodplains; unique natural features; areas of environmental concern; historic features; and trees and vegetative cover shown in a tree survey. The planning and zoning advisory board may grant a waiver to the tree survey requirement upon recommendation by the city engineer. In such case, an aerial photograph denoting the tree canopy at a scale acceptable to the city engineer shall be submitted in lieu of the tree survey.

d. *Updated public facility impact statement.* A statement identifying any additional data or information that may have gathered or calculated since the approval of the conceptual development plan concerning any impacts of the development on public facilities, including:

1. Quantity of wastewater generated;
2. Quantity of solid waste generated;
3. Quantity and rate of surface water runoff;
4. Quantity of potable water required;
5. Estimated number of daily vehicle trips starting and/or ending at and within PUD boundaries;
6. Description of recreation facilities proposed;
7. Estimated number of school age children expected within proposed PUD;
8. Estimated number of persons greater than 65 within the proposed PUD;
9. Estimated property tax and/or sales tax revenue generated by the PUD by phase;
10. Estimated impact on local hurricane evacuation times; and
11. Any other positive or negative impacts that significantly affect infrastructure and other public facilities.

e. *DRI information.* If any planned unit development qualifies as a development of regional impact, as defined in F.S. ch. 380, such proposed PUD shall include all data submitted as part of the required application for DRI approval.

f. *Additional information.* Any other additional information or material, which the city staff, the planning and zoning advisory board or city council may require.

(2) *Graphic element of development plan:*

a. *Plat and site plan.* A preliminary plat and development plan shall be submitted with the application. It shall be prepared and submitted pursuant to the requirements of the city's subdivision regulations for purposes of preliminary plat approval, as well as any applicable land development regulations that may apply. If not otherwise required by applicable regulations governing this application, the preliminary plat and development plan shall include maps necessary to show at least the following:

1. Proposed name of the PUD, name of city, and description of section, township and range.
2. Name and address of record owners, applicant, and person preparing preliminary development plan.
3. The locations and names of abutting subdivisions and the names of owners of record of all persons owning property within 300 feet of the proposed PUD.
4. Date, north arrow and graphic scale acceptable to the city engineer.
5. Legal description and survey of the proposed PUD boundaries made and certified by a Florida registered land surveyor.
6. Proposed lot or building site lines with proposed dimensions, setbacks, and landscaped yards. Location and floor area size of all existing and proposed buildings, structures and other improvements. Designation of all dwelling unit types and number of units. Net residential density calculations. Plans for nonresidential uses shall include the square footage allocated to each respective use.
7. Any desired changes from any underlying zoning regulations, and the boundaries of any underlying zoning districts.
8. Location, name and dimensions of all existing and proposed dedicated public lands and uses and any conditions of such dedication.
9. The width and location of any street or other public way contained in the city's comprehensive plan and located within the PUD, as well as the proposed width, location and grade of all streets or other public ways proposed by the applicant.
10. Location of closest available potable water supply system and proposed preliminary design for water service improvements, including proposed level of service, general location of facility improvements, and schematic drawings required by the city engineer. The final construction drawing shall not be required prior to preliminary plan approval.
11. Area in square feet of each lot or building site, to be indicated in a rectangle within each lot or building site.
12. Location and typical cross-sections of proposed streets, sidewalks, canals and ditches and other proposed improvements.
13. Location of closest available wastewater collection system and proposed preliminary design of wastewater collection improvements, including proposed location of improvements, level of service proposed, and schematic drawings as required by the city engineer. Final construction drawings shall not be required prior to preliminary development plan approval.

14. Location of proposed improvements for collecting and discharging surface drainage and the preliminary design of such facilities, including the proposed level of service, and schematic drawings as required by the city engineer and any other regulatory agency. Final construction drawings shall not be required prior to preliminary development plan approval.

15. Location and preliminary design of proposed bridges or culverts which may be required, including the type of facility and general level of service as well as schematic drawings as required by the city engineer. Final construction drawings shall not be required prior to preliminary development plan approval.

16. Proposed locations and preliminary designs for fire hydrants and flow capacities/facilities.

17. Location and width of proposed permanent utility easements. The easements shall provide satisfactory access to existing rights-of-way or other open space shown upon the tentative PUD plat. Permanent drainage easements shall also be shown.

18. Where the tentative PUD plat covers only a part of the PUD owned by the applicant, a master phasing plan shall also be required unless the application certifies that the remaining real property shall be developed independently of the proposed PUD plat.

19. The proposed treatment of the perimeter of the PUD plat, including material and techniques used, such as landscape, fences and walls for screening and buffering.

b. *General appearance.* Graphic presentation of the general features of any proposed structures, excluding single-family detached dwellings, including:

1. Floor plans and square footage of all multifamily and nonresidential buildings or structures, and
2. Elevations, sections and/or perspectives necessary to indicate the basic architectural intent, the height of buildings and structures, and the general window and door arrangements.

c. *Vehicular, pedestrian and bicycle circulation and parking.* The existing and proposed circulation system of arterial, collector and local streets, including off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way (including major points of ingress and egress to the development). Notations of proposed ownership, public or private, shall be included where appropriate. The existing and proposed pedestrian and bicycle circulation system, including its interrelationship with the vehicular circulation system indicating proposed treatments of points of conflict.

d. *Open space and landscape plan.* A general landscape and grading plan indicating the proposed modifications in the topography and ground cover together with a plan for design of open space systems and landscaping. The landscape plan shall comply with open space, landscape and tree preservation requirements of this chapter.

e. *Information concerning adjacent lands.* Information on adjacent areas sufficient to indicate the relations between the proposed development and the adjoining areas, including:

1. Existing land use.
2. Zoning classification.
3. Circulation system.
4. Density.
5. Allowable and existing building height limits.
6. Public facilities.
7. Unique natural features.

f. *Additional information.* Any additional graphic information required by staff, the planning and zoning advisory board and city council which is necessary to evaluate the character and impact of the proposed preliminary development plan.

(3) *Site plan review standards.* The provisions of sections 30-33 through 30-39 shall apply to all developments within PUD districts, unless contrary to the provisions of this article.

## § 30-909. Final development plan form and content

A final development plan shall include all elements of the approved preliminary development plan described herein. The final development plat, along with the preliminary development plan elements approved by the city council, or as subsequently amended pursuant to applicable regulations, shall comprise the elements of the final development plan.

(1) *Required content and characteristics.* The final development plat shall include the following:

- a. *Preparation by professional.* Drawings properly prepared and sealed by a land surveyor registered in the State of Florida.
- b. *Scale.* Drawings clearly and legibly drawn in India ink on Mylar or other acceptable material, to a size 24 inches by 36 inches, and to a scale of one inch equals 40 feet or other scale acceptable to the building official, and shall include a north arrow.
- c. *Compliance.* Compliance with all applicable regulations, ordinances and statutes of the city, county and state concerning the preparation of plats.
- d. *Name.* A title or name acceptable to the city. If the final development plat is an addition to or a revision of a prior recorded final development plat, then the title of the development plat shall include the name of the prior recorded final plat.

e. *Legal description.* There shall be lettered or printed upon the final plat a complete description of the land embraced in the plat, showing the township and range in which such lands are situated, the section and part of sections platted, and a location sketch showing the plat's location in reference to the closest section corner or quarter-section corner of each section embraced within the plat. The description must be so complete that from it, without reference to the plat, the starting point can be determined and the outlines run. The initial point in the description shall be tied to the nearest government corner or other recorded and well established corner. If platting of a part of a previously recorded plat is made, the previous lots and blocks to be developed and replatted shall be given. If the plat is a replatting of an entire or part of a previously recorded plat, that fact shall be so stated. Vacation of previously platted lands must be accomplished in the manner provided by law.

f. *Adjacent subdivision rights-of-way, and easements.* The plat shall include the location and names of adjacent subdivisions, including plat book and page number, together with the location and dimensions of all streets, rights-of-way, and easements adjoining or within the plat. The purpose of the easements shall be designated.

g. *Plat boundaries.* All plat boundaries shall be delineated by municipal, county or section lines, accurately tied to the lines of the PUD by distance and bearing.

h. *Bearings and monuments.* The plat shall include accurate location of all monuments together with bearings and dimensions to the nearest established section or quarter-section corner or other recognized permanent monuments which shall be accurately described in the plat. The center line of all streets shall be shown with distances, angles, arc distance, central angles, tangents, and radii. Center points will be shown on the plat by an appropriate designation and will be placed along the centerline of rights-of-way, preferably at centerline intersection, and other applicable points as may be directed by the city council. Permanent center points and permanent reference markers shall be considered improvements and shall be included in the performance bond and approved by the building official.

i. *Plat delineation's.* The plat shall include lengths of all arcs together with deltas, degrees of curves, radii, tangent distances, internal angles, points of curvature and tangent bearings. When lots are located on a curve or when side lot lines are not parallel and are at angles other than 90 degrees, the width of the lot at the front and rear building setback line shall be shown.

j. *Lot and block numbers.* The numbering of all lots, parcels and blocks shall be shown on the plat. All lots or parcels shall be numbered by progressive numbers individually or in blocks progressively numbered. Blocks in numbered additions bearing the same plat name shall be numbered consecutively throughout the several additions. Excepted parcels shall be marked "not part of this plat".

k. *Dedications.* All lots and parcels dedicated for public purposes including parks and recreation areas, and the area in square feet of those lots and parcels shall be shown.

l. *Lot and parcel dimensions and area.* The dimensions of all lots and parcels to the nearest hundredth, except where riparian boundaries are involved which may be plus or minus. Whenever lands are subdivided along the Atlantic Ocean and/or Banana River or its tributaries, lot dimensions shall be shown to the approximate mean high water, at date of survey, and as defined in the shore boundaries.

m. *Seal by land surveyor.* Certification by a State of Florida registered land surveyor to the effect that the PUD plat represents a survey made under his direction and that all monuments shown thereon actually exist, and that their location is correctly shown.

n. *Acknowledgment of plat adoption and dedication.* An acknowledgment by the owner (or if a corporation then two authorized officers' signature and seal) of the adoption of the plat, and of the dedication of streets and other public areas, and the consent of any mortgage holders to such adoption and dedication. Existing right-of-way beneath a proposed plat shall be vacated in accordance with the laws and ordinances of the city, county and state prior to approval and acceptance of a final PUD plat by the city council.

(2) *Additional certifications for final development plan approval.* The final development plan shall be accompanied by the following certifications:

a. *As-built plan.* The final development plan shall include an as-built plan of all improvements with a certificate of their respective locations by the applicant's engineer and the developer.

b. *Engineer's certification of improvements.* A certificate by the applicant's engineer and verification by the city engineer that the applicant has installed all requirement improvements in accordance with the approved plans and city specifications, and further certifying that no outstanding indebtedness is due for said improvements. For any improvements not so constructed and installed, the applicant's engineer shall certify that the applicant has posted a sufficient surety in form of a certified check or cash with the city finance officer, or has posted an alternate surety bond as the city council deems adequate, to assure completion of all required improvements. The city engineer shall verify such certification by the applicant's engineer.

c. *Certificate of title or attorney's opinion.* A current certificate of title from a title company doing business in the State of Florida or a verified opinion from an attorney authorized to practice law in this state stating that fee simple title to the land included in the PUD is held by the applicant.

d. *Certification of payment of taxes and assessments.* A certification from the city and county that all taxes and assessments have been paid on the land within the proposed final development plat.

e. *Certification of preliminary development plan.* A certification by the building official that the preliminary development plan, as duly approved, has been filed as part of the final development plan. The building official shall also certify that no certificate of occupancy shall be granted in the future until all elements of the plan for any particular phase have been completed. If approved by the city council, certificate of occupancies may be approved without certain elements (such as sidewalks) being completed within a phase and completed concurrently with the issuance of a certificate of occupancy.

## § 30-910. Open space and landscaped areas

All open space required by this chapter shall be either private, reserved for common use, or dedicated to the public. All required open space shall be reserved as such through appropriate deed restrictions which cannot be removed without the consent of the city council.

Private open space shall be owned in fee simple title as part of a lot or parcel in private ownership. The use of private open space shall be reserved and limited through appropriate deed restrictions. The deed restriction shall require the property owner to maintain the private open space in perpetuity.

All open space reserved for common use shall ultimately be owned in fee simple by an organization of property owners within the PUD plat. The organization shall be established by the applicant, and all organizational documents, including, but not limited to, articles of incorporation, bylaws and restrictive deed covenants, shall be submitted to the city attorney for approval prior to recording in the public records of the county and filing with the secretary of state. The organization shall be responsible for the maintenance of all common open spaces. The organization shall be empowered to assess reasonable maintenance fees upon the owners of real property within the PUD for the maintenance of the common open space.

(1) All open space reserved for common use shall be conveyed to the organization prior to or at the time when two-thirds of all the dwelling units of the PUD plat under development have been sold. Conveyance shall be by a general warranty deed in fee simple absolute, acceptable to the city attorney. The deed shall include a deed restriction providing for the perpetual maintenance of the common open space by the organization.

(2) The organization may offer to convey the common open space to the city at no cost. If the city accepts the offer, then the conveyance shall be of general warranty deed in fee simple absolute, acceptable to the city attorney. Upon acceptance, the open space shall be available for use by the general public. The city shall not accept a conveyance of common open space unless arrangements acceptable to it are made for the continued maintenance of the open space, which arrangements may include maintenance by the city.

(3) Open space dedicated to the public shall be open to the general public.

(4) All landscaped yards shall be owned in fee simple as part of an approved lot or parcel, and the landscaped yards shall be reserved and limited through appropriate deed restriction. The deed restrictions shall require the property owner to maintain the landscaping in perpetuity.

## § 30-911. Enforcement and penalties

In the event of a violation of this article by any person, the building official may suspend construction activity and revoke any issued building permit and take all actions necessary to halt construction until such time as the provisions of this article or any approved final development plan are complied with. In the event the city brings any legal action to enforce the provisions of this article or any approved final development plan, the land development regulations and any other applicable laws of the city or state, the developer shall be obligated to pay all expenses associated with said enforcement, including reasonable attorney's fees of the city.

## § 30-912. PCN-1 Pelican Coast North

(a) *Intent.* The provisions of the PCN-1 district are intended to establish and maintain areas of single-family residential development in accordance with Planned Unit Development for Pelican Coast.

(b) *Permitted uses.* Permitted uses are established in section 30-903(1).

(c) *Accessory structures.* Accessory structures are established in section 30-903(2).

(d) *Conditional uses.* Conditional uses are established in section 30-903(3).

(e) *Property development regulations.* Property development regulations are as follows:

(1) Minimum lot area and dimensions:

- a. *Area:* 4,500 square feet.
- b. *Width:* 40 feet.
- c. *Depth:* 100 feet.

(2) Minimum setback requirements:

- a. *Front:* 20 feet.
- b. *Side interior:* Five feet.
- c. *Side corner:* Ten feet.
- d. *Rear:* Primary structure—15 feet.  
Accessory structure—Five feet.

e. *Perimeter setback:* All lots abutting the perimeter of the planned unit development are:

1. Primary structure: 30 feet.
2. Accessory structure: 15 feet.

(3) Maximum building height: 35 feet.

(4) Minimum living area:

- a. 1,575 square feet. (limit to 20 percent of units).
- b. 1,675 square feet remaining units.
- (5) Minimum off street parking: 2.5 per unit.
- (6) Maximum lot coverage: 55 percent.
- (7) Maximum impervious area: 65 percent.

### **§ 30-913. PCN-2 Pelican Coast North**

(a) *Intent.* The provisions of the PCN-2 district are intended to establish and maintain areas of single-family townhouse residential development in accordance with planned unit development for Pelican Coast.

(b) *Permitted uses.* Permitted uses are established in section 30-903(1).

(c) *Accessory structures.* Accessory structures are established in section 30-903(2).

(d) *Conditional uses.* Conditional uses are established in section 30-903(3).

(e) *Property development regulations.* Property development regulations are as follows:

(1) Minimum lot area and dimensions:

- a. *Area:* 1,800 square feet.
- b. *Width:* 20 feet.
- c. *Depth:* 90 feet.

(2) Minimum setback requirements:

- a. *Front:* 20 feet.
- b. *Side interior:* 0 feet.
- c. *Side corner:* Ten feet.
- d. *Rear:* Primary structure—15 feet.

Accessory structure—Five feet.

e. *Perimeter setback:* All lots abutting the perimeter of the planned unit development are:

- 1. Primary structure: 30 feet.
- 2. Accessory structure: 15 feet.

(3) Maximum building height: 35 feet.

(4) Minimum living area:

- a. One bedroom unit: 900 square feet (limited to 20 percent of housing units).
- b. Two bedroom unit: 1,025 square feet.
- c. Three bedroom unit: 1,175 square feet.
- d. Four bedroom unit: 1,300 square feet.

(5) Minimum off street parking: 2.5 per unit.

(6) Maximum lot coverage: 60 percent.

(7) Maximum impervious area: 70 percent.

### **§ 30-914. PCN-3 Pelican Coast North**

(a) *Intent.* The provisions of the PCN-3 district are intended to establish and maintain areas of medium density, multi-family development in accordance with Planned Unit Development for Pelican Coast.

(b) *Permitted uses.* Permitted uses are established in section 30-903(1).

(c) *Accessory structures.* Accessory structures are established in section 30-903(2).

(d) *Conditional uses.* Conditional uses are established in section 30-903(3).

(e) *Property development regulations.* Property development regulations are as follows:

(1) Minimum lot area and dimensions:

- a. *Area:* One acre.
- b. *Width:* 100 feet.
- c. *Depth:* 100 feet.

(2) Minimum setback requirements:

- a. *Highway A1A:* 100 feet.
- b. *Front:* 25 feet.
- c. *Side interior:* 25 feet.

- d. *Side corner*: Ten feet.
- e. *Rear*: 25 feet.
- f. *Perimeter setback*: All lots abutting the perimeter of the planned unit development are:
  - 1. Primary structure: 30 + one foot per foot over 25'.
  - 2. Accessory structure: 15 feet.
- (3) Maximum building height: 85 feet with a maximum of seven stories.
- (4) Maximum building length: 200 feet.
- (5) Minimum living area:
  - a. One bedroom unit: 900 square feet (limited to 20 percent of housing units).
  - b. Two bedroom unit: 1,025 square feet.
  - c. Three bedroom unit: 1,175 square feet.
  - d. Four bedroom unit: 1,300 square feet.
- (5) Minimum off street parking: 2.5 per unit.
- (6) Maximum lot coverage: 60 percent.
- (7) Maximum impervious area: 75 percent.

### **§ 30-915. PCS-1 Pelican Coast South**

- (a) *Intent*. The provisions of the PCS-1 district are intended to establish and maintain areas of single-family residential development in accordance with Planned Unit Development for Pelican Coast.
- (b) *Permitted uses*. Permitted uses are established in section 30-903(1).
- (c) *Accessory structures*. Accessory structures are established in section 30-903(2).
- (d) *Conditional uses*. Conditional uses are established in section 30-903(3).
- (e) *Property development regulations*. Property development regulations are as follows:
  - (1) Minimum lot area and dimensions:
    - a. *Area*: 5,000 square feet.
    - b. *Width*: 50 feet.
    - c. *Depth*: 100 feet.
  - (2) Minimum setback requirements:
    - a. *Front*: 20 feet.
    - b. *Side interior*: Five feet.
    - c. *Side corner*: Ten feet.
    - d. *Rear*: 15 feet.
    - e. *Perimeter setback*: All lots abutting the perimeter of the planned unit development are:
      - 1. Primary structure: NA.
      - 2. Accessory structure: 15 feet.
  - (3) Maximum building height: 35 feet.
  - (4) Minimum living area: 1,700 square feet.
  - (5) Minimum off street parking: Two per unit.
  - (6) Maximum lot coverage: 60 percent.
  - (7) Maximum impervious area: 70 percent.

### **§ 30-916. PCS-2 Pelican Coast South**

- (a) *Intent*. The provisions of the PCS-2 district are intended to establish and maintain areas of single-family residential development in accordance with Planned Unit Development for Pelican Coast.
- (b) *Permitted uses*. Permitted uses are established in section 30-903(1).
- (c) *Accessory structures*. Accessory structures are established in section 30-903(2).
- (d) *Conditional uses*. Conditional uses are established in section 30-903(3).
- (e) *Property development regulations*. Property development regulations are as follows:
  - (1) Minimum lot area and dimensions:
    - a. *Area*: 4,000 square feet.
    - b. *Width*: 40 feet.



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- c. *Depth*: 100 feet.
- (2) Minimum setback requirements:
- a. *Front*: Ten feet.
  - b. *Side interior*: Five feet.
  - c. *Side corner*: Ten feet.
  - d. *Rear*: 15 feet.
  - e. *Perimeter setback*: All lots abutting the perimeter of the Planned Unit Development are:
    - 1. Primary structure: 30 feet.
    - 2. Accessory structure: Ten feet.
- (3) Maximum building height: 35 feet.
- (4) Minimum living area: 1,700 square feet.
- (5) Minimum off street parking: Two per unit.
- (6) Maximum lot coverage: 60 percent.
- (7) Maximum impervious area: 70 percent.
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