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HIGHLANDS COUNTY CODE OF ORDINANCES LAND DEVELOPMENT REGULATIONS



HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

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ARTICLE 1.

LEGISLATIVE PROVISIONS, AUTHORITY, PURPOSE AND INTENT

Section 12.01.100. Short title.

These regulations shall be known and may be cited as the "*Highlands County Land Development Regulations*" or "regulations." (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.101. Legislative authority.

The Board of County Commissioners of Highlands County, Florida, pursuant to Article 8, Section 1(f), the Florida Constitution; F.S. § 125.01 et seq.; F.S. § 163.3161 et seq.; F.S. § 163.3171(2); F.S. § 163.3174; F.S. § 163.3177; F.S. § 163.3184; F.S. § 163.3187; F.S. § 163.3189; F.S. § 163.3194; F.S. § 163.3201; and F.S. § 163.3202; Rule 9J-5, Florida Administrative Code; Rule 9J-24, Florida Administrative Code; and such other authorities and provisions established in statutory or common law has the authority and statutory obligation to adopt, enact, and enforce these regulations. (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.102. Intent, purpose, and findings.

- A. **Intent.** The Board of County commissioners deems it necessary to promote, protect and improve the public health, safety, comfort, good order, appearance, convenience, morals and the general welfare of the County to enact these Land Development Regulations.
- B. **Findings.** The Board of County Commissioners of Highlands County, Florida, hereby makes the following findings:
 - 1. F.S. § 163.3161 et seq., known as the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter the "Act"), requires Highlands County to prepare and adopt a comprehensive plan.
 - 2. F.S. § 163.3171(2), stipulates that the County shall exercise authority for the total unincorporated area under its jurisdiction pursuant to the "Act."
 - 3. F.S. § 163.3174, directs the establishment of a "local planning agency" (LPA) for the purpose of preparing and administering a Comprehensive Plan for Highlands County.
 - 4. F.S. § 163.3177, identifies and describes the contents of the required and optional elements comprising the Comprehensive Plan.
 - 5. F.S. §§ 163.3184, 163.3187, and 163.3189, describe the process for the adoption of a comprehensive plan and for the subsequent plan amendments.
 - 6. F.S. § 163.3194, confirms and clarifies the legal status of the comprehensive plan in directing all development regulations and subsequent development orders for achieving the growth

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management goals, policies and objectives adopted by the County as expressed in the comprehensive plan.

7. F.S. § 163.3201, provides that it is the intent of the "Act" that the adoption and enforcement by Highlands County of land development regulations for the total unincorporated areas shall be based on, be related to, and be a means of implementation for, the comprehensive plan.
8. F.S. § 163.3202, directs the County to prepare and adopt land development regulations, in sufficient comprehensiveness, to implement all land development, within Highlands County, consistent with the adopted comprehensive plan. Also, it encourages the County to use innovative land development regulations such as transfer of development rights, incentive and inclusionary zoning, planned-unit development, impact fees and performance standards.
9. Rule 9J-5, Florida Administrative Code, establishes the requirements for Comprehensive Plan consistency with the State Comprehensive Plan and the Central Florida Regional Policy Plan.
10. Rule 9J-24, Florida Administrative Code, establishes the requirements for land development regulations consistent with the implementation of the County Comprehensive Plan.
11. On January 16, 1991, the Highlands County Comprehensive Plan was adopted. That comprehensive plan was amended and approved, (in compliance) pursuant to F.S. §§ 163.3184 and 163.3187, and pursuant to the requirements of F.S. § 163.3161 et seq. and Rule 9J-5, Florida Administrative Code.
12. Further, the board of County commissioners finds that these regulations are intended and necessary to preserve and enhance the present advantages that exist in Highlands County; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within the total unincorporated area of Highlands County; and it is intended that these land development regulations preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, and general welfare of Highlands County; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; conserve, develop, utilize, and protect natural, cultural, archaeological, and historical resources within the jurisdiction of Highlands County; protect human, environmental, social, and economic resources; and maintain, through orderly growth and development, the character and stability of present and future land uses and development in Highlands County.
13. It is the intent of the Board of County Commissioners of Highlands County to implement the land development regulations in accordance with the provisions of the Highlands County Comprehensive Plan, F.S. Ch. 125, and F.S. Ch. 163, through the adoption of these regulations, and the Board of County Commissioners of Highlands County find that the adoption of these regulations is consistent with, compatible with, and furthers the goals, objectives, policies, land uses and densities and intensities of uses contained in the Highlands County Comprehensive Plan.

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C. **Purpose and intent--General.** The provisions of these land development regulations shall be construed and implemented to achieve the following purposes and intentions of the Highlands County Board of County Commissioners:

1. To foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the County in accordance with the comprehensive plan.
2. To establish the regulations, procedures and standards for review and approval of all proposed development in the County.
3. To adopt a development review process that is:
 - a. Efficient, in terms of time and expense;
 - b. Effective, in terms of addressing the natural resource and public facility implications of proposed development; and
 - c. Equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the County.
4. To implement the County comprehensive plan as required by the "Local Government Comprehensive Planning and Land Development Regulation Act."
5. To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements (concurrency).

(Resolutions of 8-18-70, § 1) (Ord. 03-04-1) (Old Section 12-1) (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.103. Regulations to be consistent with the comprehensive plan.

F.S. § 163.3201, provides that the adoption and enforcement by Highlands County of Land Development Regulations for the total unincorporated areas shall be based on, be related to, and be a means of implementation for, the Comprehensive Plan; and further, F.S. § 163.3202, directs the County to prepare and adopt land development regulations, in sufficient comprehensiveness, to implement all land development within Highlands County, consistent with the adopted comprehensive plan. (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.104. Provisions of chapter declared to be the minimum requirements.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare of the County. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, resolutions, deed restrictions or covenants, the more restrictive or that imposing the higher standards shall govern. (Resolutions of 8-18-70, § 25)(Ord. 03-04-1)(Old Section 12-4) (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

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Section 12.01.105. Rules of interpretation.

- A. **General.** In the interpretation and application of these regulations all provisions shall be liberally construed in favor of the objectives and purposes of the County and deemed neither to limit nor repeal any other powers granted under state statutes. Other rules for interpretation are pursuant to Article 2 and other applicable sections of this Code.
- B. **Responsibility for interpretation.** In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of these regulations, the development services director shall be responsible for interpretation and shall look to the County comprehensive plan for guidance. Responsibility for interpretation by the director shall be limited to standards, regulations and requirements of these regulations, but shall not be construed to include interpretation of any technical codes adopted by reference in these regulations, nor be construed as overriding the responsibilities given to any commission, board or official named in other sections or articles of these regulations.
- C. **Computation of time.** When a time certain is specified for the completion of an act or compliance with an order or requirement of these regulations, the time shall be computed by using calendar days unless noted otherwise.
- D. **Written or in writing.** The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.
- E. **Year.** The word "year" shall mean a calendar year, unless otherwise indicated.
- F. **Day.** The word "day" shall mean a working day, unless a calendar day is indicated.
- G. **Rules for interpretation of boundaries.** Interpretations regarding boundaries shall be made by the enforcing official in accordance with the following:
1. Boundaries shown as following or approximately following any street shall be construed as following the centerline of the street.
 2. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.
 3. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
 4. Boundaries shown as following or approximately following natural features shall be construed as following such features.
 5. Boundaries indicated as approximately following the boundaries of an incorporated municipality shall be construed as following such boundaries.

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6. Boundaries indicated as following railroad tracks shall be construed to be midway between the main tracks.
7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1. through 4. above shall be so construed.

H. **Relationship of specific to general provisions.** More specific provisions of these regulations shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision.

(Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.106. Delegation of authority for enforcement and interpretation.

The County administrator may appoint the following persons to act as his designee with respect to the provisions of these regulations as cited hereinafter and pursuant to section 12.18.105 of this chapter for the enforcement and interpretation of these regulations:

- A. County engineer;
- B. Building official;
- C. Fire marshal;
- D. Development services director;
- E. Planning supervisor;
- F. Zoning supervisor;

Whenever a provision appears requiring the head of a department or some other County officer or employee to do some act or perform some duty, it is to be construed to authorize delegation to professional-level subordinates to perform the required act or duty unless the terms of this provision or section specify otherwise.

(Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.107. Incorporation by reference.

- A. **Technical construction standards manuals.** Current construction standards codes, such as the *Highlands County Technical Standards Manual*, the Florida Building Code and other applicable Codes are incorporated and adopted by reference into these regulations. Where these current construction standards codes are modified or changed in any manner through the process of updating; such modification or changes shall be automatically made in these regulations.
- B. **Maps.** Maps showing land use districts, conservation areas, overlay zones and other applicable maps illustrating spatial land standards are here incorporated into these regulations by reference.

(Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

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Section 12.01.108. Pending applications.

Any and all pending development actions up to and including the date of adoption of these regulations shall be considered in accordance with the following provisions:

- A. All applications for development approval for which required public hearings have been convened prior to the effective date of these regulations shall be heard and decided pursuant to the terms of those procedures, requirements and regulations in effect at the time such application was filed.
- B. Except as otherwise provided in these regulations, all applications filed prior to the adoption of these regulations for which a final decision will be made after the effective date of these regulations shall be decided pursuant to the terms of the procedures in effect at the time said application was filed.
- C. All applications made after adoption of these regulations shall be decided pursuant to the terms of these regulations all applications made after adoption of these regulations shall be decided pursuant to the terms of these regulations in effect at the time of the decision.

(Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.109. Reserved.

Section 12.01.110. Amendments.

The regulations, restrictions and district boundaries may from time to time be amended, supplemented, changed or repealed in accordance with the following procedures:

- A. A petition for a change to these regulations may be filed by the County, any citizen, or owner of land in the County.
- B. The P&Z shall consider the petition for change in these regulations at an advertised public hearing and shall forward a recommendation on the requested change to the BCC for final action. No recommendation for change may be made by the P&Z unless and until a public hearing has been held on the same. The P&Z shall operate under the criteria and procedures of applicable sections and articles of this chapter.
- C. Petitions shall be addressed to the P&Z and shall be filed with the zoning clerk. Such petitions shall contain or be accompanied by all pertinent information which may be required by the County for its proper consideration of the matter.
- D. If a P&Z recommendation for change is not acted upon by the BCC within 60 days of the date of its receipt by the BCC, the petition upon which the recommendation was based shall be deemed to have been denied.
- E. The time limits of this chapter may be waived by the affirmative vote of four members of the P&Z or a majority of the BCC when such action is deemed necessary to prevent injustice or to facilitate the proper development of the County.

(Resolutions of 8-18-70, § 24; Resolutions of 7-30-74; Ord. No. 93-15, § 2; Ord. No. 94-4, § 2)(Ord. 03-04-1)(Old Section12-3) (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

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Section 12.01.111. Fees and costs.

- A. Upon recommendation of the P&Z, the BCC shall establish a schedule of fees, charges and expenses and a collection procedure for all matters pertaining to these regulations. This schedule of fees and charges shall be posted in the office of the zoning supervisor and may be altered or amended by the BCC.
- B. No permit, certificate, special exception, or variance, shall be issued or public hearing held unless and until such costs, fees, charges or expenses have been paid in full.

(Resolutions of 8-18-70, § 25)(Ord. 03-04-1)(Old Section12-5) (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.112. Repeal of conflicting ordinances and resolutions.

- A. If the provisions of these regulations conflict with those of any other statute, code, local ordinance, resolution, regulation or other applicable federal, state or local law, the more stringent standard, limitation or requirement shall govern or prevail to the extent of the conflict.
- B. Any prosecution arising from a violation of any resolution repealed by this chapter, which prosecution was ending as of January 1, 1971, or any prosecution which may be started within one year after such date, in consequence of any violation of any resolution herein, which violation was committed prior to such date, shall be tried and determined exactly as if such resolution had not been repealed.

(Resolutions of 8-18-70, § 25)(Ord. 03-04-1)(Old Section12-7) (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

Section 12.01.113. Abrogation.

These land development regulations are not intended to repeal, abrogate or interface with any existing easements, covenants, or deed restrictions duly recorded in the public records of Highlands County. (Ord. No. 05-06-05, § 2; Ord. No. 05-06-30, § 2)

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ARTICLE 2.

DEFINITIONS AND ABBREVIATIONS

Section 12.02.100. Purpose.

The purpose of this article is to define the words, terms and phrases used to express the standards and procedures established in these regulations. (Ord. No. 05-06-05, § 3; Ord. No. 05-06-30, § 3)

Section 12.02.101. Context.

The following words, terms and phrases shall have the meanings as ascribed to them herein. Where the contextual indication of any word, term or phrase herein defined clearly connotes a different meaning, the contextual connotation shall be applied.

- A. **Gender.** Words used in the feminine shall include the masculine gender and words in the masculine shall include the feminine.
- B. **Number.** Words used in the singular shall include the plural and words used in the plural shall include the singular.
- C. **Tense.** Words used in the present tense shall include the future tense and past tense.
- D. The word **shall** is mandatory. The word **may** is permissive.
(Ord. No. 05-06-05, § 3; Ord. No. 05-06-30, § 3)

Section 12.02.102. Codes.

All definitions found in and inclusive to construction codes adopted by the BCC, such as the Standard Building Code, Electrical Code, Fire Prevention Code, Gas Code, Mechanical Code, Plumbing Code and other Codes governing construction standards are here included in this article by reference. (Ord. No. 05-06-05, § 3; Ord. No. 05-06-30, § 3)

Section 12.02.103. Abbreviations.

As used in this Code, certain abbreviations shall be taken to mean:

| | |
|---|---|
| 1 | AADT: Annual Average Daily Traffic |
| 2 | AASHTO: American Association of State Highway and Transportation Officials |
| 3 | ACOE: United States Army Corps of Engineers |
| 4 | Reserved |
| 5 | ADT: Average Daily Trips |
| 6 | Reserved |
| 7 | ASTM: American Society for Testing and Materials |
| 8 | BCC: Board of County Commissioners |
| 9 | Reserved |

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|------------------------|---|
| 10 | BOA: Highlands County Board of Adjustment |
| 11 | Board: The Board of County Commissioners of Highlands County |
| 12 | CAA: Certificate of Archaeological Appropriateness |
| 13 | Reserved |
| 14 | CERCLA: Comprehensive Environmental Response Compensation Liability Act |
| 15 | CFRPC: Central Florida Regional Planning Council |
| 16 | CHA: Certificate of Historical Appropriateness (Ord. No. 06-07-06 § 1) |
| 17 | CIE: Capital Improvements Element of the Highlands County Comprehensive Plan (Ord. No. 06-07-06 § 1) |
| 18 | CLEAB: Construction Licensing Enforcement and Appeals Board |
| 19 | CSA: Concurrency Service Area (Ord. No. 06-07-06 § 1; Ord. No. 08-09-54 § 1) |
| 20--22 Reserved | |
| 23 | CRW: Concurrency review workgroup (Ord. No. 06-07-28 § 1) |
| 24 | Reserved |
| 25 | DOT: See FDOT |
| 26 | Reserved |
| 27 | DRI(s): Development(s) of Regional Impact |
| 28 | ECR: Environmental Clearance Report |
| 29--31 Reserved | |
| 32 | FAA: Federal Aviation Administration |
| 33 | FAR: Floor Area Ratio |
| 34 | FCC: Federal Communication Commission |
| 35 | Reserved |
| 36 | FDEP: Florida Department of Environmental Protection |
| 37 | FDOT: Florida Department of Transportation (Ord. No. 06-07-06 § 1) |
| 38, 39 Reserved | |
| 40 | FEMA: Federal Emergency Management Agency |
| 41 | FHWA: Federal Highway Administration |
| 42 | FIRM: Flood Insurance Rate Maps of the National Flood Insurance Program |
| 43 | FLUE: Future Land Use Element |
| 44 | Reserved |
| 45 | FMSF: Florida Master Site File |
| 46 | FUD: Flexible Unit Development |
| 47 | F.S./FS: Florida Statutes |
| 48 | FWC: Florida Fish and Wildlife Conservation Commission |
| 49 | gpd: Gallons per day |
| 50 | gpcd: Gallons per capita per day |
| 51 | gpm: Gallons per minute |
| 52--57 Reserved | |
| 58 | HPC: Historic Preservation Commission |
| 59 | HRS: Florida Department of Health and Rehabilitative Services |
| 60--64 Reserved | |
| 65 | IFAS: Institute of Agriculture Services of the University of Florida |
| 66--68 Reserved | |

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|--------------------------|---|
| 69 | LDR(s): Land Development Regulation(s) |
| 70 | LDTA: Local Development Traffic Analysis |
| 71 | Reserved |
| 72 | LOS: Level of Service |
| 73 | LPA: Local Planning Agency pursuant to F.S. Ch. 163 -- See Highlands County Planning and Zoning Commission |
| 74 | Manuf: Manufactured |
| 75 | Reserved |
| 76 | MOT: Maintenance of Traffic |
| 77 | MUTCD: Manual on Uniform Traffic Control Devices |
| 78 | NRAC: Highlands County Natural Resources Advisory Commission |
| 79 | NRE: Natural Resources Element of the Comprehensive Plan |
| 80 | PD: Planned Development Districts |
| 81 | PL: Federal Public Law |
| 82--83 Reserved | |
| 84 | P&Z: Highlands County Planning and Zoning Commission (also designated as the local planning agency) |
| 85--87 Reserved | |
| 88 | Ridge: The Lake Wales Ridge in Highlands County |
| 89 | Reserved |
| 91 | RPC: See CFRPC |
| 92 | R.V./RV: Recreational Vehicle |
| 93 | SCS: See US SCS |
| 94 | SEC: Section |
| 95 | SFWMD: South Florida Water Management District |
| 96 | SHWL: Seasonal High Water Line |
| 97--99 Reserved | |
| 100 | SFWMD: Southwest Florida Water Management District |
| 101 | SWIM: Surface Water Improvement Management |
| 102--103 Reserved | |
| 104 | TDR(s): Transfer of Development Right(s) |
| 105 | Reserved |
| 106 | UAO: Utility Agency/Owner |
| 107--108 Reserved | |
| 109 | USDA: United States Department of Agriculture |
| 110 | WHPZ: Well Head Protection Zones |
| 111 | Reserved |
| 112 | WMD(s): Water Management District(s) |
| 113 | Reserved |

(Res. of 8-18-70, § 2; Res. of 6-26-73; Ord. No. 76-6, § 1; Ord. No. 90-12; Ord. No. 93-15 § 1; Ord. No. 94-4, § 1; Ord. No. 99-15 § 1; Ord. 99-18 § 1; Ord No. 00-01-42 § 3)(Ord No. 03-04-1) (Old Sec. 12-2)(Ord No. 05-06-05, § 3; Ord. No. 05-06-30, § 3; Ord. No. 06-07-06, § 1; Ord. No. 06-07-28, §§ 1, 2; Ord. No. 08-09-54, § 1)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

Section 12.02.104. Definitions and interpretations.

1. **Abandoned.** To give up by leaving or ceasing to operate.
2. **Accessory structure.** A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.
3. **Accessory use.** A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
4. **Actual crossing operation.** That phase of the work authorized by the utility permit, when the casing or incased carrier pipe is being placed within the physical limits prescribed to determine the required casing length; this will not include preliminary work, such as jacking pit construction, equipment set-up, etc.
5. **Addition (to an existing building).** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load bearing walls is new construction.
6. **Adequate.** The minimum ability necessary to satisfy a requirement of Highlands County.
7. **Adjacent.** Immediately adjoining and sharing a common property line or boundary.
8. **Agriculture.** The science and art of producing plants and animals for use by mankind, including the preparation of land resource to accommodate such practices and, to a variable extent, the preparation and harvesting of such products. The term "agriculture" encompasses activities that are customarily associated with aquaculture and fisheries, horticulture, viticulture, siculture, and aeviculture, livestock and poultry operations, bee keeping, stable and kennel operations, animal husbandry, ranching, dairy operations, forestry, or any other practice that is typical of, and necessary to, or in keeping with these activities.
9. **Agriculture easement.** A right to or interest in the use of real property for agricultural uses but not including the right to develop the property.
- 10-12. **Reserved.**
13. **Alteration, altered or repaired.** Any changes in structural parts, stairways, type of construction, kind or class of occupancy, light or ventilation, means of ingress and egress or other changes affected or regulated by the building code or this Code except for minor changes or repairs not involving the aforesaid features.
14. **Alternative tower structure.** A manmade structure that supports one or more antenna, and that either conceals or camouflages the presence of transmission towers from public view by unobtrusively blending in aesthetically with the surrounding environment. Alternative tower

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

structures include, but are not limited to, simulated trees, clock towers, bell steeples, light and utility pole replacements which match the appearance of the existing or adjacent light and utility poles, and similar structures.

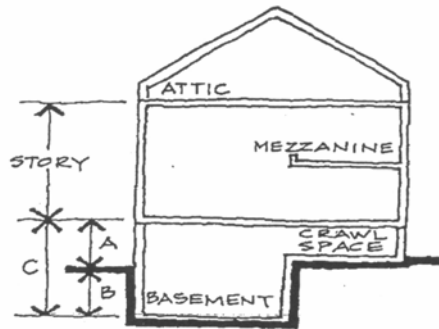
15-16. **Reserved.**

17. **Antenna.** Any apparatus designed for the sending and/or receiving of electromagnetic waves. These include, but are not limited to telephone, radio, television, and satellite or wireless personal communications. Types of antennas, include but are not limited to whip antennas, panel antennas, and dish antennas. As used in this chapter, the term antenna includes all antennas integrated and used as a single unit, such as an antenna array.
18. **Apartment hotel.** A multiple-family dwelling having resident supervision which maintains an inter-lobby through which all tenants must pass to gain access to the apartments.
19. **Archaeological confinement zone.** Those areas within 300 feet radius of a discovered archaeological resource, that is, either shown on the adopted archaeologically sensitive areas map or not shown, but known to exist. The confinement zone exists until the perimeter of the site is defined, archaeological clearance is obtained, or the FMSF has designated the site as not archaeologically significant or as significant but requiring no further investigation.
20. **Archaeological reconnaissance report.** A report submitted by the archaeologist (as referenced in definition # 242 "qualified archaeological agent") conducting the reconnaissance survey which documents the findings of the survey and incorporated recommendations pertaining to the disposition of the findings.
21. **Archaeological reconnaissance survey (ARS).** A cursory archaeological survey usually conducted to identify and map sites and to obtain data on site types and distribution. Field methodology in this type of survey involves minimal sub-surface testing. This survey is conducted by a qualified archaeological agent for the purpose of determining whether an archaeological resource is significant, requiring a more in-depth archaeological investigation.
22. **Archaeological resource.** All artifacts evidencing human occupation, habitation, or activity or a site which contains artifacts from an historic or prehistoric period. This evidence shall include cultural sites, structures, mounds and middens, artifacts, and physical remains. To be significant, an archaeological resource must contain artifacts which can be used to reconstruct or convey important aspects of the prehistory, history, or culture of the Central Florida region. The definition of archaeological resource includes, but is not limited to, those sites listed by the National Advisory Council on Historic Preservation on the Florida National Register of Historic Places and those sites listed by the Florida Division of Historic Resources in their Florida Master Site File. A "known" archaeological resource is one that exists and is filed in the Florida Master Site File (FMSF).

23-24. **Reserved.**

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25. **Arterial road.** A roadway providing service which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every federal highway and every FDOT designated Florida Intrastate Highway System route is an arterial road.
26. **As built.** Plans that show horizontal locations and vertical elevations tied to known reference point (e.g., state plane coordinates) of all deviations from County approved plans.
- 26A. **Assisted living facility.** Residences that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation. See "residential health care facility; retirement community."
- 26B. **Attic:** That part of a building that is immediately below and wholly or partly within the roof framing. See story, half. See diagram for definition # 26B. (Ord. No. 06-07-04 § 1)



When A is less than B--C is a cellar
Diagram for Definition # 26B.

27. **Automobile wrecking.** The dismantling or disassembling of motor vehicles or trailers, including the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.
28. **Auxiliary lane.** The portion of the roadway adjoining the traveled way for parking, access ramps, speed changes, turning, storage for turning, weaving, truck climbing or other purposes supplementary to through traffic movement.
29. **Reserved.**
30. **Basement.** That portion of a building having its floor sub-grade (below ground level) on all sides.
31. **Reserved.**
32. **Boardinghouse.** A lodging establishment offering rooms on a short term basis that may not be classified as a hotel, motel, resort condominium, non-transient apartment or transient apartment. The term includes, but is not limited to, rooming houses, hostels and bed and breakfast inns.

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- 32A. **Boarding home for sheltered care.** A boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. See "assisted living facility; boardinghouse; community residences for the developmentally disabled; community shelters for victims of domestic violence."
33. **Reserved.**
34. **Building:**
- a. Any structure, either temporary or permanent, having a roof and used for the shelter or enclosure of persons, animals, chattels or property of any kind. This definition shall include tents, awnings or vehicles situated on private property and serving in any way the function of a building.
 - b. Any structure built for support, shelter, or enclosure for any occupancy or storage.
35. **Reserved.**
36. **Cabana room.** A structure consisting of a rigid frame made of wood, aluminum, steel, block, brick or other support material, a roof, exterior walls which have open areas covered by windows or panels made of or covered by glass or vinyl material and interior walls which are finished with wood, paneling, drywall or other material.
37. **Reserved.**
38. **Camper.** Any individual who occupies a campsite or otherwise assumes charge of, or is placed in charge of, a campsite.
39. **Campground.** A place where sites for recreational vehicles or tents or buildings are rented for use as temporary living quarters for recreational purposes. A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.
40. **Campsite.** A parcel of land in a campground for the placement of tents or one trailer or recreational vehicle (other than a mobile home) and for the exclusive use of the occupants. Any plot of ground within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper.
41. **Canal.** Any manmade waterway used for the purpose of drainage, irrigation, or transportation which collects and then diverts or directs the flow of surface water or groundwater. A ditch is not a canal.
42. **Reserved.**

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43. **Capital improvement.** Physical assets constructed or purchased to provide, improve, or replace a public facility and which are large scale and high in cost.
44. **Certificate of appropriateness (C.A.).** A document issued by the historic preservation commission, or its staff under certain circumstances, approving a proposal to make specified alterations to or to demolish a designated historic property or a building, structure or monument located within a designated historic district or to construct a building or structure on property located within a designated historic district, which must be obtained before such alteration, demolition or construction may be begun.
- 44A. **Certificate of archaeological appropriateness (C.A.A.).** A document issued by the historic preservation commission, or its staff, which gives its approval for work to be done on a designated archaeological site and which allows the applicant to apply for development orders. The CAA may contain conditions relating to the proposed work regarding measures to either, preserve, protect, or mitigate impact to the affected resource.
- 44B. **Certificate of historical appropriateness (C.H.A.).** A document issued by the historic preservation commission, or its staff under certain circumstances, approving a proposal to make specified alterations to or to demolish a designated historic property or a building, structure or monument located within a designated historic district or to construct a building or structure on property located within a designated historic district, which must be obtained before such alteration, demolition or construction may begin.
45. **Certificate to proceed (C.P.).** The document used by the HPC to reaffirm the initial development order, subsequent to securing an archaeological clearance, to proceed towards implementation.
46. **Certified welder.** A person who has been trained and meets all applicable requirements for the particular type of welding being performed under a permit.
47. **Change of occupancy.** A discontinuance of an existing use and the substitution therefore of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors, unless accompanied by a change in the type of use.
48. **Club, night.** A restaurant, dining room, bar or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment are provided.
49. **Club, private.** Those associations and organizations of a fraternal or social character, not operated or maintained for profit. The term "private club" shall not include casinos, nightclubs or other institutions operated as a not for profit business.
50. **Co-location.** When more than one wireless communication service provider uses a single monopole, lattice or guyed tower, or similar structure to attach antenna(s) for the purpose of providing wireless communications services.

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51. **Collector road.** A roadway providing service which is of relatively moderate traffic volume, moderate trip length, and moderate operating speed, designed and intended to collect and distribute traffic between local roads or arterial roads.
52. **Commercial uses.** Activities which are predominantly connected with the sale, rental, and distribution of products or the performance of services.
53. **Commercial vehicle.** Any vehicle designed, intended or used for transportation of people, goods or things, other than private passenger vehicles and trailers.
54. **Reserved.**
55. **Community park.** A park designed to serve the needs of more than one neighborhood.
- 55A. **Community residences for the developmentally disabled.** A residential facility, licensed by the state, providing food, shelter, and personal guidance, with supervision, to developmentally disabled or mentally ill persons who require assistance, temporarily or permanently, in order to live in the community and shall include group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels.
- 55B. **Community residential home.** A dwelling unit licensed to serve clients of the department of children and family services, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.
- 55C. **Community shelters for victims of domestic violence.** A residence providing food, shelter, medical care, legal assistance, personal guidance, and other services to persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.
56. **Competent.** Legally fit or qualified and adequate for the stipulated purpose.
57. **Comprehensive plan.** The Highlands County Comprehensive Plan, as it may be amended from time to time.
58. **Concurrency.** The necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.
59. **Concurrency management system.** The procedures and/or process of Highlands County to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.
- 59A. **Concurrency service area.** The geographic area in which the level of service is measured when an application for residential development is reviewed for school concurrency purposes. The concurrency service areas shall be the same as the adopted school attendance zones. (Ord. No. 08-09-54 § 2)

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60. **Conduit.** An enclosure for protecting wires and cables.
61. **Cone of influence.** An area around one or more major water wells, the boundary of which is determined by the government agency having specific statutory authority to make such a determination based on groundwater travel or Drayton depth.
62. **Confining layer.** An impermeable stratum separating one aquifer from another aquifer. The confining layer is made up of soils that act as a retardant to the downward flow of groundwater into the confined aquifer. The depth to this layer shall be determined by a Florida registered professional engineer or geologist for a proposed project. The concretaceous layer commonly known as the "hard pan" is not the confining layer for the purposes of this section.
- 62A. **Congregate living facility.** Apartments and dwellings with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for the residents. (See community residential home #55B).
63. **Conservation easement.** A right or interest in real property which is necessary to retain land or water areas in their natural, scenic, open, or wooded condition; retaining such areas such as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance, as set forth in F.S. § 704.06.
64. **Conservation overlay map.** A map maintained by the County and adopted as a general indicator to determine if environmental clearance is required. The map is used as a general indicator for the presence of one or more of the following resources: Xeric uplands; wetlands; cutthroatgrass seeps; historical and archaeological resources; wellhead protection zone; and, aquifer recharge areas. The conservation overlay map series consists of the following: Soil Survey of Highlands County (base document - USDA/SCS, Soil Survey of Highlands County, Florida, July, 1989); Conservation Overlay Map (base maps are USGS Quadrangle Maps - United States Geologic Survey); Map 600 - Highlands County, Florida Wetlands (U.S. Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory); Archaeological Sensitive Areas Map; Historic Preservation Resource Map; and, Wellhead Protection Zone Map.
65. **Conservation uses.** Activities designated for the purpose of conserving or protecting natural resources or environmental quality and includes areas designated for such purposes as flood control, protection of quality or quantity of groundwater or surface water, floodplain management, fisheries management, or protection of vegetative communities or wildlife habitats.
66. **Consistency rezone.** That action taken by the BCC to make a property's zoning district classification consistent with its land use designation, as this designation appears on the future land use map series by adoption or by amendment.
67. **Continuance.** An action to postpone to a later date or time a public hearing, after notice of said public hearing has been submitted as required for publication in a newspaper.

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- 67A. **Continuing care retirement community.** An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care, and enters into contracts to provide lifelong care in exchange for the payment of monthly fees and an entrance fee in excess of one year of monthly fees.
68. **Contract for sale and purchase of development rights.** A valid contract which must be in writing, pursuant to Florida law, for the sale of real property (development rights).
69. **Contractor.** The individual, firm or company contracting with a UAO or Highlands County to work for furnishing materials or in contract as a subcontractor for a prime contractor, firm or company.
70. **Convalescent home.** A building or portion thereof, wherein living accommodations and care are provided for persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for persons requiring institutional care after being discharged from a hospital other than a mental hospital.
71. **Convenience store.** Any establishment offering for sale prepackaged food products, household items, notions and personal products and other goods commonly associated with the same.
72. **County.** Highlands County, Florida.
73. **County administrator.** The Highlands County Administrator or his/her designee.
74. **County Engineer.** The administrative entity responsible for the enforcement of certain sections of this chapter. A designated representative may be appointed to carry out these responsibilities.
75. **Cultural site.** Those ceremonial or religious sites of Native American Cultures which have been so designated by the Florida Department of State, Division of Historic Resources.
76. **Cutthroatgrass seep.** Any area of land supporting cutthroatgrass (*Panicum abcissum* Swallen,) as the dominant species.
77. **Deed of transfer of development rights.** A legal document which transfers the ownership of specified transferable development rights from one owner to another, and which is recorded in the Public Records of Highlands County.
78. **Deferral.** An action to postpone to a later date or time a public hearing, prior to the notice of said public hearing being submitted for publication in a newspaper.
79. **Demolition by neglect.** Deterioration of a designated historic property or a property in a designated historic district by virtue of the withholding of ordinary maintenance and repair to the extent that the property or structure could be reasonably expected to become unsafe.

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80. **Demolition.** The act or process of wrecking, destroying or removing a building, structure or monument, or any part thereof.
81. **Density.** The number of dwelling units per gross acre of land.
82. **Density bonus.** An increase in the residential density of development that the County permits on a parcel of land over and above the starting density permitted by the Highlands County Comprehensive Plan for the land use category in which it is located.
- 83-84. **Reserved.**
85. **Developer.** Any person, including a governmental agency, undertaking any development, or any person who acts in his own behalf or as the agent of the owner of a specific property or properties and engages in the process of development of said property (either proposed or actual).
86. **Development.** Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials. The term "development" shall also include the definition of that term found in F.S. § 380.04, as from time to time amended.
87. **Development order/permit.** Any order or approval by Highlands County that grants, denies, or grants with conditions an application including but not limited to any building permit, zoning action or permit, plat approval, certification, variance, or other action having the effect of permitting new development, redevelopment, or ongoing development.
88. **Development right.** The ability to develop one residential dwelling unit which can be transferred to another property through procedure adopted by the BCC; and where the residential use being transferred is permitted in both the sending and receiving areas by the comprehensive plan and the zoning ordinance. The land owner may sell or donate the development rights and still retain the title to the land and the right to use the surface of the land on a limited basis consistent with the appropriate easement.
89. **Reserved.**
90. **Disturb.** An improperly conducted intentional or deliberate physical intrusion upon or into an archaeological resource for purposes of development, mining, agriculture, or otherwise, the effect of which diminishes or degrades the original integrity of an archaeological site or its contents.
91. **Disturbed lands.** Any surface area that is mined or reconfigured as a direct or incidental result of earth moving activities.
92. **Ditch.** A long, narrow, shallow trench or furrow that has been dug in the ground for irrigation, drainage, or boundary line purposes.

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93. **Drainage basin.** The area defined by topographic boundaries which contributes stormwater to a drainage system, estuarine waters, or oceanic waters, including all areas artificially added to the basin.
94. **Drainage facilities.** A system of manmade structures designed to collect, convey, hold, divert, retain, or discharge stormwater, and includes stormwater sewers, canals, detention structure, and retention structure.
95. **Reserved.**
96. **Drug store.** See # 227, pharmacy.
97. **Dwelling.** Any building or part thereof, other than a mobile home, designed for occupancy in whole or in part, as the residence or living quarters of one or more persons, permanently or temporarily, continuously or transiently, containing living, sleeping, housekeeping accommodations, cooking, and sanitary facilities for occupancy by one or more families.
98. **Dwelling, multiple-family.** A dwelling designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.
99. **Dwelling, single-family or one-family.** A detached dwelling designed for or occupied by one family only.
100. **Dwelling, two-family.** A dwelling designed for or occupied by two families as a dwelling, with housekeeping and cooking facilities for each.
101. **Dwelling unit.** A space, area or portion of a building designed for and occupied by one family as a dwelling, containing living, sleeping, housekeeping accommodations, cooking, and sanitary facilities for occupancy by one or more families with housekeeping and cooking facilities for the exclusive use of such family.
- 102-106. **Reserved**
107. **Emergency.** A situation or occurrence of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will effect the safety of the public or a condition that will cause damage to the County's right-of-way; during a situation of this type the UAO can and may protect the public safety sooner by using equipment on hand, than by strictly complying with the requirements of this section.
108. **Emergency services.** Emergency services are fire, emergency management, and emergency operations services.
109. **Enforcement official.** The administrative official designated by the County administrator to administer and enforce the provisions of this chapter. This designation may be pursuant to Article 1, section 12.01.106 and described in Division 2 of Article 1, "Types of Reviews."

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110. **Environmental clearance.** Those procedures and processes that are used to establish remedies for any negative impacts a specific development proposal may have on natural resources.
111. **Environmental clearance report (ECR).** The report and maps prepared in accordance with Article 12, section 12.12.614 environmental clearance report (ECR) of these regulations. The ECR will contain the basic information upon which the County shall condition its environmental clearance.
112. **Erected.** The term "erected" includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for building. Excavations, fill, drainage and the like shall be considered a part of erection.
113. **Erosion control.** The method used to protect County rights-of-way and any of its facilities by complying with all County, state, and federal regulations; normally this is accomplished by placing sod in all areas disturbed by the utility construction.
114. **Essential services.** Essential services are police, sheriff, or other public safety services not covered in emergency services.
- 114A. **Extended care facility.** A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution. (See long-term care facility, # 170).
115. **Exterior architectural features.** The architectural style, general design and general arrangement of the exterior of a building or other structure, including, but not limited to, the type or texture of the building material, the type and style of all windows, doors and signs; and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.
116. **Fall zone.** The area surrounding a ground-mounted tower within which a Florida licensed professional engineer certifies that the tower is designed to fall or collapse in the event of structural failure of all or part of the tower.
- 116A. **Floor area ratio (FAR).** The gross floor area of all buildings or structures on a lot divided by the total lot area. See below Diagram #1 below.

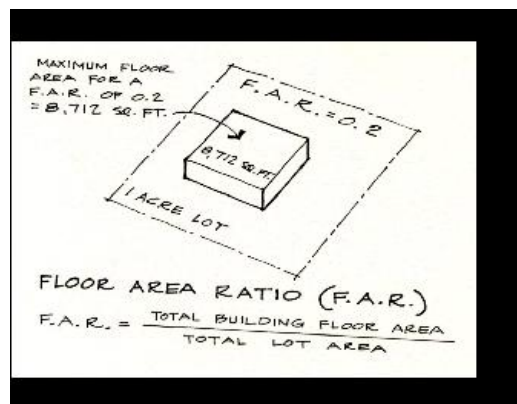


Diagram #1 -- Floor Area Ratio (FAR)

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117. **Family.** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over four persons. Domestic servants employed on the premises may be housed on the premises without being counted as a separate family or families. In addition, a related family may have up to two unrelated individuals living with them. The term "family" does not include any organization or institutional group.
118. **Flea market.** A market where new and used articles are sold by vendor generally from leased space or display areas.
119. **Flea market, open.** Outdoor retail sales area in which space is rented to individual merchants to display and sell goods. An open air flea market use may have walls or partitions that separate individual rental spaces from each other, provided that they are temporary in nature.
- 120-126. **Reserved.**
127. **Floor.** The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking a vehicle.
128. **Floor area.** "Floor area" shall mean the total gross floor area within the exterior enclosing walls of a dwelling or structure not including porches, breezeways, carports, terraces and garages. Where a specific minimum floor area is required for sleeping rooms, "floor area" shall mean the enclosed floor area of the sleeping room, excluding closets, toilets, bathrooms, porches and the like.
129. **Florida Master Site File (FMSF).** The FMSF is a comparative data base of all recorded archaeological and historical sites in Florida. It includes site records for properties which no longer exist, and contains the comparative data pertaining to archaeological and historical criteria used in determining site significance. Inclusion in the FMSF authorizes a site to be designated on the comprehensive plan archaeological/historical Preservation overlay map as an archaeological sensitive area or resource.
130. **Reserved.**
131. **Fowl.** Any guineas, peafowls, pheasants, pigeons or poultry.
132. **Frontage of a building.** The side or wall of a building, approximately parallel to a street line.
133. **Frontage of a property.** The lot line which abuts a street or separates the lot from the street.
- 134-135. **Reserved.**
134. **Functionally dependent facility.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary

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for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

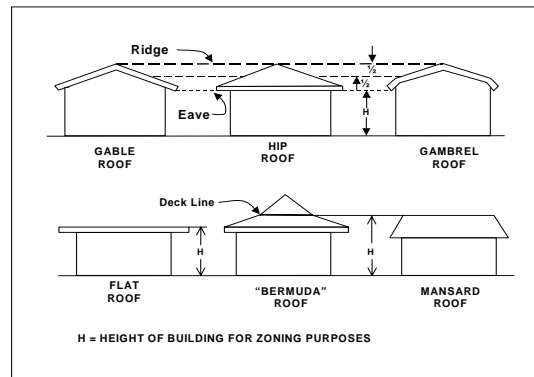
135. **Garage, community.** A building or part thereof, used for indoor parking of a self-propelled private passenger vehicle, for use of residents in the vicinity and providing only incidental services for such vehicles as are parked therein.
136. **Governmental agency:**
- a. The United States or any department, commission, agency, or other instrumentality thereof;
 - b. The State of Florida or any department, commission, agency, or other
 - c. Any local government, as defined in this chapter, or any department, commission, agency, or other instrumentality thereof; and,
 - d. Any school board or other special district, authority, or other governmental entity.
137. **Ground-mounted tower.** A monopole tower, lattice tower or guyed Tower.
138. **Group housing.** Two or more separate buildings for dwelling purposes erected or placed on the same lot.
139. **Guesthouse.** A dwelling unit separate from and in addition to a main residential building, on a lot, intended for intermittent or transient occupancy by a gratuitous guest.
140. **Guyed tower.** A ground-mounted transmission tower that is supported, in whole or in part, by guy-wires and ground anchors.
141. **Haul route.** Those roads upon which vehicles transport the excavated materials from the mine to a publicly maintained road as proposed and approved in the mining operations plan.
142. **Hazardous waste:**
- a. Any industrial or medical by-product, refuse, waste material, biomass, chemical, or substance which is unsuitable for reuse, remanufacture, or recycling and which requires extraordinary measures or precautions for its containment, storage, transportation, or disposal as a means to protect:
 1. Public health and safety;
 2. The naturally occurring ecology of the County;

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3. The purity of local aquifers and the quality of groundwater recharge occurring in Highlands County and
4. The productivity and usefulness of private property. Hazardous waste includes but not limited to, any noxious, poisonous, carcinogenic, contaminated, radioactive, or pathological refuse, by-products, or precipitates resulting from any process to treat or incinerate industrial or medical wastes generated outside Highlands County.

OR

- b. Solid waste, or a combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed.
143. **Health services.** Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, and miscellaneous types of medical supplies and services.
144. **Height of buildings.** The vertical distance from the established grade at the center of the front of the building, to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof and to the mean height level between eaves and ridge for a gable, hip or gambrel roof, as shown on the following Diagram # 2:



145. **Reserved.**

- 146A. **Historic designation.** A decision by the BCC to designate a property as a "historic property" or a district as a "historic district" and to thereafter prohibit all alteration, demolition or construction on such property or within such district prior to the issuance of a certificate of appropriateness by the HPC.

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- 146B. **Historic district.** A geographically definable area designated by the BCC, which contains structures, sites, monuments or a combination thereof which:
- a. Have special character or special historical or aesthetic interest or value;
 - b. Represent one or more eras of the history of the County; and
 - c. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the County.
147. **Historic preservation commission (HPC).** An appointed commission charged to establish uniform procedures to preserve the County's archaeological and historic resources and to enhance public participation and involvement in the preservation and protection of such resources.
- 147A. **Historic preservation design guidelines.** The United States Secretary of the Interior's "Standards of Rehabilitation," as amended by the BCC, along with any other criteria adopted by the BCC.
148. **Reserved.**
149. **Historic property.** A landmark structure, site or monument, including the adjacent area necessary for the proper appreciation or uses thereof, deemed worthy of preservation by reason of its value to the County, for one or more of the following reasons:
- a. It is an outstanding example of a structure representing its era;
 - b. It is one of the few remaining examples of a past architectural style;
 - c. It is a place or structure associated with an event or person of historic or cultural significance to the County; or
 - d. It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the County.
 - e. Any structure that is:
 - (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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- (3) Individually listed on a state inventory of historic places if the Florida Historic Preservation Program has been approved by the Secretary of the Interior; or
 - (4) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior, or
 - (b) Directly by the Secretary of the Interior in states without approved programs.
150. **Historic resources.** All areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by the BCC as historically, architecturally, or archaeologically significant.
151. **Hospitals.** An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, training facilities, medical facilities, medical offices, staff residences, health club facilities such as weight and aerobic training, racquetball, and handball, gift shops, and day care.
152. **Hotel.** A building or part thereof, in which sleeping accommodations are offered to the public and in which there may be a public dining room for the convenience of the guest. Access to the sleeping rooms shall be through an inside lobby or office.
153. **Reserved.**
- 153A. **Impervious surface.** Land surfaces which do not allow, or minimally allow, the penetration of water. Examples include building roofs, normal concrete and asphalt pavements, and some fine grained soils such as clays. (Ord. No. 08-09-64 § 1)
- 153B. **Impervious surface ratio.** A measure of the intensity of land use, determined by dividing the total of all impervious surfaces on a site by the gross site area. (Ord. No. 08-09-64 § 1)
154. **Industrial uses.** The activities predominantly connected with manufacturing, assembly, processing, or storage of products.
155. **Infill.** A land use strategy to encourage the utilization of existing infrastructure for the orderly development of isolated or skipped-over properties within the urbanized areas of the County. "Infill development" means the improvement and building up of such properties for the most suitable density and/or intensity or type of land use that is compatible with surrounding development patterns and infrastructure capacities.

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156. **Infrastructure.** Those manmade structures which serve the common needs of the population, such as: sewage disposal systems, potable water systems; potable water wells serving a system; solid waste disposal sites or retention areas; stormwater systems, utilities; piers; docks; wharves; breakwaters; bulkheads; sea walls; bulwarks; revetments; causeways; marinas, navigation channels, bridges, and roadways.
157. **Inspector.** Authorized representative of the County.
- 157A. **Intermediate care facility.** A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.
158. **Inter-modulation interference.** Signal interference caused by a wireless communication facility to the signal of one or more existing wireless communication and/or broadcast systems
159. **Interference of traffic.** The obstruction, impeding, or otherwise disruption of vehicle movement.
- 159A. **Institutional use.** A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, or government owned or operated building, structure, or land used for public purpose.
160. **Junkyard.** A place, structure or lot where junk, waste, discarded, salvaged or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrel, and containers, are bought, sold, exchanged, baled, packed, disassembled or handled including auto wrecking yards, used lumber yards, house wrecking yards and yards or places for storage or handling of salvage house wrecking and structural steel materials. This definition shall not include pawnshops and establishments for the sale, purchase or storage of usable secondhand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances, nor shall it apply to the processing of used, discarded or salvaged materials as part of manufacturing operation.
161. **Kenel.** Any place or premises where animals are kept or boarded for a fee.
162. **Land.** The earth, water, and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land including water surfaces and lands under water.
163. **Land clearing.** Engaging in a land management practice or practices, which will result in the destruction of natural resources (as identified on the conservation overlay map; i.e., xeric uplands, cutthroatgrass seep, or wetlands), with the natural resource being replaced or succeeded by something else (e.g. bare soil, different resource type, or invaded by non-native species) which precludes the long-term (five years) recovery of the original natural resource type. Land clearing activities which impact listed species may also be subject to state and federal regulation. The following activities do not constitute "land clearing" and do not require a land clearing

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permit even when undertaken in areas with natural resources as identified on the conservation overlay map:

- a. Maintenance of roads, rights-of-way, and utility easements;
 - b. Construction or maintenance of fence lines up to 20 feet on each side of the fence;
 - c. Maintenance of existing drainage and stormwater management systems;
 - d. Maintenance of the fire breaks and fire lines up to 40 feet wide;
 - e. Maintenance burning other than bay heads;
 - f. Maintenance of native range according to the Best Management Practices of the U.S. Natural Resources conservation Service;
 - g. Maintenance or improvement of improved pasture and land in active agricultural production;
 - h. Removal of non-native vegetation;
 - i. Surveying pursuant to Florida Statutes;
 - j. Agricultural activities as defined in section 12.12.620.E;
 - k. Clearing for all activities and uses outside the conservation areas depicted on the conservation overlay map pursuant to Natural Resource Policy 3.4; or
 - l. Whenever life or property is threatened or endangered during a civil emergency.
164. **Land development regulations.** Include local zoning, subdivision, building, and other regulations controlling the development of land.
165. **Lattice tower.** A ground-mounted guyed or self-supporting three or four-sided, open, steel frame transmission tower.
166. **Level of service.** An indicator of the extent or degree of service provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility or the comparison of public school enrollment to school capacity in a given concurrency service area. (Ord. No. 08-09-54 § 2)
167. **Reserved.**
168. **Livestock.** All animals of the equine, bovine or swine class, including horses, mules, cattle, hogs, sheep, goats and other grazing animals.

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169. **Local development order.** A valid, unexpired permit or development approval, including, but not limited to a building permit, a final subdivision plat or site plan approval, a development agreement made pursuant to the Florida Local Government Development Agreement Act, or other action by the County having the effect of permitting.
170. **Local road.** A roadway providing service which is of relatively low traffic volume, short average trip length or minimal through traffic movements, and high volume land access for abutting property.
- 170A. **Long-term care facility.** An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients.
171. **Lot.** A parcel of land of at least sufficient size to meet minimum requirements for use, coverage and area and to provide such yard and open space as is required. A lot shall have frontage on an improved public road or street where required by the terms of this Code and may consist of:
- a. A single lot of record;
 - b. A portion of a lot of record;
 - c. A combination of complete lots of record; of complete lots of record and portions of lots; or of portions of lots of record;
 - d. A parcel described by meets and bounds;
 - e. Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code. Includes the words "plot" or "parcel."
172. **Lot frontage.** The front of a lot shall be construed to be the portion nearest the street line. For the purpose of determining yard requirements on corner lots and through lots, all yards of a lot adjacent to a street shall be considered frontage, and yards shall be provided as required.
173. **Lot measurements.**
- a. 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.
 - b. Width of a lot shall be considered to be the distance between straight lines connecting the front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

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- 174. **Lot of record.** A lot which exists as shown or as described on a plat or deed recorded in the public records of Highlands County, Florida maintained by the Highlands County Clerk of Courts for recording plats and deeds.
- 175. **Lot types.** The diagram #3, which follows illustrates terminology with reference to "corner" lots, "interior" lots, "reverse frontage" lots and "through" lots:

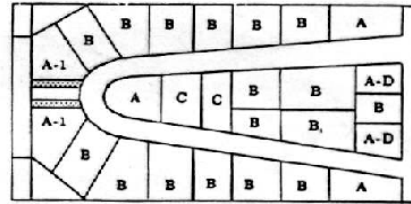


Diagram No. 3 - Lot Types

- a. **A--Corner lot.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot line meet at an interior angle of less than 135 degrees. See lots marked A-1 in diagram.
 - b. **B--Interior lot.** A lot other than a corner lot with only one frontage on a street other than an alley.
 - c. **C--Through lot.** A lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as "double frontage lots."
 - d. **D--Reverse frontage lot.** A lot in which the frontage is at right angles, or approximately right angles to the general pattern in the area involved. A reverse frontage lot may also be a corner lot (see A--D).
- 176. **Low income families.** "Lower income families" as defined under the Federal Section 8 Assisted Housing Program, or families whose annual income does not exceed 80 percent of the median income for Highlands County. The term "families" includes "households."
 - 177. **Major crossing.** Pipe crossings eight inches or greater in outside diameter; crossing requiring well point dewatering; and other crossings of an unusual and difficult nature as determined by the County engineer.
 - 178-179. **Reserved.**
 - 180. **Manhole.** An opening in an underground system which workmen or other may enter for the purpose of making installations, inspections, repairs, connections and tests.

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181. **Manufactured building.** The definition of the term "manufactured building" shall be as defined in F.S. § 553.36, as from time to time amended. For the purpose of this chapter, the term "manufactured building" does not include mobile homes.
182. **Manufactured home.** The definition of the term "manufactured home" shall be as defined in F.S. § 320.01, as from time to time amended.
183. **Material change in appearance.** A change that will affect the exterior architectural features of a historic property or of any structure, site or monument within a historic district and may include any one or more of the following:
- a. A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
 - b. Demolition of a historic property;
 - c. Commencement of excavation;
 - d. Change in the location of advertising visible from the public way or any historic property;
or
 - e. The erection, alteration, restoration or removal of any building or other structure within a historic district, including walls, fences, steps, pavements or other appurtenant features, except exterior paint alterations.
184. **May.** Is permissive. Where "may" is used, it is considered to denote permissive usage.
185. **Mean sea level.** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. The term is synonymous with National Geodetic Vertical Datum (NGVD).
186. **Median.** The portion of a highway or street separating the traveled ways for traffic moving in opposite directions
187. **Mine.** An area of land upon which mining operations have been conducted, are being conducted, or are planned to be conducted, as the term is commonly used in the trade.
188. **Minerals.** All solid minerals, including clay, gravel, phosphate rock, lime, shells (excluding live shellfish), stone, sand, heavy minerals, and any rare earths, which are contained in the soils or waters of the state.
189. **Mining.** The commercial extraction of minerals, ores, and organic matter by excavation below natural ground level, including the processing and storage of these raw materials. Mining is further defined as the removal of resources from their natural location so as to make them suitable for commercial, industrial, or construction use; but does not include excavation solely in

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- aid of on-site farming or on-site construction, or the process of searching, prospecting, exploring, or investigating for resources by drilling.
190. **Mining operation.** Any activity, other than prospecting, necessary for site preparation, extraction, waste disposal, storage, or reclamation.
 191. **Mining operation permit/final development order for mining operations.** The legal instrument issued by the County pursuant to this Code which authorizes a mining operator to commence mining activities at a certain site for a specified period of time.
 192. **Mining operation plan.** A graphic and written description of mining operations and mining related activities to be conducted by the mining operator during the entire time for which the mining site is permitted.
 193. **Mining operator.** Any person, business, agent, or company engaged in the extraction of raw materials from the earth for off site use or sale or any person, business, agent, or company who operates a mine for which a mining operation permit is required.
 194. **Mining related activities.** Any activities directly related to mining including, but not limited to, construction of pipelines and access roads, stockpiling overburden, disposal of by-products, construction of processing facilities, land clearing or alteration of existing contours, and rehabilitation of mined areas.
 195. **Reserved.**
 196. **Mobile home.** A residential structure that is transportable in one or more sections, eight body feet or more in width, and over 35 feet in length, built on an integral chassis, and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure, constructed to standards promulgated by the United States Department of Housing and Urban Development, or if fabricated after June 15, 1976, each section shall bear a U.S. Department of Housing and Urban Development label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards.
 197. **Mobile home park.** A place set aside and offered for either direct monetary or for indirect benefit by any person, firm, corporation, municipality or other public body for the parking and accommodation of two or more mobile homes, travel trailers or recreation units occupied.
 198. **Mobile home subdivision.** A subdivision designed and intended for residential use where residence in such subdivision is restricted exclusively to mobile homes.
 199. **Modular home.** A manufactured building designed and intended for residential use. The term "modular home" does not include mobile homes.
 200. **Monopole tower.** A ground-mounted transmission tower that is freestanding and constructed without guy wires and ground anchors.

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201. **Motel.** A public lodging establishment which offers rental units with a direct exit to the outside of each rental unit, daily or weekly rates, off-street parking for each unit, a central office on the property with specified hours of operation and a bathroom or connecting bathroom for each rental unit.
202. **National Geodetic Vertical Datum (NGVD).** Is a vertical control used as a reference for establishing varying elevations within the floodplain.
203. **Natural drainage features.** The naturally occurring features of an area which accommodates the flow of stormwater, such as streams, rivers, lakes and wetlands.
204. **Reserved.**
205. **Neighborhood park.** A park which serves the population of a neighborhood and is generally accessible by bicycle or pedestrian ways.
206. **New construction.** Structures for which the "start of construction" commenced on or after the effective date of this Code.
207. **Nonconforming.** The physical features or use of a particular property, which existed prior to this Code's effective date of adoption and which do not conform to the requirements or standards, established herein.
208. **Nonconforming lots of record.**
- a. In any category in which dwellings are permitted, notwithstanding limitations imposed by other provisions of this plan, residential dwellings and customary accessory buildings may be erected on any single lot record previously recorded as of January 1, 1971. This provision shall apply even though such lot fails to meet the requirements for minimum size that is applicable in the category, provided that the lot shall conform to all applicable zoning requirements, except those involving area of the category in which the lot is located.
 - b. No parcel of land of less than street frontage and area requirements for the category in which it is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development as a separate single-family lot, except when properly authorized by the applicable planning and zoning regulations.
 - c. A building permit for a dwelling shall not be issued unless a lot has at least 30 feet of frontage on a street.
209. **North American Industry Classification System.** A classification system published by U.S. Executive Office of the President Office of Management and Budget that classifies all non-residential activities, primarily for industry and business.

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- 209A. **Nursery, retail.** The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to the general public. (Ord. No. 08-09-64 § 1)
210. **Nursery school.** A place for the day care and instruction of children not remaining overnight.
- 210A. **Nursery, wholesale.** The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs, to landscapers, developers, builders, and retail nurseries. (Ord. No. 08-09-64 § 1)
211. **Nursing home.** A home for aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter and care, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. See extended care facility; intermediate care facility; long-term care facility.
212. **Objective.** A specific, measurable, intermediate end that is achievable and marks progress toward a goal.
213. **Office.** A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.
214. **Office building.** A building used primarily for conducting the affairs of a business, profession, service, industry, or government or like activity and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child-care facilities.
215. **On-site.** Within the contiguous limits of an area of land under one ownership or control and upon which farming or construction activities are taking place. Areas of land that are divided by public or private roads, railroads and linear easements are considered contiguous if such areas are under one ownership or control.
216. **Open space(s).** Undeveloped lands suitable for passive recreation or conservation uses.
217. **Open space easement.** A right or interest in real property where access may be restricted or unrestricted; activities may be passive or active; vegetative cover may be natural or improved; and, where all structures are limited only to non-habitable recreational use.
- 217A. **Ordinary high water line.** The boundary between uplands and submerged lands beneath nontidal navigable natural water bodies. (Ord. No. 07-08-32 § 1)
218. **Overburden.** Any soil or rock removed to gain access to the resource in the process of extraction and such soil or rock before or after it is removed. This does not include tailings or screenings generated by processing the resource.
219. **Parcel of land.** Any area of land capable of being described with such definitiveness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

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220. **Park.** A neighborhood, community, or regional park.
221. **Park model.** The term "park model" shall have the same definition as provided for the term "park trailer" in F.S. § 320.01.
222. **Parking.** The term "parking" shall mean the temporary, transient storage of private passenger automobiles used for personal transportation while their operators are engaged in other activities. It shall not include storage of new or used cars for sale, service, rental, or other purpose other than specified above. "Parking" as defined herein shall apply only to open air storage of automobiles.
223. **Pavement.** A paved travel way, normally including an asphalt or concrete surface designed to carry the anticipated traffic for a specified design period.
224. **Permittee.** The right-of-way user responsible for permitted maintenance or construction whether by their own forces or by contractors and subcontractors properly licensed by a municipality, the County, or by the state.
225. **Person.** Includes a person, firm, association, organization, partnership, trust, company or corporation as well as an individual. Also means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.
226. **Personal services.** Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.
227. **Pharmacy.** A place where drugs and medicines are prepared and dispensed. Also see drugstore.
228. **Reserved.**
229. **Pole-attached antenna.** Antennas attached to electric transmission or distribution poles, street lights, traffic signals or similar facilities.
230. **Policy.** The way in which programs and activities are conducted to achieve an identified goal.
231. **Pollution.** Is the presence in the outdoor atmosphere, ground or water of any substances, contaminants, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water, in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.
232. **Porch.** A roofed-over space attached to the outside of an exterior wall of a building which has no enclosure other than the exterior walls of such building. Open mesh screening shall not be considered an enclosure.

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233. **Potable water facilities.** A system of structures designed to collect, treat, or distribute potable water, which must obtain a water use permit from a water management district and includes water wells, treatment plants, reservoirs, and distribution mains.
234. **Poultry.** Any chickens, turkeys, ducks or geese.
235. **Poultry market.** A commercial establishment or place where live poultry or fowls are kept and prepared for sale, including killing and cleaning.
236. **Professional engineer.** A duly qualified individual currently licensed to practice engineering in the State of Florida, pursuant to F.S. Ch. 471, practicing in the discipline required for the particular task as indicated in the specific section of the regulations governing transmission towers.
237. **Public facilities.** Government offices or facilities, transportation systems or facilities, sewage systems or facilities, solid waste systems or facilities, drainage systems or facilities, potable water systems or facilities, educational systems or facilities, parks and recreation systems, and public health systems or facilities.
238. **Public potable water well.** Any well serving 15 or more residential households or serving a commercial or industrial property.
239. **Public recreation sites.** Sites owned or leased on a long-term basis by a federal, state, regional, or local government agency for purposes of recreational use.
240. **Public services.** Any administrative, entitlement, protective, maintenance, or utility service provided by Highlands County to the general public.
- 240A. **Public utility.** An enterprise providing to the public a utility service deemed necessary for the public health, safety, and welfare.
- 240B. **Public utility facilities.** Building, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, wastewater, and public transit, to the public.
241. **Qualified.** The ability, shown by license, registration, certification, etc. to perform required tasks as needed to perform certain job duties.
242. **Qualified archaeological agent.** Any person, institution, firm, or association who meets the membership qualifications of the Florida Archaeological Council or the Society of Professional Archaeologists in the area of field research or cultural resources management, or as determined by the historic preservation commission.
- 242A. **Quasi-public use.** A use owned or operated by a nonprofit, religious, or eleemosynary institution and providing educational, cultural, recreational, religious, or similar types of programs.

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243. **Receiving area.** Parcels of land within a designated development area, which are permitted to increase density, as specified herein, and receive development rights purchased from the owners of land in a sending area. The transfer capacity of these development rights is based on the number of transferable development rights which a specified receiving area can accommodate.
244. **Reclamation.** Reasonable rehabilitation of land where mining has occurred in accordance with the reclamation criteria of appropriate sections of Chapter 16C, Florida Administrative Code, depending on the type of proposed mining.
245. **Reserved.**
- 245A. **Recreational vehicle park.** The term "recreational vehicle park" shall have the same definition as the term "RV park (FUD)". Also see campground.
- 245B. **Recreational vehicle.** The definition of the term "recreational vehicle, shall have the same meaning as provided for the term "recreational vehicle-type unit" in F.S. § 320.01, including the terms "travel trailer," "camping trailer," "truck camper," "motor home," "private motor coach," "van conversion," "park trailer," and "fifth wheel trailer," as defined in F.S. § 320.01, from time to time amended and shall include other recreational vehicle-type units designed for travel, recreation, and vacation uses not specifically described above.
246. **Refuse.** All domestic solid waste as defined by this Code.
247. **Regional park.** A park which is designed to serve two or more communities.
248. **Relocation.** The adjustment of utility facilities required by a road project or a County driveway permit, such as removing and reinstalling the facility, including necessary right-of-way on new locations, moving or rearranging existing facilities or changing the type of facility, including any necessary safety and protective measures; it shall also mean constructing a replacement facility when necessary for continuous operation of the utility service, the project economy, or a sequence of road construction or maintenance operations.
249. **Relocation housing.** Those dwellings which are made available to families displaced by public programs, provided that such dwellings are decent, safe and sanitary and within the financial means of the families or individuals displaced.
250. **Repair garage.** A facility for the repair of motor vehicles.
- 250A. **Residential health care facility.** Residences usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services, such as recreational, social, and cultural activities, financial services, and transportation.
251. **Residential uses.** Activities within land areas used predominantly for housing.

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- 252A. **Restoration (historic structures).** Modifications, changes, or repair of an historic structure in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as incorporated into the All Florida Building Code.
- 252B. **Restoration (land).** The recontouring and revegetation of lands in a manner, consistent with the criteria and standards established in Chapter 16C-16, Florida Administrative Code, which will return the type, nature, and function of the ecosystem to the condition in existence prior to mining operations. In requiring restoration of an area, the County engineer shall recognize technological limitations and economic considerations. Restoration shall be required only for phosphate mining operations.
253. **Retail sales.** Establishments engaged in the selling or rental of goods or merchandise (usually to the general public for personal or household use, although they may also serve business and institutional clients) and in rendering services incidental to the sale of such goods. (Ord. No. 07-08-32 § 1)
- 253A. **Retail sales, outdoor.** The display and sale of products and services, primarily outside of a building or structure, including garden supplies, flowers, shrubs, and other plant materials; gas, tires, and motor oil; food and beverages; vehicles, boats, and aircraft; farm equipment; motor homes; burial monuments; building and landscape materials; and lumberyards. (Ord. No. 07-08-32 § 1)
- 253B. **Retail services.** Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places; hotels and motels; finance, real estate, and insurance offices; personal services; theatres; amusement and recreation services; health, educational, and social services; museums; and galleries. (Ord. No. 07-08-32 § 1)
254. **Right-of-way.** Land in which the state, a County, or a municipality owns the fee simple title or has an easement dedicated or required for a transportation or utility use. Right-of-way and County right-of-way have the same meaning in this chapter of these regulations; all three terms refer to a right-of-way dedicated to the public, Highlands County, and/or the BCC, either by recorded plat, deed, or easement, and include both County maintained and non-County maintained rights-of-way; right-of-way as used here does not include private right-of-way, state right-of-way, municipal right-of-way or transmission line right-of-way.
255. **Roadway functional classification.** The assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads, and collector roads, which may be sub-categorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories.
256. **Roof.** The exterior upper covering of a structure or trailer.
257. **Rooming house.** Any dwelling or that part of a dwelling containing one or more rooming units, in which space is let by the owner or operator to four or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

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258. **Routine maintenance.** The every day maintenance of one's facilities.
259. **Reserved.**
260. **RV park (FUD).** A place set aside and offered by any person, firm, corporation, municipality or other public body for the parking and accommodation of two or more park models, travel trailers or recreation units occupied for sleeping or eating for either direct money consideration or for indirect benefit to the owner, lessee or operator of such place. An area of not less than five acres will be required for approval of an RV park, or CG-1, CG-2, CG-3 and/or M-2, or a combination of the foregoing classifications. All RV parks shall be required to submit a (FUD) flexible unit development application.
261. **Salvage yard.** Any area, lot, land, parcel, building, or structure or part thereof, where waste products are utilized and something is extracted (as from rubbish) as valuable or useful.
262. **Sanitary wastewater facilities.** Structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, treatment plants and disposal systems.
263. **School.** Pursuant to F.S. § 1003.01(2), a school is an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the state board of education. (Ord. No. 06-07-37 § 1)
- 263A. **School capacity.** The demand that can be accommodated by a school facility at the adopted level of service, as determined by the school district. Any school capacity remaining after subtracting the current number of students enrolled in existing school facilities, student stations that are reserved by a finding of available school capacity, and student stations that are reserved for exempt developments is considered available. (Ord. No. 06-07-37 § 1; Ord. No. 08-09-54 § 2)
- 263B. **School concurrency.** Pursuant to F.S. § 163.3180(13)(e), to achieve and maintain the adopted levels of service for school capacity where adequate school facilities will be in place or under actual construction within three years of approval of a proposed development. (Ord. No. 06-07-37 § 1; Ord. No. 08-09-54 § 2)
- 263C. **School district.** The School District of Highlands County, Florida. (Ord. No. 06-07-37 § 1; Ord. No. 08-09-54 § 2)
- 263D. **School facilities.** Permanent public school buildings provided by the school district, as defined by the most current edition of the Florida Inventory of School Houses (FISH), published by the Florida Department of Education, or a charter school approved by the school district as school capacity, or land for a school facility. A school facility is considered existing if it is constructed and operational. A school facility is considered planned if it is listed in the school district five-year district facilities work program as being in place or under actual construction within three years. (Ord. No. 06-07-37 § 1; Ord. No. 08-09-54 § 2)
- 263E. **School, parochial.** A school supported and controlled by a church or religious organization. See school, private. (Ord. No. 08-09-54 § 2)

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- 263F. **School, private.** Pursuant to F.S. § 1002.01(2), a private school is a nonpublic school defined as an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of F.S. § 1003.01(13), or that gives pre-employment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of F.S. Ch. 1005. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with F.S. § 1002.41. Any building or group of buildings the use of which is a school but is not a public school and provides elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency. (Ord. No. 08-09-54 § 2)
- 263G. **School, public.** A public school is a school funded and operated by the School Board of Highlands County, Florida. (Ord. No. 08-09-54 § 2)
- 263H. **School, vocational.** A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility. (Ord. No. 08-09-54 § 2)
264. **Screen room.** A structure consisting of a rigid frame made of wood, aluminum, steel, block, brick or other support material, a roof and exterior walls. The frame shall constitute no more than 30 percent of the area of any wall, and except for the exterior walls of a utility building under the same roof, at least 70 percent of the area of each wall, including doors, shall consist of wire or plastic screening mesh. No glass, vinyl or other covering shall be allowed. Interior blinds shall be allowed. (Ord. No. 05-06-33 § 1)
265. **Reserved.**
266. **Sending area.** An area containing the land based resource which the TDR program is designed to protect, as specified in Article 13, and from which development rights are transferred pursuant to provisions of Division 3 (Transfer of Development Rights Options) of Article 13 (Other Administrative Procedures).
267. **Services.** The programs and employees determined necessary by local government to provide adequate operation and maintenance of public facilities and infrastructure as well as those educational, health care, social and other programs necessary to support the programs, public facilities, and infrastructure set out in the local plan or required by local, state, or federal law.
268. **Service station.** A facility, including land and improvements, where motor fuel is offered for sale, at retail, to the motoring public.

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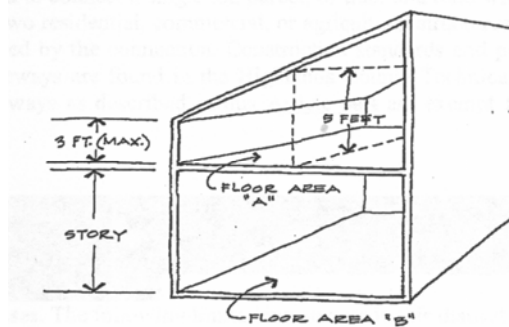
269. **Setback.** The minimum distance between the front line and the front building line or the side or rear lot line and the side or rear building line or any projection thereof, excluding projections specifically permitted.
270. **Shall.** Is mandatory. A mandatory condition.
271. **Shoreline or shore.** The interface of land and water and, as used in the coastal management element requirements, is limited to oceanic and estuarine interfaces.
272. **Should.** An advisory condition. Where "should" is used, it is considered to denote permissive usage.
273. **Sign.** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the applications of the regulations herein:
- a. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations.
 - b. Banners and insignias, except when displayed in connection with commercial promotion.
 - c. Legal notices; identification, information, directional or regulatory signs erected or required by governmental bodies.
 - d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - e. Signs directing and guiding traffic and parking on private property but not bearing any advertising matter.
274. **Sign, billboard.** Any combination of structure and message in the form of an outdoor sign, display, device, figure, painting, drawing, message, placard, poster, advertising structure, advertisement, logo, symbol or other form, whether placed individually or on a V-type, back to back, side to side, stacked or double-faced display, designed, intended or used to advertise or inform, any part of the advertising message or informative contents of which is visible from any place on the main-traveled way. The term does not include an official traffic control sign, official marker or specific information panel erected, caused to be erected or approved by the state or County.
275. **Sign, combination vertical and roof.** A vertical projecting sign which extends above the roof line and is combined with a roof sign. The surface of such sign shall be continuous on both parts and shall be contiguous to the wall and the roof. (Ord. No. 05-06-33 § 2)
276. **Sign, ground.** A sign attached to and supported by the ground.

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277. **Sign, off-site.** A sign other than an on-site sign.
278. **Sign, on-site.** A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.
279. **Sign, name plate.** A sign indicating the name and/or profession of a person or persons residing on the premises or legally occupying the premises or indicating a home occupation legally existing on the premises. (Ord. No. 05-06-33 § 3)
280. **Signs, number and surface area.** For the purpose of determining number of signs, a sign shall be considered to be a single display surface device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. This definition does not include pennants and streamers. (Ord. No. 05-06-33 § 3)
281. **Reserved.**
282. **Sign, pylon.** A wall sign on the wall of an enclosed structure which is erected above the ground or as an extension above or an addition to a building, primarily for the purpose of providing support and/or background for the sign copy. (Ord. No. 05-06-33 § 4)
283. **Single-family or one-family.** Designed for and occupied by only one family.
284. **Snipe signs.** A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences or to other objects, and the advertising content appearing thereon is not applicable to the present use of the premises upon which such sign is located or which makes malicious attacks or remarks.
285. **Solid waste.** Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
286. **Reserved.**
287. **Special exception.** A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, prosperity or general welfare. Such uses are permitted in such zoning district as special exceptions where specific provisions for such exception is made in this chapter.
288. **Spoil.** Any overburden that has been displayed.

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289. **Start of construction.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- 289A. **Storage, outdoor or outdoor storage.** The keeping of any goods, junk, material, merchandise, or vehicles in a place, other than an enclosed structure, for more than 24 hours. (Ord. No. 07-08-32 § 1)
290. **Stormwater.** The flow of water which results from a rainfall event.
- 290A. **Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use. See Diagram for Definition # 290B. (Ord. No. 06-07-04 § 2)
- 290B. **Story, half.** A space under a sloping roof that has the line of intersection of the roof and wall face not more than three feet above the floor level and in which space the possible floor area with head room of five feet or less occupies at least 40 percent of the total floor area of the story directly beneath. See diagram for definition # 290B. (Ord. No. 06-07-04 § 3)



If floor area "A" is at least 40 percent of floor area "B", then "A" is a half story.

Diagram for definition # 290B.

291. **Street.** A public or private travel-way which affords principal means of access to abutting property.
292. **Street line.** The right-of-way line of a street.

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293. **Reserved.**
294. **Structure.** Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently and also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, a gas or liquid storage tank and advertising signs, unless exempt by state or federal law. Structure also includes anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.
- 294A. **Structure, enclosed or enclosed structure.** Any structure having a roof and four solid walls extending from the roof to the floor, which is intended for shelter, housing, or enclosure of any person, animal, process, equipment, goods, or materials of any kind. An enclosure having a tarp, canopy, screen, and similar material for a roof or wall shall not be considered to be an enclosed structure. (Ord. No. 07-08-32 § 1)
295. **Structure-mounted facility.** A wireless communications facility, the antennas for which are attached to an existing structure or building. The facility includes all support facilities regardless of where such facilities are located with respect to the antennas.
296. **Subdivision.** The platting of real property into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, resubdivisions; and when appropriate to the context, relates to the process of subdividing or to the lands or areas subdivided.
297. **Reserved.**
298. **Support facilities.** Any on-site or off-site building, cabinet or equipment enclosure which houses the electronics, backup power, power generators and other freestanding equipment associated with the operation of a wireless communications facility.
299. **Tourist home.** A building or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, with or without meals, and which also serves as a residence of the operator.
300. **Towers.** See transmission tower or tower, lattice towers, guyed towers, or monopole towers and ground-mounted tower and alternative tower structure.
- 301-302. **Reserved.**
303. **Transfer of development rights (TDR) easement.** An easement over real property that restricts the use of the property to agricultural, open space, or conservation use, as specified in easement.

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- 303A. **Transitional care home.** A facility in which individuals live for a short period while receiving physical, social, or psychological therapy and counseling to assist them in overcoming physical or emotional problems.
- 303B. **Transitional care clinic.** A clinic operated as a subordinate use in connection with and on the premises of a transitional care home, solely for providing physical, social, and psychological therapy or counseling by qualified personnel whose patients are limited to those who have recently resided in the transitional care home or families of those who are residing in or have recently resided in a transitional care home.
304. **Transmission tower or tower.** A structure that is designed and constructed for the purpose of supporting one or more antennas, including but not limited to, lattice towers, guyed towers, or monopole towers.
305. **Transportation disadvantaged.** Those individuals who because of physical or mental disability, income status, or age are unable to transport themselves to or purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities.
306. **Travel way.** The portion of the roadway for the movements of vehicles, exclusive of shoulders and auxiliary lanes.
307. **Undue economic hardship.** An exceptional financial burden that would amount to the taking of property without just compensation, or failure to achieve a reasonable economic return in the case of income producing property.
308. **Used or occupied.** Includes the words "intended, designed or arranged to be used or occupied."
309. **Utility.** All privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste and stormwater not connected with highway drainage, and other similar commodities, including television transmission signals, publicly owned fire and police signal systems and street lighting systems, which directly serve the public or any part thereof; the term "utility" shall also mean the UAO, inclusive of wholly owned or controlled subsidiaries.
310. **Utility facilities.** All privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste and stormwater not connected with highway drainage, and other similar commodities, including television transmission signals, publicly owned fire and police signal systems and street lighting systems, which directly serve the public or any part thereof.
311. **Utility or storage building.** A storage structure that is either an accessory structure or an accessory use.

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312. **Utility trailer.** A utility trailer is a device on a wheel or wheels with an unloaded gross weight of less than 4,050 pounds, capable of bearing a load of whatsoever shape, size or description and capable of being towed or being made capable of being towed behind an automobile, tractor or other prime mover.
313. **Variance, Building Code.** A building code variance is a relaxation of the terms of Article 16 of this chapter where such building code variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.
314. **Variance, land development regulation.** A land development regulation variance is a relaxation of Article 4, Article 9, Article 10, Article 11, Divisions 2, 3, 4, and 7 of Article 12, Division 1 of Article 13, and Article 14 of the terms of this chapter where such land development regulation variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.
315. **Variance, zoning.** A zoning variance is a relaxation of the terms of Article 5 of this chapter where such zoning variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a zoning variance is authorized only for height, area and size of structure or size of yards and open spaces. See section 12.05.315 for temporary use permits. Establishment or expansion of a use otherwise prohibited shall not be allowed by zoning variance, nor shall a zoning variance be granted because of the presence of non-conformities in the zoning division or district or adjoining zoning divisions or districts.
316. **Vegetative communities.** Ecological communities, such as coastal strands, oak hammocks and cypress swamps, which are classified based on the presence of certain soils, vegetation and animals.
317. **Vesting.** A legal procedure by which Highlands County acknowledges that an individual relied on an act of government to confer specific rights to develop property for certain uses, densities, and intensities of use before the effective date of the comprehensive plan or its amendments, even though such development may be inconsistent with this plan or its amendments.
318. **Vinyl room.** A structure consisting of a rigid frame made of wood, aluminum, steel, block, brick or other support material, a roof, exterior walls which have open areas covered by windows or panels made of or covered by vinyl material and interior walls which are not finished with wood, paneling, drywall or other material. (Ord. No. 05-06-33 § 5)
319. **Water-dependent uses.** Activities which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for: waterborne transportation including ports or marinas; recreation; electrical generating facilities; or water supply.
320. **Reserved.**

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321. **Watering station.** A facility for filling the water storage tanks of trailers with potable water from an approved water system pursuant to the provisions of chapter 10D-4 of the Florida Administrative Code.
322. **Wetland.** Those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands shall be delineated pursuant to Sections 62-340.100 through 62-340.550, F.A.C., as ratified by F.S. § 373.4211, "Source: Florida Statutes: 373.019(17) Definitions.
323. **Whip antenna.** A type of Antenna having a diameter of between two and six inches, and a height of not more than eight feet, which emits a signal in a 360 degree horizontal plane with a compressed vertical plane. Stick, omni-directional and pipe antennas are whip antennas.
324. **Wireless communication services.** Any personal wireless services as defined in the Federal Telecommunications Act of 1996, including but not limited to, cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.
325. **Wireless communications facility.** A facility that sends and/or receives radio frequency signals, including towers, antenna(s), associated support facilities, and accessory structures.
326. **Xeric uplands.** Those areas containing both the soils listed below and the plant species listed below. Xeric uplands are those areas that are dry or relatively dry sites which contain a unique assembly of plants not found in any other Ecosystems (the unique suite of plants and which are endemic to central Florida) and contains the appropriate soil, as identified by the following soils: Paola Sand 0 to 8 percent slope (map symbol 1), St. Lucie Sand 0 to 8 percent slope (map symbol 2), Duettee Sand 0 to 5 percent slope (map symbol 4), Daytona Sand 0 to 5 percent slopes (map symbol 5), Tavares Sand 0 to 5 slope (map symbol 6), Astatula Sand 0 to 8 percent slopes (map symbol 9), Orsino Sand (map symbol 11), Satellite Sand (map symbol 14), Archbold Sand 0 to 5 percent slopes (map symbol 28), Tavares-Basinger-Sanabel Complex Rolling (map symbol 34), Pomello Sand 0 to 5 percent slopes (map symbol 36), Astatula-Urban Land Complex 0 to 8 percent slopes (map symbol 42), Satellite-Basinger-Urban Land Complex (map symbol 44), Paola-Basinger Sands Rolling (map symbol 45). Those plants included in

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these areas are listed but not limited to the following species (found on pages 55 and 56 of "Notes on Plants Endemic to Florida Scrub"):

| Scientific Name | Common Name | (family) |
|--|-------------------------------|--------------------------------------|
| • <i>Ziziphus celata</i> | Florida jujube | (Rhamnaceae) |
| • <i>Lupinus westianus</i> var. <i>ardorum</i> | Scrub lupine | (Fabaceae) |
| • <i>Dicerandra christmanii</i> | Yellow scrub balm | (Lamiaceae) |
| <i>Chrysopsis floridana</i> | Florida golden aster | (Asteraceae) |
| • <i>Crotalaria</i> sp. nov. | Avon Park Crotalaria | (Fabaceae) |
| <i>Dicerandra cornutissima</i> | Long-spurred scrub palm | (Lamiaceae) |
| <i>Dicerandra immaculata</i> | Lakela's mint | (Lamiaceae) |
| • <i>Dicerandra frutescens</i> | Scrub balm | (Lamiaceae) |
| • <i>Eryngium cuneifolium</i> | Wedge-leaved button-snakeroot | (Apiaceae) |
| <i>Polygala lewtonii</i> | Lewton's polygala | (Polygalaceae) |
| • <i>Conradina brevifolia</i> | Short-leaved rosemary | (Lamiaceae) |
| <i>Warea carteri</i> | Carter's warea | (Brassicaceae) |
| <i>Eriogonum longifolium</i> var. | Scrub buckwheat | (Polygonaceae) <i>gnaphalifolium</i> |
| <i>Calamintha ashei</i> | Ashe's savory | (Lamiaceae) |
| • <i>Chionanthus pygmaeus</i> | Pygmy fringe-tree | (Oleaceae) |
| • <i>Asimina tetramera</i> | Four-petaled pawpaw | (Annonaceae) |
| • <i>Hypericum cumulicola</i> | Highlands scrub hypericum | (Clusiaceae) |
| • <i>Bonamia grandiflora</i> | Scrub morning glory | (Convolvulaceae) |
| • <i>Liatris ohlingeriae</i> | Scrub blazing-star | (Asteraceae) |
| • <i>Polygonella myriophylla</i> | Sand-lace | (Polygonaceae) |
| • <i>Polygonella basiramia</i> | Hairy jointweed | (Polygonaceae) |
| • <i>Paronychia chartacea</i> | Papery whitlow-wort | (Caryophyllaceae) |
| <i>Conradina grandiflora</i> | Large-flowered rosemary | (Lamiaceae) |
| • <i>Schizachyrium niveum</i> | Riparian autumngrass | (Poaceae) |
| • <i>Prunus geniculata</i> | Scrub plum | (Rosaceae) |
| <i>Lechea cernua</i> | Nodding pinweed | (Cistaceae) |
| • <i>Nolina brittoniana</i> | Scrub beargrass | (Nolinaceae) |
| • <i>Clitoria fragrans</i> | Pigeon-wing | (Fabaceae) |
| <i>Persea humilus</i> ¹ | Silk bay | (Lauraceae) |
| <i>Pinus clausa</i> | Sand pine | (Pinaceae) |
| <i>Carya floridana</i> | Scrub hickory | (Juglandaceae) |
| <i>Ceratiola ericoides</i> | Florida rosemary | (Empetraceae) |
| <i>Asclepias curtissii</i> | Scrub milkweed | (Asteraceae) |
| <i>Garberia heterophylla</i> | Garberia | (Asteraceae) |
| <i>Sabal etonia</i> | Scrub palmetto | (Arecaceae) |
| <i>Ilex opaca</i> var. <i>arenicola</i> | Scrub holly | (Aquifoliaceae) |
| <i>Osmanthus magacarpus</i> | Scrub wild-olive | (Oleaceae) |
| <i>Quercus inopina</i> | Scrub oak | (Fagaceae) |
| <i>Sisyrinchium xerophyllum</i> | Scrub blue-eyed grass | (Iridaceae) |
| • <i>Bumelia tenax</i> "lacuum entity" | Scrub buckthorn | (Sapotaceae) |

¹Taxon that sometimes is treated as a variety of *Persea borbonia* (L.) Spreng. (e.g., Little, 1979), but here is considered to be specifically distinct because of significant differences from *Persea borbonia* in density and length of appressed ferruginous hairs on its abaxial leaf surfaces and in flavonoid complement (see Wofford, 1973).

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327. **Yard, required.** A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that fences and walls may be permitted in any yard subject to limitations as noted herein and provided further that certain encroachments are allowed as specified in section 12.05.401. Yards shall extend and be measured inward from the respective lot lines.
328. **Yard, front.** A yard extending across the full width of the lot between the lot line and the nearest line of the main building on the lot.
329. **Yard, rear.** A yard extending across the full width of the lot between the rear lot line and the main building.
330. **Yard, side.** A yard extending from the front yard to the rear yard, between the side lot line and the nearest line of any building or use on the lot. The width of a side yard shall be the shortest distance between the side lot line and the nearest use or building on the lot.
331. **Zoning district(s).** As shown in the official schedule of zoning regulations and as delineated on the official zoning atlas.

(Res. of 8-18-70, § 2; Res. of 6-26-73; Ord. No. 76-6, § 1; Ord. No. 90-12; Ord. No. 93-15 § 1; Ord. No. 94-4, § 1; Ord. No. 99-15 § 1; Ord. 99-18 § 1; Ord No. 00-01-42 § 3)(Ord No. 03-04-1)(Old Sec. 12-2)(Ord No. 05-06-05, § 3; Ord. No. 05-06-30, § 3; Ord. No. 05-06-33, §§ 1--5; Ord. No. 06-07-04, §§ 1--3; Ord. No. 06-07-37, § 1; Ord. No. 07-08-32, § 1; Ord. No. 08-09-54, § 2; Ord. No. 08-09-64 § 2)

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ARTICLE 3.

ADMINISTRATION AND ENFORCEMENT

DIVISION 1.

GENERAL

Section 12.03.100. Enforcing official.

- A. An administrative official known as the enforcing official shall administer and enforce the provisions of this chapter, pursuant to Article 1, section 12.01.106 and described in Division 2 of Article 1, "Types of Reviews."
- B. If the enforcing official shall find that any of the provisions of this chapter are being violated, he shall notify, in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
- C. The enforcing official shall make or cause to be made such inspections, approve such plans and specifications, issue permits and certificates and maintain such records of his actions as are necessary to enforce the provisions of this chapter.

(Res. of 8-18-70, § 18(1))(Ord No. 03-04-1)(Old Sec. 12-20)(Ord. No. 05-06-05)

Section 12.03.101. Building permit required.

No building or other structure shall be erected, moved, added to or structurally altered without a building permit, therefore, issued by the building department pursuant to the requirements of Article 16 of this chapter. No building permit shall be issued except in conformity with the provisions of this chapter. A building permit, when issued, authorizes only the construction and the use therein set out.

(Res. of 8-18-70, § 18(2))(Ord No. 03-04-1)(Old Sec. 12-21)(Ord. No. 05-06-05)

Sections 12.03.102--12.03.104. Reserved.

Section 12.03.105. Right of entry.

For the purpose of enforcing this chapter when necessary for discharging their responsibilities under it, the enforcing official or his authorized representative shall have a right of entry onto private property and into private buildings, while construction is in progress, at any reasonable time. Any person refusing or obstructing such entry shall be guilty of a violation of this section and punishable as provided under section 12.03.109.

(Res. of 8-18-70, § 18(6))(Ord No. 03-04-1)(Old Sec. 12-25) (Ord. No. 05-06-05)

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Section 12.03.106. Zoning clerk.

The zoning clerk shall maintain the files and records of the P&Z and the BOA. The zoning clerk, or designee, shall attend all meetings of the P&Z and the BOA and those meetings of the BCC where matters of planning and zoning are under discussion. The clerk shall further:

- A. Receive petitions for amendments to this chapter and requests for special exceptions, appeals and zoning variances and refer the same to the proper authority;
- B. Issue notices of hearings and such other notifications, when required by the BCC, the P&Z or the BOA under the terms of this chapter; and
- C. Perform such other clerical duties as may be required for the conduct of business.
(Res. of 8-18-70, § 18,7)(Ord No. 03-04-1)(Old Sec. 12-26)(Ord. No. 05-06-05)

Section 12.03.107. Duties of zoning supervisor; Board of Adjustment and BCC.

- A. It is the intent of this chapter that all questions of interpretation and enforcement shall be presented to the BOA, only on appeal from the decision of the zoning supervisor, and that recourse from the decisions of the BOA shall be as provided by law.
- B. It is further the intent of this chapter that the duties of the BCC under this chapter shall not include hearing and deciding questions of enforcement and interpretation that may arise. Under this chapter, the BCC shall have only the duties of:
 - 1. Considering and adopting or rejecting proposed amendments or appeals of this chapter, as provided by law.
 - 2. Establishing a schedule of fees and charges as stated in section 12.01.111 of the Code.
 - 3. Approving special use permits, pursuant to section 12.03.205 of this Code.

(Res. of 8-18-70, § 19; Ord. No. 99-18 § 2; Ord. No. 99-18 § 60; Ord No. 00-01-25 § 3; Ord No. 03-04-1)(Old Sec. 12-27 & 12-126)(Ord. No. 05-06-05)

Section 12.03.108. Complaints regarding violations.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a complaint. Such complaint may either be in writing and shall be signed by the person complaining or be anonymous. Such complaint, stating fully the causes and basis thereof, shall be filed with the zoning supervisor or enforcing official. The zoning supervisor or enforcing official shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

(Res. of 8-18-70, § 26)(Ord No. 03-04-1)(Old Sec. 12-28) (Ord. No. 05-06-05)

Section 12.03.109. Penalties for violation.

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements shall be deemed a misdemeanor and upon conviction be punishable as provided by law. Each day, such violation continues, shall be deemed a separate offense.

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- B. The owner or tenant of any building, structure or premises, or part thereof, and any architect, building contractor, engineer, agent or other person who commits, participates in, assists in or maintains such violation, may each be found guilty of a separate offense and suffer the penalties provided by law.
- C. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

(Res. of 8-18-70, § 27)(Ord No. 03-04-1)(Old Sec. 12-29)(Ord. No. 05-06-05)

Section 12.03.110. Permits required.

The use of property may not be substantially changed, clearing, grading, or excavation may not commence, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one or more of the following:

- A. A building permit issued by the building department.
- B. Such inspections, permits and certificates as are necessary to enforce the provisions of this chapter by the enforcing official.
- C. A special exception permit or zoning variance issued by the BOA.
- D. A special-use permit issued by the BCC.
- E. The correct and consistent comprehensive plan category on the future land use map and zoning district on the zoning atlas;
- F. Consistency with all required comprehensive plan text and zoning regulation text regulations;
- G. Vacation of public rights-of-way, easements and plats and conveyance of rights-of-ways approved by the BCC;
- H. Conformance and consistency with the text of the land development regulations, including:
 - 1. Application for a final development order;
 - 2. Preliminary plat;
 - 3. Final plat;
 - 4. Preliminary site plan;
 - 5. Final site plan;
 - 6. Improvement agreement;
 - 7. Land development variances;

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8. Landscape and irrigation plans;
 9. Flood hazard development permit applications;
 10. Commercial flood hazard elevation certificates;
 11. Applications for permits for construction within County right-of-way;
 12. Single-family residential, duplex, and manufactured home residential driveway permit applications; and
 13. Concurrency review.
- I. Approval of special clearances when required by the land development regulations:
1. Archaeological clearance/certificate of appropriateness
 2. Historical resource clearance/certificate of appropriateness or variances to certificate of appropriateness;
 3. Environmental clearance;
 4. Land clearing permits;
 5. Utility permit;
 6. Mining operation permit;
 7. Development agreements;
 8. Florida quality development;
 9. Development of regional impact; and
 10. Transfer of development rights.
- J. Sign permit applications.
- K. Fire code requirements, including the following;
1. Fire suppression system plans and specifications;
 2. Fire alarm system plans and specifications and;
 1. Permits for storage of flammable and hazardous materials.

(Ord. No. 99-3, § 1)(Ord No. 03-04-1) (Old Sec. 12-30)(Ord. No. 05-06-05)

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Section. 12.03.111. Waiver of certain fees for County-initiated petitions.

The fees prescribed pursuant to the comprehensive plan, land development code and any of the applicable building or construction codes, are hereby waived in each instance where the County is the petitioner or applicant for the particular zoning atlas amendment, special permit or building permit or other appropriate relief; provided however, that in no event, shall this be construed as a waiver of the requirement of the appropriate departments, agencies or officers of the County to file, process, conduct inspections and otherwise comply with the pertinent provisions of the particular land development code, building code or construction code applicable to the particular petition or application by the County.

(Ord. No. 05-06-05, § 4; Ord. No. 05-06-30, § 4)

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DIVISION 2.

BOARD OF ADJUSTMENT

Section 12.03.200. General organization and procedure.

The members of the P&Z shall serve, ex officio, as the BOA, and the alternates to the P&Z shall serve, ex officio, as the alternates to the BOA to serve in the absence of the regular members. The members of the BOA shall serve without compensation but may receive necessary travel and other expenses while on official business outside Highlands County. A quorum of not less than four members (including alternates serving in the absence of regular members) shall be required for all meetings of the BOA.

(Res. of 8-18-70, § 20; Ord. No. 77-11, § 1; Ord. No. 78-2, § 2; Ord. No. 93-15, § 3)(Ord No. 03-04-1)(Old Sec. 12-36)(Ord. No. 05-06-05)

Section 12.03.201. Proceedings of the board of adjustment.

- A. The BOA shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairman and at such other times as the BOA may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and shall be held in a public building.
- B. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, abstaining, or failing to vote indicating such fact, and shall keep records of its examinations and other public actions, all of which shall be a public record and be immediately filed in the office of the BCC.

(Res. of 8-18-70, § 20(1))(Ord No. 03-04-1)(Old Sec. 12-37)(Ord. No. 05-06-05)

Section 12.03.202. Hearings; appeals; notice.

- A. Appeals to the BOA may be taken by any person aggrieved or by any officer or bureau affected by any decision of the enforcing official.
- B. Such appeals shall be taken within a reasonable time as provided by the rules of the BOA, by filing with the enforcing official and with the BOA a notice of appeal specifying the grounds thereof. The enforcing official shall forthwith transmit to the BOA all papers constituting the record upon which the action appealed from was taken.
- C. The BOA shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice of the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(Res. of 8-18-70, § 20(2))(Ord No. 03-04-1)(Old Sec. 12-38) (Ord. No. 05-06-05)

Section 12.03.203. Requirements of notice.

Where notice to nearby or contiguous property owners is required, such notice shall be mailed by U.S. Mail to such property owners at least 15 days prior to the date of the hearing. For this purpose, the owner of the property shall be deemed to be the person who, with his address, is so shown on the tax records of the County at

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the time of mailing. A certificate of mailing of such notices shall be submitted and made a part of the permanent record of the hearing. Requirements of notice by mail to specific property owners shall be as follows:

- A. **For an appeal from a decision of the enforcing official.** All property owners directly contiguous to the premises involved in the appeal.
- B. **For a zoning variance.** All owners of property within 200 feet of the premises for which the zoning variance is requested.
- C. **For a special exception.** All owners of property within 500 feet of the land for which a special exception is requested, except that in areas zoned agricultural, notification shall be given to at least six owners of property adjacent to or in the vicinity of the area for which a special exception is sought.

(Res. of 8-18-70, § 20(3); Res. of 7-20-71; Ord. 93-15, § 4; Ord. No. 94-4, § 4)(Ord No. 03-04-1)(Old Sec. 12-39) (Ord. No. 05-06-05)

Section 12.03.204. Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from, unless the enforcing official from whom the appeal is taken certifies to the BOA after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life and property. In such cases proceedings or work shall not be stayed other than by a restraining order which may be granted by the BOA or by a court of record on application, on notice to the enforcing official from whom the appeal is taken and on due cause shown. (Res. of 8-18-70, § 20(4))(Ord No. 03-04-1)(Old Sec. 12-40)(Ord. No. 05-06-05)

Section 12.03.205. Powers and duties.

The BOA shall have the following powers and duties:

- A. **Administrative review.** To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the enforcing official, in the enforcement of this chapter.
- B. **Zoning variances, conditions governing applications; procedures.** To authorize upon appeal in specific cases such zoning variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A zoning variance from the terms of this chapter shall not be granted by the BOA unless and until:
 - 1. A written application for a zoning variance is submitted, demonstrating:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands.
 - b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

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- c. That the special conditions and circumstances do not result from the actions of the applicant.
 - d. That granting of the zoning variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures or buildings in the same district.
2. Notice of public hearing is given as required in sections 12.03.203 and 12.03.303.
3. The public hearing is held. Any party may appear in person or by agent or attorney.
4. The BOA shall find that the requirements of 12.03.205.B.1 of this section have been met by the applicant for a zoning variance.
5. The BOA shall further make a finding that the reasons set forth in the application justify the granting of the zoning variance; and that the zoning variance is the minimum zoning variance that will make possible the reasonable use of the land, building or structure.
6. The BOA shall make a further finding that the granting of the zoning variance will be in harmony with the general purpose and intent of this chapter, will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
7. The decision of the BOA on any matter is final. In the event that a decision of approval is not obtained, then the matter being considered shall be deemed to have been denied, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action in lieu of denial. Such other action may be moved or seconded by any member regardless of his or her vote on any earlier motion.
8. In granting any zoning variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of any such conditions and safeguards, when made a part of the terms under which the zoning variance is granted, shall be deemed a violation of this chapter and punishable under 12.03.109 of this Code.
9. Under no circumstances shall the BOA grant a zoning variance to permit a use not generally or by special exception permitted in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in such district.
10. Any zoning variance authorized by the BOA shall expire six months after the date of action on such zoning variance, unless the construction for which the variance was authorized has been completed or within that six-month period a building permit based upon and incorporating the zoning variance is issued and construction is completed within two years after the variance is authorized. The BOA may only authorize an extension to the expiration date for a zoning variance allowing construction on nonconforming lot(s) of record (pursuant to Section 12.06.102 A).

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- C. **Powers in the granting of special exceptions.** The BOA is empowered to hear and decide only such special exceptions as it is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter; or to deny requests for special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted unless and until:
1. A written application for a special exception is submitted, indicating the section of this chapter under which the special exception is sought and stating fully the grounds on which it is requested, including compliance with the standards set forth in section 12.03.205.C. and D.
 2. Notice of a public hearing on such request for special exception is given as required in sections 12.03.203 and 12.03.303.
 3. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 4. If all requirements of this section 12.03.205.C. and D are satisfied by the applicant, the BOA shall issue the requested permit if it finds, based upon the information submitted at the hearing, that the application is complete and that the development will comply with all requirements of this chapter and Florida law.
- D. **General standards of approval.** Even if the BOA finds that the application complies with all other provisions of this chapter, it may deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
1. Will materially endanger the public health or safety; or
 2. Will substantially injure the value of adjoining or abutting property; or
 3. Will not be in harmony with the area in which it is to be located; or
 4. Will not comply with one or more requirements of the adopted *Highlands County Land Development Regulations*; or
 5. Will not be in compliance with the adopted Highlands County Comprehensive Plan or other plan officially adopted by the BCC.
- E. **Burden of presenting evidence; burden of persuasion.** Once a complete application has been submitted, the burden of presenting evidence to the BOA sufficient to establish that the application should be granted shall be upon the applicant. The burden of persuasion remains at all times on the applicant.

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- F. The BOA shall make a finding that it is empowered to act under the section of this chapter described in the application for special exception, and that the granting of the special exception will not adversely affect the public interest.
In granting any special exception, the BOA may prescribe any appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter and punishable under section 12.03.109. of this chapter. The BOA shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.
- G. **Interpretation of official zoning atlas.** The BOA shall have the power and the duty to interpret district boundaries and designate their proper locations where there is uncertainty, contradiction or doubt, due to the scale or illegibility of the official zoning atlas, or where the street or property layout is at zoning variance with that shown on the atlas.
- H. **Powers over district uses not listed.** The BOA is authorized after a public hearing, with ten days' notice, to permit in a zoning district a use which it finds to be similar in character to a use specifically permitted in such district under this chapter, provided that such use is not specifically enumerated in this chapter as a permitted use for a less restricted district. (Ord. No. 06-07-37 § 2)
- I. **Decisions of the BOA.** In exercising any of the above-mentioned powers, the BOA may, so long as the action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have powers of the enforcing official from whom the appeal is taken.
The concurring vote of four members of the BOA shall be necessary to reverse any order, requirement, decision or determination of the enforcing official.

(Res. of 8-18-70, § 21; Ord. No. 93-15, §§ 5, 8)(Ord. No. 99-3, § 2)(Ord No. 03-04-1)(Old Sec. 12-41)(Ord. No. 05-06-05; Ord. No. 06-07-37, § 2; Ord. No. 08-09-63, § 1)

Section 12.03.206. Appeals.

Any person or persons, taxpayer, department, board, officer or bureau of the County aggrieved by any decision of the BOA may, within 30 days after the filing of such decision in the office of the BCC, but not thereafter, apply to the courts for relief in the manner provided by the laws of the state. (Res. of 8-18-70, § 22)(Ord No. 03-04-1)(Old Sec. 12-42)(Ord. No. 05-06-05)

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DIVISION 3.

PLANNING AND ZONING COMMISSION

Section 12.03.300. Appointment compensation.

The P&Z shall consist of seven voting members and two nonvoting members, with three alternates to serve in the absence of voting members and two nonvoting alternates to serve in the absence of the nonvoting members. The seven voting members shall be qualified electors of the County appointed by the BCC. The BCC shall also appoint the three alternates, who shall also be qualified electors of the County, to serve in the absence of the voting members. One of the nonvoting members shall be a representative of the school district appointed by the School Board of Highlands County, Florida, which may also appoint one of the nonvoting alternates to serve in the absence of the regular nonvoting member. The other nonvoting member shall be a representative of a military installation wholly or partially located in the County appointed by the commanding officer of that installation, who may also appoint a nonvoting alternate to serve in the absence of that regular nonvoting member. The members of the P&Z shall serve as provided by law. The members of the P&Z shall serve without compensation, but may receive necessary travel and other expenses while on official business outside the County. (Res. of 8-18-70, § 19; Ord. No. 77-10, § 1)(Ord No. 03-04-1) (Old Sec. 12-54)(Ord. No. 05-06-05; Ord. No. 05-06-38, § 1)

Section 12.03.301. Advisory function to the board of County commissioner.

The P&Z shall serve in an advisory capacity to the BCC and to that end may make such studies and investigations as may be required by the BCC or which the P&Z may deem necessary. (Res. of 8-18-70, § 19(1))(Ord No. 03-04-1)(Old Sec. 12-55)(Ord. No. 05-06-05)

Section 12.03.302. Functions, considerations, decisions, and authority.

- A. The P&Z shall carry on a continuing study of zoning, zoning techniques and the relation of zoning to private and public developments and to any pertinent parts of the County comprehensive plan for the orderly growth and development of the County, and may from time to time submit recommendations to the BCC for the amendment of this chapter after required public hearings.
- B. In making such recommendations, the P&Z shall consider all pertinent factors including:
 - 1. The applicable portions of any current County comprehensive plan or plans for land use; major and minor streets; recreation, park and beach facilities; schools; neighborhood developments; drainage and housing.
 - 2. The character of the districts and their peculiar suitability for particular uses.
 - 3. Conservation of the value of buildings and encouragement of the most appropriate use of land and water throughout the County.
 - 4. The needs of the County for land areas for specific purposes to serve population and economic activities.
 - 5. Changes in character of areas in or near an area under consideration for rezoning.

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6. Facts and opinions presented to the P&Z through hearings.
- C. No change or amendment relating to the boundaries of the various zoning districts and/or the regulations applicable thereto shall be made by the BCC unless the proposal or request for such change has first been considered by the P&Z and the BCC shall not act until a recommendation thereon has been received from the P&Z. The actions of the P&Z in considering changes or amendments to this chapter shall also be governed by the applicable provisions of section 12.01.110.
- D. **Amendments.** The regulations, restrictions and district boundaries may from time to time be amended, supplemented, changed or repealed in accordance with the following procedures.
1. A petition for a change to these regulations may be filed by the County or any citizen or owner of land or his or her bona fide agent thereof. A petition for the rezoning of land may be filed by an owner of the land for which rezoning is sought or his or her bona fide agent or by the County.
 2. The P&Z shall consider the petition for change in zoning classification or these regulations at an advertised public hearing. The P&Z shall forward a recommendation on the requested change to the BCC for final action. The P&Z shall operate under the criteria and procedures of this and other sections of this chapter in reaching its conclusions.
 3. Proposals originating with the BCC or initiated by the P&Z shall be processed as in this and other applicable sections of this chapter. Petitions shall be filed with the zoning clerk. Such petitions shall contain or be accompanied by all pertinent information which may be required by the P&Z for its proper consideration of the matter.
 4. The development services director or his designee shall deem the application complete or incomplete and shall notify the applicant of the decision within five working days of the application deadline. The development services director shall have 20 working days to declare an application for rural land stewardship to be complete or incomplete and shall notify the applicant as soon as it is determined that the application is complete or incomplete. (Ord. No. 06-07-37 § 3)
- E. **Limitations on amendments.**
1. Except as may be provided elsewhere in sections 12.05.290, 12.05.291, and 12.05.292, no amendment to rezone property shall contain conditions, limitations or requirements not applicable to all other property in the district to which the particular property is rezoned.
 2. Whenever the P&Z has taken action to recommend the denial of a petition for the rezoning of property, the P&Z shall not consider any further petition for the same property for six months from the date of such action.
 3. Whenever the BCC has, by amendment, changed the zoning of property, the P&Z shall not consider any petition for rezoning of any part of the same property for a period of six months from the effective date of the amendatory resolution.

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4. The time limits of this section may be waived by the affirmative vote of four members of the P&Z when such action is deemed necessary to prevent injustice or to facilitate the proper development of the County.

F. Land use amendments and zoning actions.

1. **Function.** The P&Z shall hold public hearings on all proposed land use amendments, rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, special use permits, and any other applications or action in conjunction with same.
2. **Considerations.** When deciding whether to adopt a proposed land use ordinance or amendment, rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, special use permits, and any other applications or action in conjunction with same the P&Z shall consider all criteria, recommendations and issues, as set forth.
3. **Decisions and authority.** The decision of the P&Z on any proposed land use ordinance or amendment, rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, special use permits, and any other applications or action in conjunction with same is a recommendation to the BCC.
4. **Appeals.** Appeals of any decision concerning land use ordinance or amendments rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, special use permits, and any other applications or action in conjunction with same shall be taken in accordance with applicable state law.

G. The P&Z shall not consider any rezoning or land use amendment other than the rezoning or land use amendment published in the newspaper unless such change is more restrictive (less intense) than the proposed rezoning or land use amendment published and is in the same zoning category (residential, commercial, industrial, or public zoning categories).

H. The P&Z shall have the authority to recommend attachment of such conditions and requirements to any approval of a request for a special use permit or development of regional impact within its purview, as deemed necessary for the protection of the health, safety, convenience or welfare of the general public. Said conditions or requirements shall be reasonably related to the action requested.

I. In the event that a decision of approval by the P&Z is not obtained, then the matter being considered shall be deemed to have been denied, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action in lieu of denial. Such other action may be moved or seconded by any member regardless of his or her vote on any earlier motion.

(Res. of 8-18-70, § 19(2))(Ord No. 03-04-1)(Old Sec. 12-56)(Ord. No. 05-06-05; Ord. No. 06-07-37, § 3)

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Section 12.03.303. Notice of hearings in connection with proposed amendments or change in district regulations.

- A. Notice of hearings in connection with proposed amendments or changes in the schedule of district regulations shall be published in a newspaper of general circulation in the County at least ten days prior to the date of such hearings, and a second publication shall be published not less than five days prior to such hearing. Such notice shall specify the time and place of the hearing and the matters to be considered. A copy of said notice shall also be posted in a conspicuous place on the property ten days prior to the date of hearing, and proof of such posting shall be presented at the hearing.(Ord. No. 06-07-37 § 4)
- B. Petitioners for such changes shall be given notice by letter mailed at least 15 days prior to the date of such hearings.
- C. Where the petition is one for a change in zoning district classification, notice by letter, mailed by U.S. mail at least 15 days prior to the date of the hearing shall be given to all owners of property proposed to be rezoned. All owners of property within 500 feet of the land subject to such petition, shall also be given similar notice, except that: (1) in areas zoned agricultural, notification shall be given to at least six owners of property adjacent to or in the vicinity of the area for which rezoning is sought, and (2) notification by mail shall not be required for a hearing on a change in zoning district classification initiated by the BCC for the areas (a) having a zoning district which is inconsistent with the comprehensive plan future land use map category or (b) which are within the boundaries of the Sun 'N Lake of Sebring Improvement District, unless required by F.S. § 125.66. For the purpose of notification, an owner of property shall be deemed to be the person who, with his address, appears on the tax records of the County at the time of mailing. A certificate of mailing of such notices shall be submitted and made a part of the permanent record of the hearing.
- D. Subsections (a), (b) and (c) of this section shall not apply to hearings that are continued to another date, time, and place, established and publicly announced at the public hearing noticed pursuant to subsections (a), (b) or (c) of this section which is being continued.

(Res. of 8-18-70, § 19(3); Res. of 7-20-71; Ord. No. 78-2, § 1; Ord. No. 93-15, § 9; Ord. No. 94-4, § 5; Ord. No. 98-13 § 1; Ord. No. 00-01-15 § 1) (Ord No. 03-04-1)(Old Sec. 12-57)(Ord. No. 05-06-05; Ord. No. 06-07-37, § 4)

Section 12.03.304. Rules of procedure.

The P&Z shall adopt rules of procedure to govern the conduct of its work. Such rules shall provide for the election of its officers, the time and place of its regular meetings of which there shall be at least one every two months, the manner of calling additional or special meetings, agenda of meetings, conduct of hearings and other matters necessary to proper performance of its duties. A quorum of not less than four members (including alternates serving in the absence of regular members) shall be required for all meetings of the P&Z. (Res. of 8-18-70, § 19(4); Ord. No. 93-15, § 10)(Ord No. 03-04-1)(Old Sec. 12-58)(Ord. No. 05-06-05)

Section 12.03.305. Two-step conceptual and final approval of zoning request.

The P&Z may, after hearing a zoning request, invoke a two-step zoning process by a majority vote of the members present at the meeting (including alternates serving in the absence of regular members). In invoking the two-step zoning process, the P&Z may, at the preliminary hearing, give conceptual approval of the proposal by the applicant and may require the applicant to furnish additional documents and information, as

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specified by the P&Z, at a time certain to be designated by the P&Z; provided, however, the second hearing to be designated by the P&Z shall be designated at a time not to exceed 90 days from the date of the original hearing, unless additional time is requested by the applicant. (Ord. No. 89-1; Ord. No. 93-15, § 11)(Ord No. 03-04-1)(Old Sec. 12-59)(Ord. No. 05-06-05)

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DIVISION 4.

BOARD OF COUNTY COMMISSIONERS

Section 12.03.400. General.

- A. **Appointments.** The BCC shall appoint the members of the P&Z/LPA, BOA, NRAC, HPC, and CLEAB.
- B. **Initiation of zoning actions.** The BCC, or its designee, may initiate rezonings, special exceptions that meet the criteria of a DRI, variances, special use permits, developments of regional impact and zoning ordinance amendments.

(Ord. No. 05-06-05)

Section 12.03.401. Functions, considerations, decisions and authority.

A. **Land use ordinance amendments.**

- 1. **Function.** The BCC shall hold public hearings on all proposed land use ordinance amendments rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, and any other applications or action in conjunction with same.
- 2. **Considerations.** When deciding whether to adopt a proposed land use ordinance or amendment, rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, and any other applications or action in conjunction with same, the BCC shall consider criteria, recommendations and issues as well as recommendations from the P&Z.
- 3. **Decisions and authority.** The decision of the BCC on any proposed land use ordinance amendment, rezoning, comprehensive plan amendment, special exception that meet the criteria for developments of regional impact, and any other application or action in conjunction with same is final.
- 4. **Appeals.** Appeals of any decision concerning land use ordinance amendments, rezonings, comprehensive plan amendments, special exceptions that meet the criteria for developments of regional impact, and any other applications or action in conjunction with same shall be taken in accordance with applicable state law.

B. **Zoning actions.**

- 1. **Function.** The BCC shall hold public hearings on rezonings, amendments to the text of this Code, special use permits, the special exceptions that meet the criteria for developments of regional impact, and any other action in conjunction with same.
- 2. **Considerations.** In rendering its decision, the BCC shall consider:
 - a. The criteria set forth and

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- b. The substantive recommendations of the P&Z when applicable.
3. **Decisions and authority.** In exercising its authority, the BCC shall consider the recommendation of the P&Z, but may, in conformity with the provisions of this chapter, reverse, affirm or modify the recommendations of the P&Z, or remand the recommendation to afford due process.
4. If a P&Z recommendation for change is not acted upon by the BCC within 60 days of the date of its receipt by the BCC, the petition upon which the recommendation was based shall be deemed to have been denied unless the BCC grants an extension of time to the applicant.
- C. The BCC shall not approve any rezoning other than the rezoning or land use amendment published in the newspaper unless such change is more restrictive (less intense) than the proposed rezoning or land use amendment published and is in the same zoning category (residential, commercial, industrial, or public zoning categories).
- D. The BCC shall have the authority to attach such conditions and requirements to any approval of a request for a special use permit, special exception that meets the criteria for developments of regional impact, or development of regional impact within its purview, as deemed necessary for the protection of the health, safety, convenience or welfare of the general public. Said conditions or requirements shall be reasonably related to the action requested.
- E. The decision of the BCC on any matter is final. In the event that a decision of approval is not obtained, then the matter being considered shall be deemed to have been denied, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action in lieu of denial. Such other action may be moved or seconded by any member regardless of his or her vote on any earlier motion.
- F. Any denial by the BCC is denial with prejudice unless otherwise specified by said board.
- G. **Appeals.** Any decision of the BCC may be appealed to circuit court. Any person or persons, taxpayer, department, board, officer or bureau of the County aggrieved by any decision of the BCC may, within 30 days after the filing of such decision in the office of the clerk of courts records division, but not thereafter, apply to the courts for relief in the manner provided by the laws of the state.

(Ord. No. 05-06-05)

Section 12.03.402. Denials, resubmission of application and judicial review.

If an application is denied, no similar application for rezoning, special exception that meets the criteria for developments of regional impact, or special use permit covering the same property (or portion of said property) shall be resubmitted or initiated for a period of six months from the date of denial. This requirement shall not preclude the application for a different rezoning, special exception or special use permit which, in the opinion of the zoning supervisor is substantially different from the request originally denied. (Ord. No. 05-06-05)

Sections 12.03.403, 12.03.404. Reserved.

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Section 12.03.405. Hearings required.

A. Land use ordinances--Amendments.

1. Any proposed amendment to this Code or to any land use ordinance or any new land use ordinances shall be enacted pursuant to the requirements of the Florida Statutes.
2. Prior to a final required hearing by the BCC, the P&Z shall review said amendment at a public hearing.

B. Rezoning, DRIs, special exceptions that meet the criteria of a DRI, and special use permits.

1. Any application requesting a rezoning, or DRI, or special exception that meets the criteria of a DRI for less than five percent of the total land area of Highlands County that meets the required criteria for said requests, shall require a minimum of one public hearing before the P&Z one public hearing before the BCC.
2. Any application requesting a rezoning, DRI or special exception that meets the criteria of a DRI for more than five percent of the total land area of Highlands County, that meets the required criteria for said requests, shall require a minimum of one public hearing before the P&Z and two public hearings before the BCC.
3. Both hearings by the BCC shall be held pursuant to the requirements of the Florida Statutes.

(Ord. No. 05-06-05)

Section 12.03.406. Preliminary review and notice certification.

- A. **Staff review.** No application for a land use ordinance amendment, rezoning, DRI, special exception that meets the criteria of a DRI, special use permit, appeal or any other action requiring a public hearing process shall be heard by the BCC until after planning department staff has reviewed and commented, in writing, on the requested action. All staff comments shall be forwarded to the BCC prior to the scheduled public hearing.
- B. **Other reviews.** No application or proposed land use ordinance amendment required to be reviewed by the P&Z prior to review by the BCC, shall be heard prior to receiving recommendations or comments from the P&Z. A motion to continue a matter by the P&Z shall not be considered a substantive recommendation.
- C. **Notice certification.** No public hearing shall be commenced unless proof of required notice publication, posting and mailing is presented for review and submitted to the records keeper for filing along with the minutes of the meeting. (Ord. No. 05-06-05)

Section 12.03.407. Public participation.

- A. **Land Use Ordinance Amendments.** At the public hearing all persons shall be heard, after being recognized by the BCC chairman. The BCC shall have the right to refuse to hear any testimony which is irrelevant, repetitive, defamatory or spurious.

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- B. **Zoning.** At the public hearing, any party, after being recognized by the BCC Chairman shall be afforded the right to address the BCC. The BCC may orally question County staff, attorneys and any party of record present about matters in the written record and points of law and procedure. (Ord. No. 05-06-05)

Section 12.03.408. Deferral or continuance of public hearing.

The following procedures and regulations for deferring or continuing a public hearing shall apply for the BCC.

- A. **Deferral.** A scheduled, but not yet advertised, public hearing may be deferred by the County staff or applicant as follows:
1. **County initiated.** County staff may initiate a deferral prior to advertising if additional or corrected information is required to permit an adequate review provided that notice is mailed to the applicant, or his/her authorized agent stating the reason for the deferral and what additional information is required.
 2. **Applicant initiated.**
 - a. An applicant, or his/her duly authorized agent, may request a continuance in writing or appear before the BCC at the beginning of its scheduled agenda and orally request the continuance.
 - b. The applicant agrees to have his/her application rescheduled in accordance with the scheduling procedures.
 3. **Fees.** There shall be no additional fees for either a staff initiated or applicant initiated deferral.
 4. **Staff authority.** Applicant initiated deferral requests may be deferred without any action by the BCC.
- B. **Continuance.** A scheduled, advertised public hearing may be continued by the BCC or the applicant as follows:
1. **County initiated.**
 - a. The BCC upon County staff request or upon its own initiative may continue a public hearing when it is deemed necessary to require additional information, public testimony or time to render an appropriate decision.
 - b. The hearing shall be continued to a date, time, and place certain.
 - c. There shall be no limitations on the number of County initiated continuances.

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- d. The County shall bear all re-notification costs associated with County initiated continuances.
2. **Applicant initiated.**
 - a. An applicant, or his/her duly authorized agent, may request a continuance in writing or appear before the BCC at the beginning of its scheduled agenda and orally request the continuance.
 - b. The BCC may either deny or grant the request for continuance.
 - (1) If the request is denied, the hearing shall proceed with the published agenda.
 - (2) If the request is approved, the BCC may set a date, time, and place certain for hearing the matter.
 3. **Fees.** A fee in accordance with the duly adopted fee schedule shall be charged for any applicant initiated continuance over and above the costs for renotification. (Ord. No. 05-06-05)

Section 12.03.409. Public notice.

No public hearing required shall be held by the BCC until notice of the public hearing has been provided in accordance with the following requirements. (Ord. No. 05-06-05)

Section 12.03.410. Minimum required notice information.

A. Action proposed.

1. **Land use ordinance amendments.** The notice shall describe the chapter or section of the Code to be amended or the subject of the new ordinance with sufficient clarity so as to advise the public of the subject to be amended or adopted. The notice need not describe the exact wording or change.
2. **Rezoning and DRIs.** All required notices shall indicate the existing zoning of the property, the proposed zoning and the general location of the property with sufficient information so as to advise the public. The notice need not describe the proposed plans or details or the specific legal description of the property.
3. **Special exceptions that meet the criteria of a DRI and special use permits.** All required notices shall indicate the existing zoning of the property, the proposed special exception use that meets the criteria of a DRI, special use permit being requested and the location of the property with sufficient information so as to advise the public. The notice need not describe the proposed plans or details or the specific legal description of the property.
4. **Appeals.** The notice shall summarize the decision or action upon which the appeal is based with sufficient clarity so as to advise the public of the subject matter.

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- B. **Time and place of hearing.** The notice shall specify the date, time and location of the place the public hearing will be held.
- C. **Public review.** The notice shall indicate where copies of the proposed amendment may be obtained or reviewed or where the application for public hearing may be reviewed.
- D. **Record of notice.** Notices of hearings before the BCC shall be provided in accordance with applicable provisions of this Code and Florida Statutes. (Ord. No. 05-06-05)

Section 12.03.411. Special use permit approved by the BCC.

- A. **Application.** An application for a special use permit shall be submitted to the BCC and the P&Z by filing a copy of the application with the zoning supervisor, pursuant to Article 3, Division 1, Section 12.03.100 and Article 8 of this Code. The requirements for special exceptions listed in Sections 12.03.203 and 12.03.205 C) will also apply, except the BCC will hold the final hearings and make all appropriate decisions based on a recommendation from the P&Z.
 - 1. Any application for a special use permit to increase the maximum allowed impervious surface ratio shall include the following:
 - a. A site plan showing the location and extent of the land use and percent of coverage proposed for impervious surface; and
 - b. A narrative describing the need for an increase in the amount of impervious surface; and
 - c. Water management district permit(s) and any other required state and federal agency permits for the impervious surface shown on the site plan or, if a permit has not been issued, the application must contain a statement that all required drainage permits and environmental resource permits will be obtained from the appropriate regulatory agencies for the impervious surface contingently approved by the special use permit and that complete copies of those permits must be delivered to the county prior to approval of the final site plan through the site plan development review process; and
 - d. A letter from a Florida Registered Professional Engineer stating that, based on the proposed amount and location of the impervious surface, the design will not violate the drainage level of service in the Highlands County Comprehensive Plan.
 - 2. Any application for a special use permit for an ethanol or biofuel production facility shall include the information and documents required in section 12.08.102 of the Code. (Ord. No. 08-09-64 § 2)
- B. **Approval of application.** Subject to Subsection (C), the BCC may issue the requested permit if it concludes, based upon the information submitted at the hearing, that the application is complete, and that the development will comply with all requirements of this chapter and Florida law.

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- C. **General standards of approval.** Even if the BCC finds that the application complies with all other provisions of this chapter, it may deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
1. Will materially endanger the public health or safety; or
 2. Will substantially injure the value of adjoining or abutting property; or
 3. Will not be in harmony with the area in which it is to be located; or
 4. Will not comply with one or more requirements of the adopted *Highlands County Land Development Regulations*; or
 5. Will not be in compliance with the adopted Highlands County Comprehensive Plan or other plan officially adopted by the BCC.
- D. **Revocation of Special use permit.** If, during the course of operation, it becomes apparent that the standards of approval are not being met; the Board of County Commissioners may revoke the Special Use Permit, after a public hearing held pursuant to the requirements contained in Article 3 of Chapter 12 of the Land Development Regulations for Special Exceptions.

(Ord. No. 05-06-05; Ord. No. 07-08-31 § 1; Ord. No. 08-09-64 § 2)

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DIVISION 5.

HISTORIC PRESERVATION COMMISSION

Section 12.03.500. Created; composition; terms.

- A. There is hereby created the "the County Historic Preservation Commission (HPC)," consisting of seven members (four professional and three lay members) all of which shall be residents of the County.
- B. The initial members of the HPC shall be appointed by the BCC, Florida, for staggered terms as follows: one lay member and one professional member to be appointed for a term to expire on June 30, 1993; one lay member and one professional member to be appointed for a term to expire on June 30, 1994; one lay member and one professional member to be appointed for a term to expire on June 30, 1995; and one professional member to be appointed for a term to expire on June 30, 1996. Upon the expiration of each term, a successor shall be appointed by the BCC to fill such vacancy for a term of four years. Other vacancies in office shall be filled by appointment by the BCC, for the remainder of the unexpired term, within 60 days after the creation of the vacancy.
- C. To the extent available in the County and willing to serve, professional members shall be appointed from the disciplines of architecture, landscape architecture, accounting, building design, history, architectural history, planning, archaeology, real estate development, law, building construction or other historic preservation related disciplines, such as urban planning, American studies, American civilization, cultural geography or cultural anthropology. In the absence of the availability or willingness of such professionals, lay persons shall be appointed to the professional positions if they have demonstrated special interest, experience or knowledge in history, architecture or related disciplines.

(Ord. No. 05-06-05)

Section 12.03.501. Meetings.

- 1. **Frequency; minutes.** HPC meetings shall occur at regular intervals, but no less than four times each year. All meetings of the HPC shall be open to the public. Minutes of all meetings, including reasons for decisions, shall be kept on file and available for public inspection pursuant to Florida Statutes. All applicants shall be given written notification of decisions of the HPC.
- 2. **Quorum.** Four members shall constitute a quorum for meetings and an affirmative vote of a majority of members present at any meeting shall be necessary for any action to be taken by the HPC.
- 3. **Notice.** Appropriate local officials, owners of record and applicants shall be notified of proposed actions in such manner as may be established by the HPC.
- 4. **Compensation; reimbursement for expenses.** HPC members shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties, subject to prior approval of the BCC.

(Ord. No. 05-06-05)

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Section 12.03.502. Authority of the historic preservation commission.

The HPC is authorized to:

- A. Annually elect one of its members to serve as chairperson and create and fill such other offices as it may deem desirable;
- B. Prepare an inventory of all properties within the County having the potential for designation as historic properties;
- C. Recommend to the BCC, specific places, districts, sites, buildings, structures or monuments to be designated by ordinance as historic properties or historic districts;
- D. Review applications for certificates of appropriateness and approve or deny them;
- E. Establish specific guidelines under which certain applications for certificates of appropriateness, which do not substantially affect the exterior of a building, may be reviewed and approved or denied by staff;
- F. Review proposed alterations, relocations, demolitions and reconstructions of historic properties and properties within the historic districts in the County;
- G. Review proposed national and state register nominations within the County;
- H. Recommend to the BCC when the designation of any area as a historic district should be revoked or removed;
- I. Conduct education programs on historic properties located within the County;
- J. Make such investigations and studies of matters relating to historic preservation in the County, as may, from time to time, be necessary or appropriate for the purpose of preserving historic resources;
- K. Seek out state and federal funds for historic preservation and make recommendations to the BCC concerning the most appropriate use of any funds so acquired;
- L. Submit to the Division of Historical Resources, Department of State, State of Florida, lists of historic properties or historic districts to be designated;
- M. Perform historic preservation activities as an official agency of the County historic preservation program;
- N. On behalf of and for the County, receive donations, grants, funds or gifts of historic property, upon approval of BCC;
- O. Review and make comments to any state or federal historical preservation office concerning any other nomination of properties within the County, to any Register of Historic Places;

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- P. Recommend zoning and building code amendments for historic properties and districts to the BCC for referral, if it deems appropriate, to the P&Z;
- Q. Adopt rules for the transaction of its business and consideration of applications, provide for the time and place of regular meetings and for the calling of special meetings; and
- R. Any other function which may be designated by resolution or ordinance of the BCC.
(Ord. No. 05-06-05)

Section 12.03.503. Responsibilities of the historic preservation commission.

- A. **HPC performance requirements.** The HPC shall submit the following to the State Historic Preservation Officer:
 - A. At least 30 days advance notice of all commission meetings.
 - B. The minutes of each HPC meeting, record attendance for HPC members at HPC meetings, public attendance figures at HPC meetings, and appointments to the HPC within 30 days after such actions.
 - C. Immediately provide any new historic designations or alterations of existing designations.
 - D. Proposed amendments of this chapter, at least 30 days prior to the date scheduled for adoption.
 - E. An annual report, and any other documents required by the state historic preservation officer. The annual report shall include any amendments to this chapter, changes in the rules of procedure, a summary of HPC activities including but not limited to the number of proposals reviewed, new designations, revised resumes of HPC members as appropriate, appointments to the HPC, changes to this chapter, a review of survey and inventory activity with a description of the system used, as well as a progress report on grant-assisted activities. The annual report is due by November 1, and shall cover the previous October 1 through September 30 year.
- B. **Responsibilities as complementary.** The responsibilities of the HPC shall be complementary to and carried out in accordance with the responsibilities of the State Historic Preservation Officer as set forth at 36 CFR Section 61.4(b), incorporated herein by reference as if fully set forth.

(Ord. No. 05-06-05)

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DIVISION 6.

CONSTRUCTION LICENSING, ENFORCEMENT AND APPEALS BOARD

Section 12.03.600. Construction licensing, enforcement and appeals board.

The Construction Licensing, Enforcement and Appeals Board (the CLEAB) consists of seven (7) members and two (2) alternates appointed by the BCC. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.601. Membership.

The CLEAB shall consist of seven (7) members and two alternates. Members shall be appointed by the BCC for a period not to exceed four (4) years and may be reappointed for successive terms. The CLEAB shall be composed of four (4) contractors, one (1) of whom must be a general contractor, two (2) members at large from the public, and one (1) member from the building industry. The alternates shall be one (1) member from the building industry and one (1) member at large from the public. A CLEAB member shall not act in a case in which that member has a personal or financial interest. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.602. Terms.

The terms of office of the CLEAB members shall be staggered so not more than one-third of the CLEAB is appointed in any 12-month period. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the CLEAB may, at the discretion of the BCC, render any such member subject to immediate removal from office. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.603. Quorum and voting.

A simple majority of the CLEAB shall constitute a quorum. The affirmative votes of the majority present, but not less than three (3) affirmative votes shall be required, provided, however that to modify a decision of the building official, not less than four (4) affirmative votes, shall be required. In the event that a regular member is unable to attend a meeting, an alternate member, if present, shall hear and vote on matters in place of the absent member, except as provided by F.S. Ch. 112. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.604. Secretary of board.

The building official or his designated representative shall act as secretary of the CLEAB and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member, and any failure of a member to vote. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.605. Powers.

The CLEAB shall have the power to license County qualified contractors and specialty contractors; enforce all state and local laws as related to the construction industry; hear appeals of decisions and interpretations of the building official; enforce and interpret the Florida Building Code; hear grievances and complaints; impose disciplinary action upon locally licensed contractors through the powers as set forth by the

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BCC including, but not limited to, suspension, revocation, fines, and reprimand; hear appeals and enforce the Standard Housing Code; and investigate and forward information to the proper state agencies on suspected violations of F.S. Ch. 489. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.606. Appeals.

The owner of a building, structure or service system, or his duly authorized agent, or an applicant for a certificate of competency, may appeal to the CLEAB whenever any of the following conditions are claimed to exist:

- A. The refusal to grant the initial certificate of competency to an applicant.
- B. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
- C. The provisions of the Florida Building Code do not apply to this specific case.
- D. That an equally good or more desirable form of installation can be employed in any specific case.
- E. The true intent and meaning of the Florida Building Code have been misconstrued or incorrectly interpreted by the building official. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.607. Rules and regulations.

The CLEAB shall establish rules and regulations for its own procedure not inconsistent with the provisions of this division or Florida Building Code. The CLEAB shall meet on call of its chairman. The CLEAB shall meet within 30 calendar days after notice of an appeal has been received. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

Section 12.03.608. Decisions.

The CLEAB shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the CLEAB shall also include the reasons for the decision. If a decision of the CLEAB reverses or modifies a refusal, order, or disallowance of the building official, the building official shall immediately take action in accordance with such decision unless an appeal is taken pursuant to Florida law. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the CLEAB shall be the final administrative action on the matter decided; subject, however, to such remedy as any aggrieved party might have at law or in equity. (Ord. No. 05-06-05; Ord. No. 07-08-32, § 2)

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Section 12.03.609. CLEAB Enforcement of the Standard Housing Code.

A. CLEAB duties.

1. **Duties.** The duties of the CLEAB in the enforcement of the Standard Housing Code, pursuant to Article 19 of this Code shall be:
 - a. To consider and determine appeals whenever it is claimed that the true intent and meaning of Article 19 or any of its regulations have been misconstrued or wrongly interpreted.
 - b. To permit, in appropriate cases where the application of the requirement of this Code in the allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, one or more extensions of time, not to exceed 120 days each, from the date of such decision of the board. Applications for additional extensions of time shall be heard by the board. Such requests for additional extensions of time shall be filed with the building official not less than 30 days prior to the expiration of the current extension.
2. An appeal should not be considered where an appeal case has been previously decided involving the same premises.

B. **Procedure.** CLEAB shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of this Code and the laws of the state.

C. **Decisions.** All decisions of the CLEAB to vary the application of any provision of the provisions of Article 19 or to modify an order of the housing official pursuant to the provisions of Article 19 shall specify in what manner such variance or modification is made, the condition upon which it is made, and the reasons, therefore. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decisions shall be promptly filed in the office of the housing official and shall be open to public inspection. The secretary shall notify the appellant in writing of the final action of the board.

D. **Appeals.** Any person receiving written notice from the housing official of deficiencies in his property pursuant to the requirements of Article 19 may within 30 days following the date of such notice enter an appeal in writing to the CLEAB. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the variance or modification requested, the reasons, therefore, and the hardship or conditions upon which the appeal is made.

(Ord. No. 05-06-05, § 5; Ord. No. 05-06-30, § 5)

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DIVISION 7.

DEVELOPMENT REVIEW CONFERENCE

Section 12.03.701. Purpose of development review conference.

Prior to formal filing of an application for a final development order, an applicant may confer with County staff to obtain information and guidance. The purpose of this conference is to permit the applicant and County staff to review informally a proposed development and determine the most efficient method of development review before substantial commitments of time and money are made in the preparation and submission of preliminary subdivision plats, improvement plans, final subdivision plats, preliminary site plans, final site plans, and related documents. The development review conference is optional for any proposed development. (Ord. No. 05-06-05 § 6; Ord. No. 05-06-30, § 6)

Section 12.03.702. Development review plan.

The developer shall prepare or have prepared a development review plan showing the development concepts, ideas for land usage, and any proposed physical improvements. (Ord. No. 05-06-05 § 6; Ord. No. 05-06-30, § 6)

Section 12.03.703. Written statement.

In addition, the applicant shall provide a written statement, generally describing the condition of the property and the proposed development. (Ord. No. 05-06-05 § 6; Ord. No. 05-06-30, § 6)

Section 12.03.704. Request for development review conference.

At least two weeks in advance, the applicant or the applicant's authorized representative shall request that the development services director arrange a development review conference. Sufficient copies of the plan and written statement must be submitted at the time of this request. Representatives from the County zoning, planning, building, development services, engineering, lakes manager, emergency management, and fire departments must attend and the state department of health, natural resource conservation service, Highlands County School Board Superintendent's Office, industrial development authority/economic development commission executive director, and sheriff's office, will be invited. (Ord. No. 05-06-05 § 6; Ord. No. 05-06-30, § 6)

Section 12.03.705. Issues of discussion.

The purpose of the conference is to discuss procedures and requirements, and to consider elements of the site as they relate to the proposed development. The development services director shall identify:

- A. Procedural review requirements for the proposed development and applicable review requirements and standards in terms of these regulations that apply to the review of the proposed development. This should include identifying which decision-making body or bodies will review the application and the approximate length of the development review procedure.
- B. Federal, state and local agencies that may be required to review the proposed development, and if possible, identify for the applicant the name and title of persons at these agencies to contact about

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review procedures, and generally describe the information which will be needed to satisfy the concerns of the relevant federal, state, and local agencies.

- C. The procedure for making application for a final development order. This shall include descriptions of the types of applications, reports, and drawings required, the general form which the preliminary subdivision plat or preliminary site plan shall take, and the information which shall be contained within the final development order application, the preliminary subdivision plat or preliminary site plan, and supporting documentation.
- D. The number of copies of the preliminary subdivision plat or preliminary site plan application that are to be submitted for the proposed development, along with the amount of the fees needed to defray the cost of processing the application.

(Ord. No. 05-06-05 § 6; Ord. No. 05-06-30, § 6)

Section 12.03.706. Development review process.

This section contains a simplified flow chart, Figure 4-1.C.002, which is designed to help an applicant follow the County's development review process as it is explained at the development review conference. Because space does not permit the listing of all intermediate steps, the applicant should refer to Article 4 of Chapter 12, of these regulations, for a detailed description of each step. (Ord. No. 05-06-05 § 6; Ord. No. 05-06-30, § 6)

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ARTICLE 4.

PLATS, SITE PLANS, AND IMPROVEMENT PLANS

DIVISION 1.

DEVELOPMENT ORDERS

Section 12.04.100. Single-family residential, duplex, and manufactured home.

The application process for a building permit for single-family, duplex and manufactured home construction is pursuant to the requirements of section 12.08.107, dwelling building permit requirements for single-family, manufactured home and duplex dwellings. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.101. Application for a final development order for final plat or final site plan.

An application for a final development order for a final site plan or final plat shall be made in writing by the owner(s) of the property for which it is sought (or by the owner's designated agent) and shall be submitted to the office of the County engineer. Nine copies of the following-materials shall be included:

- A. Previously designated approvals, clearances and reports as listed in these regulations;
- B. The County's standard application form, completed, signed by all owners of subject property, and notarized (signatures by other parties will be accepted only with proof of authorization to sign); in a case of corporate ownership, the authorized signature shall be accompanied by notation of the signer's position in the corporation and embossed with the corporate seal;
- C. A copy of the recorded deed to the subject property (legal descriptions will be checked against those provided on the application, and survey discrepancies shall be resolved and documented before final approval can be granted);
- D. Preliminary site plan for a commercial building structure, or preliminary plat for land subdivision development; and
- E. A boundary survey prepared in accordance with the minimum technical standards for land surveying as defined by Chapter 61G17, Florida Administrative Code, together with the following information:
 - 1. A legal description of the subject property, which should be consistent with the description found on the instrument of title;
 - 2. All recorded public and private easements and rights-of-way, within and adjacent to the parcel, labeled as to type;
 - 3. Total area of the property in square feet and acres;

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4. Signature and seal of a Florida Professional Surveyor and Mapper in accordance with F.S. Ch. 472;
 5. FIRM flood hazard zone and base flood elevation referenced to NAVD 1988, or as required by the County engineer, if applicable; and
 6. Location and dimensions of all structures within the parcel.
- F. **Reserved.**
- G. **Application fee.** The current application fee established by the BCC shall also be enclosed with the development order application. This fee is payable in advance to the BCC.
- H. **Review fees.** The current review fee established by the BCC shall be submitted concurrently with the preliminary plat, improvement plan, final plat, preliminary site plan, final site plan, landscape plan, irrigation plan, or any other type of plat or plan submitted for review. This charge is payable in advance to the BCC, Highlands County, Florida, and shall accompany the plat or plan on first submittal. This review fee is calculated on a per sheet basis for commercial site plans and subdivision improvement plans, and calculated per corner for preliminary or final plats, and no additional charge will be made for subsequent review of the same sheet. However, an additional charge will be made for sheets or corners added to the plan or plat at the time of revision, and the additional fee must accompany the revised submission. No credit will be given for previously reviewed sheets that are removed from the submittal at the time of revision. A fee will be charged for any sheet in the submittal that contains information required by these regulations. Review of original or revised submittals shall not begin until all fees are paid. Sheets may be submitted for "additional information only", where the information is not required, but such sheets should be plainly identified so that no charge will be made for them.
- I. **Plat and plan contents.** Information required to be placed on the plats or plans cannot be submitted on individual smaller pages to avoid payment of additional fees.
- J. **Action upon receipt of application.** County staff will take the following action upon receipt of the final development order application, all supporting documents, and the preliminary site plan or preliminary plat:
1. Within 15 working days, the County engineer shall determine whether or not the application is complete.
 - a. **If incomplete.** If all items required by this section are not included, the application shall be deemed incomplete and the applicant notified in writing, requesting the additional information or materials. The applicant shall have 30 calendar days to supply the missing information, after which time, if not received, the County engineer shall return the application and all supporting material, disapproved. The applicant must then resubmit his application as if it were a completely new submission. Credit will be given for any application fee or review fees submitted with the first application toward applicable fees for any subsequent application for the same project submitted within 12 months from the date the applicant was notified that his application had been deemed incomplete.

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- b. **If complete.** If all items required by this section are included, and otherwise in conformance with the submission requirements of these regulations, the application shall be deemed complete, and the applicant notified in writing, that his application together with the preliminary plat or site plan will be processed within 25 working days.
 2. The County engineer shall transmit one copy each of the application, together with supporting documentation and the preliminary site plan or preliminary plat to staff, who shall have 20 working days to complete review of the application and preliminary site plan or preliminary plat, and notify the County engineer, in writing, of their findings. Recommendations and decisions rendered by each reviewing department shall be based upon the application, supporting documentation, compliance with standards and requirements of these regulations, comments from and approvals required by other agencies.
 3. At the end of the 25 working days, the County engineer, acting on behalf of County staff, will either approve or disapprove the preliminary plat or site plan, accept or reject the final development order application, and notify the applicant, in writing, of County staff's determination. A copy of the preliminary plat or preliminary site plan will be returned to the applicant, either approved or disapproved, along with copies of each staff's comments.
 - a. If disapproved: the preliminary plat or site plan must be revised and resubmitted as required by notes on the preliminary plat or site plan, by staff's comments, and by the checklist which shall accompany the plat or plan. The applicant shall be allowed six months from the date his application for a final development order was deemed complete in which to obtain an approved preliminary plat or preliminary site plan. Otherwise, the application will be returned disapproved.
 - b. If approved: a preliminary development order will be issued which will authorize submitting a final site plan when a preliminary site plan is being approved, and an improvement plan when a preliminary plat is being approved.
- K. **Final development order application acceptance.** A final development order application is not approved in the same sense that plats or plans are approved. It is only determined to be complete and is accepted with the date of acceptance becoming the official date of application for the final development order. It can only be accepted concurrently with the approval of a preliminary site plan or preliminary plat. Acceptance of a final development order application is not approval of a final development order. A final development order shall not be issued until other specified conditions described in these regulations have been satisfied.
- L. **Filing of application materials.** All application materials (maps, preliminary plat, preliminary site plan, support documents, etc.) submitted as part of an application shall be approved and filed in the proper County office. Subsequent amendments and revisions shall be approved and filed in the same manner, superseding all previously submitted materials. All materials shall reflect the revision date(s), signature(s), and seal(s) as required.

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M. **Cancellation of development orders.** Failure of the applicant, agent, or holder of a development order to comply with or honor any express requirement of these regulations or express representation contained within the site plan or development order, either before or after commencement of construction, shall constitute grounds upon which:

1. The County may deny, refuse to grant, or revoke a preliminary or final development order;
2. The County may, if a health or safety problem exists, discontinue any County utility or service;
3. The County may refuse further process of any permit or certificate of occupancy in connection with a development order; or
4. The County may seek to enforce legal and equitable remedies.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.102. Standard preparation requirements.

The following requirements apply to all preliminary site plans, final site plans, preliminary plats, and improvement plans. Instructions for preparing final plats are contained in F.S. Ch. 177, and in this section.

A. **Format:**

1. **Sheet size:** 24 inches by 36 inches with one-half-inch margins, except the left binding side shall have a three-inch margin.
2. **Sheet number:** Sheet number and the total number of sheets shall be clearly indicated on each sheet.
3. **Sheet material:** Blueline or blackline copies.
4. **Scale:** No smaller than one inch equals 100 feet unless a different scale is approved in advance by the County engineer.
5. **Sheet orientation:** North arrow (north to top of sheet where feasible).

B. **Cover (or front) sheet.**

1. Development (project) name and address;
2. Date of preparation;
3. Name, address, and telephone number of the owner(s) and/or developer of the property; where a corporation or company is the owner, the name and address of the president and secretary of the corporation shall be shown; and
4. Name, address, and telephone number of the consultant(s) (surveyor, engineer, architect, landscape architect, etc.) responsible for preparation of the drawing(s).

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C. **Project description (cover or front sheet).**

1. **Written:**

- a. Metes and bounds description;
- b. Legal description from deed of record if different from metes and bounds;
- c. STRAP description (reference to section, township and range, including subdivision name, block numbers and lot or parcel numbers, if applicable);
- d. Area of project in square feet and acres;
- e. Existing use of the land within the project boundaries;
- f. Existing zoning according to the Highlands County Zoning Atlas;
- g. Permitted land use according to the Highlands County Comprehensive Plan's Future Land Use Map;
- h. List of state and federal permits required for development of the project (secured during development review conference or from the development services director and County engineer); and
- i. Legend explaining symbols, abbreviations or other notes.

2. **Graphic:**

- a. Property boundaries with line dimensions, bearings and curve data;
- b. Existing easements and rights-of-way (widths, dimensions, curve data, type, etc.);
- c. Land rendered unusable for development purposes by reason of deed restrictions or other legally enforceable limitations;
- d. Location map (placed on the top or cover sheet of each set of plans to indicate the location of the project relative to surrounding areas and including at least the nearest arterial or collector roadway); and
- e. Existing land use and zoning classification districts of all abutting properties.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.103. Commercial building structures.

Purpose and intent: The site plan review process described in this section is intended to ensure that site development and redevelopment for commercial building structures in unincorporated Highlands County is

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carried out in accordance with the latest ordinances and revisions of the Highlands County Comprehensive Plan and the *Highlands County Land Development Regulations*. To achieve this purpose, a process comparable to subdivision plat review is provided which allows adequate technical review appropriate to the size and complexity of the proposed development. The following types of development orders and development permits described in this article will be issued for commercial building structures:

- A. On approval of the preliminary site plan, a preliminary development order will be issued by the County engineer which will authorize the submittal of the final site plan; and
- B. On approval of the final site plan, a final development order will be issued by the County engineer which approves the project and authorizes the various County agencies and departments to issue development permits required for the construction and completion of the project in compliance with the terms of the final development order. This will include, but not be limited to, permits such as building, and driveway.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.104. Preliminary site plan.

The preliminary site plan review provides an initial review of a proposed development prior to preparation of a final site plan.

- A. Unless expressly exempted elsewhere by these regulations a preliminary site plan is required for all multifamily residential developments of three or more units in each building structure.
- B. A preliminary site plan is required for all nonresidential developments that are not part of an approved planned development or a DRI unless expressly exempted elsewhere by these regulations. All nonresidential developments that are part of an approved planned development or DRI need not obtain preliminary site plan approval but must apply for final site plan approval.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.105. Preliminary site plan requirements.

The submittal requirements for preliminary site plans are listed in this article.

- A. Nine copies of plans shall be submitted. Plans shall be prepared by a registered architect, landscape architect, or registered engineer licensed in the State of Florida, each certifying to his or her field of expertise.
- B. Front or cover sheet (see section 12.04.102.)
- C. The information noted below shall be placed on the plan to verify compliance with all applicable parts of these regulations. If any parts are found not applicable to the proposed development, a justification shall be included. The information shall include, as applicable:
 - 1. Total site area and percentage of total site area to be covered by an impervious surface, including buildings;

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2. Water and wastewater type; where water supply is from a wellhead, a note shall be added noting the wellhead supplies or does not supply a public potable water system as defined in Chapter 17-550, F.A.C.;
 3. The approximate location and intensity or density of the proposed development, and the maximum allowable density or intensity allowed under these regulations;
 4. A statement verifying concurrency clearance as required by of these regulations;
 5. Proposed open space areas on the development site, types of activities proposed to be permitted on them, and method of maintenance;
 6. Lands to be dedicated or transferred to a public or private entity and the purposes for which these lands will be held and used;
 7. All existing and proposed physical improvements including, but not limited to: buildings, off-street parking areas, pavement, utilities, on-site recreation, walls, poles, towers, signs, and the distances of all these improvements from the boundaries of the property;
 8. A general parking access and circulation plan in compliance with this article;
 9. Location of all water courses, water bodies, floodplains, xeric uplands, wetlands, cutthroatgrass seeps, historical and archaeological resources, cones of influence for potable wells, aquifer recharge areas, soil types, and vegetative cover in compliance with this article;
 10. Existing and proposed stormwater management systems on site and proposed linkage, if any, with existing or planned public stormwater management systems in compliance with this article;
 11. Proposed location of potable water and wastewater facilities, including fire hydrants, to serve the proposed development, including required improvements or extensions of existing off-site facilities;
 12. Maximum height(s) of building(s), building separation, and proposed setbacks in compliance with these regulations;
 13. Minimum flood elevation(s) of building(s) within any 100-year floodplain;
 14. Proposed buffers and landscaping in compliance with this article; and
 15. Location of all wellheads supplying public potable water systems as defined in Chapter 17-550, F.A.C. and regulated by F.D.E.P. within 600 feet of property line.
- D. **Preliminary site plan time limit.** Failure to receive a final development order for the final site plan within one year of the approval date of a preliminary site plan shall constitute cancellation of the preliminary site plan and preliminary development order. An extension of time may be granted by the County engineer where, because of state or federal permitting requirements or other justifiable reasons,

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the applicant is unable to meet the time frame allowed. A written request must be submitted prior to the one year expiration date of the preliminary site plan and must include documentation to substantiate the request for an extension.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.106. Final site plan--Purpose.

The purpose of the final site plan is to provide for review of the proposed development at a level of detail showing specific arrangement of building and other improvements in relation to each other. The review allows a detailed examination of existing site conditions, surrounding property, and specific information on how the proposed development complies with requirements of these regulations. This review is designed to verify compliance with specified land use regulations, development standards, and other standards and requirements of these regulations.

- A. A final site plan shall be required for every commercial building structure unless specifically exempted by these regulations. Single-family, duplex, and manufactured home structures and developments requiring the recording of final plats are not included.
- B. Every nonresidential development that is part of an approved planned development or DRI shall be required to apply for final site plan approval. Final site plans may be for any portion of the site (a phase or any portion of a phase) so long as development proceeds according to the approved conceptual development plan or the approved final development order according to state law. In the case of a DRI the application for development approval (ADA) pursuant to F.S. Ch. 380, meets the preliminary site plan requirements. Both subdivision plats and final site plans may be required depending upon the nature of the development.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.107. Action upon receipt of final site plan.

The County engineer shall transmit one copy of the final site plan to the fire Marshal who shall have 20 working days to complete his review and notify the County engineer, in writing, of his findings.

At the end of 25 working days after receipt of the final site plan submittal, the County engineer, acting on behalf of himself and the County fire marshal, will either approve or disapprove the final site plan, and notify the applicant, in writing, of the County's determination. A copy of the final site plan will be returned to the applicant, either approved or disapproved, along with a copy of the fire marshal's comments, and any comments that the County engineer might have. Approval requires a finding of compliance with applicable regulations by both the County engineer and the fire marshal.

- A. If disapproved: the final site plan must be revised and resubmitted as required by notes on the final site plan itself, by the fire marshal's comments, by the County engineer's transmittal letter, and by the checklist which shall accompany the plan.
- B. If approved: two copies of the approved final site plan, along with a final development order, will be returned to the applicant. This final development order will enable the applicant to proceed with obtaining a building permit.

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- C. The final site plan submission requirements are listed below.
1. Five copies of the plan shall be submitted. These drawings shall be prepared by a registered architect, landscape architect, or registered engineer licensed in the State of Florida, each certifying to his or her field of expertise. The following shall be submitted along with the final site plan drawings:
 - a. Proof of permit issuance, exemption, or approval by the appropriate water management district (SFWMD or SWFWMD) and, when applicable, by the Florida Department of Transportation (FDOT).
 - b. Proof of permit application, when applicable, to Florida Department of Environmental Protection (FDEP), Army Corps of Engineers, and the Environmental Health Director.
 2. Front, or cover sheet (see section 12.04.104 of this division).
 3. The information noted below shall be placed on the plan to verify compliance with all applicable parts of these regulations. This will include any amendments to the preliminary site plan. If any parts are found not applicable to the proposed development, a justification shall be included. The information shall include, as applicable:
 - a. Total site area and percentage of total site area to be covered by an impervious surface;
 - b. Type of potable water supply;
 - c. Type of sanitary wastewater system;
 - d. A benchmark referenced to the National Geodetic Vertical Datum (NGVD) or the 1988 North American Vertical Datum (NAVD 88) as applicable;
 - e. Provisions to be made for adequate control of erosion, sedimentation, dust, and debris during all phases of clearing, grading, and construction;
 - f. All existing and proposed physical improvements including, but not limited to: buildings, off-street parking areas, pavement, utilities, on-site recreation, walls, poles, towers, signs, and the distances of all these improvements from the boundaries of the property;
 - g. The street names of all abutting rights-of-way;
 - h. Centerline, edge of pavement or traveled way for unpaved roads, and centerline of side swales or ditches for all abutting streets and roads;
 - i. The location of all water courses, water bodies, floodplains, xeric uplands, wetlands, cutthroatgrass seeps, historical and archaeological resources, cones of influence for potable wells, aquifer recharge areas, soil types, and vegetative cover; provisions for protection of such resources, pursuant to this article, shall be indicated;

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- j. All structures (including fences), labeled as to type, height, composition, and intended use;
 - k. Building setback distances from property lines, abutting right-of-way centerlines, and all adjacent structures;
 - l. Locations of all proposed permanent signs and exterior lights; sign face area shall also be provided;
 - m. Locations of the nearest existing and all proposed fire hydrants;
 - n. The location and size of any proposed sanitary sewer and water main construction, including the locations of proposed connections to existing facilities;
 - o. If a garbage dumpster is proposed, pad location and specifications;
 - p. The total number of proposed parking spaces, spaces reserved for handicapped parking, loading areas, wheel stops, signage, striping, proposed ingress and egress (including proposed public street modifications), and projected on-site traffic flow; the full dimensions of parking spaces, travel lanes, and driveways shall be labeled;
 - q. Cross sections and specifications for all proposed pavement, retention ponds, swales, driveways, etc.;
 - r. Proposed landscaping, including a plant legend, and the locations and names of any existing trees to remain; and
 - s. Complete irrigation system details.
4. A complete drainage, grading, and water retention plan, referenced to the National Geodetic Vertical Datum (NGVD) or the 1988 North American Vertical Datum (NAVD 88) as applicable, with supporting calculations indicating existing and proposed runoff shall be included. The stormwater calculations should be on eight and one-half-inch by 11-inch sheets.
5. The following certifications shall be placed on the plan, as applicable:
- a. *I hereby certify that the design for this project is in substantial conformance with the standards established by the most current edition of the "Manual of Uniform Standards for Design, Construction and Maintenance of Streets and Highways", as required by F.S. § 336.045.*
 - b. *I hereby certify that the details of the handicap accessibility plan shown hereon are to the best of my knowledge and belief in full and complete compliance with the "State of Florida Department of Community Affairs Handicap Accessibility Rule."*

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- c. *I hereby certify that the landscaping plan shown hereon is in full and complete compliance with the landscaping requirements of the Highlands County Land Development Regulations.*

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.108. Final site plan time limits.

Final development orders for final site plans shall remain in force for two years. If no development (actual construction) has commenced within two years, the final development order shall expire. A one-year extension may be granted for good cause shown upon written application submitted to the County engineer prior to expiration date of the final development order. When extending the final development order, the County engineer shall require the final site plan to be modified to bring the plan into compliance with any new provision of these regulations in effect at the time of the extension request.

- A. When connecting to a County road, a permit application for construction within the public right-of-way shall be submitted with the final site plan.
- B. When water or sewer lines are to be placed within the public right-of-way, an application for a utility permit shall be submitted with the final site plan, including the current permit fee as established by the BCC.
- C. The final site plan must contain a certification that "this development is (or is not) within the 100-year floodplain."
- D. If development is within a flood hazard area, a copy of an elevation certificate prepared by a registered engineer or professional land surveyor shall be submitted with the final site plan.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.109. Improvements completion.

When improvements for commercial building structures are complete, the project engineer shall advise the County engineer in writing requesting an inspection of the site improvements. The request shall be accompanied by a signed and sealed certificate of project completion from the project engineer, one copy of all test results performed by a certified testing laboratory, and one signed and sealed copy of "as built" plans, also by the project engineer. Upon verification of the site improvements completion, the County engineer shall issue a certificate of compliance within five working days and send a copy to the building department and fire prevention bureau. This certificate is required before the building department and fire prevention bureau can make final inspections in preparation for the issuance of a certificate of occupancy.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.110. Land subdivision--Purpose and intent.

This article regulates the division and platting of land within unincorporated Highlands County's jurisdiction in order to assure harmonious, orderly, and progressive development of the land. Subdivision is here defined to mean the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

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- A. This article applies to any division of land, which is for the purpose of transfer of ownership, whether immediate or future, except as found in section 12.04.205 exemptions criteria; and sets forth the procedures for dividing land, subdividing land, re-subdividing land, re-platting interior parcels of previously platted land, reviewing and approving subdivision plats, and the minimum standards for public and private infrastructure and subdivision design. This includes, but is not limited to, divisions of land into three or more parcels, residential subdivisions, commercial and industrial subdivisions, minor subdivisions, manufactured home subdivisions, manufactured unit parks, seasonal parks, planned unit developments, and cluster/PUD developments. These requirements, together with the standards and criteria of these regulations, and including engineering design standards and specifications in section four of this article, are intended to ensure that all lands included within subdivisions will be suitable for the various purposes proposed. Regulation of land development is intended to protect and promote the health, safety, and general welfare of the citizens of Highlands County.
- B. Regulations of this article provide for proper legal description, identification, monumentation, and recording of real estate boundaries; for safe, convenient, and efficient circulation of vehicular and pedestrian traffic; provision of suitable drained and readily accessible building sites; provision of necessary public improvements and services; and for conservation and protection of the physical, natural and economic resources of the County.
- C. The purpose of regulating the division of land is also to ensure compliance with procedural and substantive requirements of the Comprehensive Plan, these regulations, and the requirements of F.S. Ch. 177.
- D. The following types of development orders and development permits will be issued for land subdivisions:
1. Upon approval of the preliminary plat, a preliminary development order will be issued by the County engineer authorizing the submittal of the improvement plan;
 2. Upon approval of the improvement plan, a final development order will be issued by the County engineer authorizing the submittal of the final plat; this final development order will also authorize the issuing of the necessary development permits for construction of the project; and
 3. Upon approval of the final plat, receipt in the County engineer's office of all required documents, approval by the board attorney, and final plat recording approval by the BCC, a final development order will be issued.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.111. Preliminary plat.

A preliminary plat provides for a complete review of technical data and preliminary engineering drawings for proposed subdivisions, and an approved preliminary plat is a prerequisite to improvement plan review. The preliminary plat is a graphic representation of the proposed development and its individual lots, and is intended to represent a boundary survey of the proposed subdivision.

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- A. Nine copies of the preliminary plat shall be submitted. Each sheet submitted shall bear the original signature and seal of a Florida professional land surveyor or a registered professional engineer.
- B. The preliminary plat submittal shall include the following:
1. Front, or cover sheet showing the subdivision name preceded by the words "Preliminary Plat of";
 2. Notes supplying the development specifications of the tract shall be placed on the plat, as applicable:
 - a. Area of the tract;
 - b. Proposed number of lots;
 - c. Amount of area devoted to all existing and proposed land uses including open space, residential, and commercial as well as the location thereof;
 - d. The minimum lot area to be provided;
 - e. The proposed type of water supply and wastewater disposal system; and
 - f. The proposed tie-in points to an existing public water supply and wastewater disposal system or an explanation of alternative systems to be used.
 3. Graphic information listed below shall be shown on the plat, as applicable:
 - a. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, etc.;
 - b. Location of all conservation areas or easements including restrictions, notes, etc.;
 - c. All existing and proposed property and lot lines;
 - d. The approximate location of any underground or overhead utilities, culverts, and drains on the property and within 100 feet of the proposed plat boundary;
 - e. Existing drainage facilities proposed for use;
 - f. Right-of-way of road connecting the development to the nearest County, state or city maintained road where development does not have frontage on such road;
 - g. Location and widths of existing and proposed easements, building lines, alleys, parks, other public spaces, and similar facts regarding adjacent property;
 - h. Locations of all existing and proposed fire hydrants;

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- i. The boundaries of proposed utility easements; such easements shall provide satisfactory access to existing public right-of-way or other public open spaces for maintenance or other activities by utility companies or agencies;
- j. The 100-year flood elevation, minimum required habitable floor elevations, and limits of the 100-year floodplain for all parts of the proposed development; and
- k. Existing surface water bodies, wetlands, streams, and canals within the proposed development including:
 - (1) Seasonal high water elevation and boundary for each; and
 - (2) Attendant drainage areas for each.

C. **Preliminary plat time limits.**

1. **Improvement plan required.** Where an improvement plan is required, failure to receive an improvement plan final development order within two years of the approval date of a preliminary plat shall constitute cancellation of the preliminary plat and preliminary development order. An extension of time may be granted by the County engineer where, because of state or federal permitting requirements or other justifiable reasons, the applicant is unable to meet the time frame allowed. A written request must be submitted prior to the expiration date of the preliminary plat and preliminary development order and must include documentation to substantiate the request for an extension.
2. **Improvement plan not required.** Where an improvement plan is not required by virtue of an exemption or exception authorized by these regulations, a final plat shall be recorded within one year of issuance of the preliminary plat and preliminary development order. Failure to record such final plat in a timely manner will constitute cancellation of the preliminary plat and preliminary development order.

D. **Improvement plan.** A plan of proposed improvements shall be submitted following approval of the preliminary plat. It is the intent that the improvement plan, reflect compliance with standards and procedures for installation and maintenance of required improvements so that services and facilities are provided in such a manner as to insure the health and safety of the public and to sustain the existing quality of life. These requirements are intended to provide that all improvements are installed in a timely and efficient manner and that, where improvements will be retained in private ownership, the improvements will be maintained permanently in accordance with the requirements of these regulations. An approved improvement plan and final development order is a prerequisite to final plat review.

1. **Action upon receipt of improvement plan.** At the end of 25 working days after receipt of the improvement plan submittal, the County engineer will either approve or disapprove the improvement plan, and notify the applicant, in writing, of his determination. A copy of the improvement plan will be returned to the applicant, either approved or disapproved along with any comments that the County engineer might have.

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- a. If disapproved, the improvement plan must be revised and resubmitted as required by notes on the improvement plan itself, by the County engineer's transmittal letter, and by the checklist which shall accompany the plan.
 - b. If approved, one copy of the approved improvement plan along with a final development order, will be returned to the applicant. This final development order will authorize construction of the improvements and submittal of a final plat for review.
2. Three copies of the improvement plan shall be submitted.
3. The improvement plan shall be prepared as follows:
 - a. All elevations shall be referenced to the National Geodetic Vertical Datum (NGVD) or the 1988 North American Vertical Datum (NAVD 88) as applicable, or other datum acceptable to the County engineer;
 - b. Each sheet of the improvement plan shall bear the original signature, date and seal of a Florida professional surveyor and mapper; in accordance with F.S. Ch. 472; or registered professional engineer, each certifying to his or her field of expertise, and shall also show the development name and the drawing scale;
 - c. Details shall be shown in plan, profile or section; pictorial or isometric presentations shall not be used; and
 - d. Proposed streets shall include paved access to a County, state or city maintained roadway.
4. The improvement plan submittal shall include the following information, or a note as to why the information is not applicable:
 - a. Front or cover sheet containing information described in this section, and also showing the date of approval of the preliminary plat;
 - b. A drainage map showing the complete drainage system including, but not limited to: closed drainage areas, design high water, acreage, the effect on and compatibility with drainage or surface waters, the effect on adjacent lands and existing outfall systems, a benchmark referenced to NGVD or the 1988 North American Vertical Datum (NAVD 88) as applicable, or other datum acceptable to the County engineer, and the complete calculations used to design the system; the calculations shall be on eight and one-half-inch by 11-inch sheets; all other information shall be shown on a master drainage plan at a scale not smaller than one inch equals 100 feet unless a different scale is approved in advance by the County engineer; it is the specific intent of this requirement that rights-of-way for all drainage improvements for both on-site and off-site improvements shall be provided including, but not limited to: retention ponds, ditches, culverts, channels, and the like required for drainage of the site;

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- c. Soils map and soil infiltration test location and results of test borings of subsurface conditions (at least one per drainage retention/detention area) of the tract to be developed (a report and map prepared by a soil scientist with the local soil conservation service will be accepted in lieu of laboratory tests if approved in advance by the County engineer);
- d. Proof of permit issuance, exemption, or approval by the appropriate water management district (SFWMD or SWFWMD) and, when applicable, by the Florida Department of Transportation (FDOT);
- e. Proof of permit application, when applicable, to Florida Department of Environmental Protection (FDEP), Army Corps of Engineers (ACOE), and the Environmental Health Director (HRS);
- f. Paving and drainage plans and profiles showing existing and proposed elevations and grades of all public and private paved and open areas including size, location, and type of drainage facilities and proposed first floor finished elevations of all structures in all 100-year floodplain areas;
- g. Water distribution (including fire hydrants) and wastewater collection plans and proposed profiles where applicable;
- h. Typical and special roadway and drainage sections and summary of quantities to include a driveway apron and culvert schedule with typical sections;
- i. Construction details showing compliance with construction standards specified in;
- j. Profile sheets showing special or unique situations such as intersections or waterways;
- k. Plans showing existing and proposed improvements, if any, to waterways, lakes, streams, channels or ditches, bridges, culverts, seawalls, bulkheads, docks, retaining walls, and any other proposed structures;
- l. Approval by the appropriate utility authority when street lighting is proposed;
- m. Landscaping and irrigation plans in compliance with this article;
- n. Written specifications meeting or exceeding all applicable design minimum standards of these regulations; and (Ord. No. 06-07-04 § 4)
- o. Where construction improvements are not proposed to be completed prior to recording of a final plat, details of an improvement agreement pursuant to the provisions of these regulations, complete with a Florida Professional Engineer's signed, dated and sealed cost estimate of all water, sewer, drainage, and road construction improvements; the actual executed agreement is not required at this time, but must be submitted prior to submission of the final plat for recording approval.

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5. The following certifications shall be placed on the improvement plan, as applicable:
 - a. *I hereby certify that the design for this project is in substantial conformance with the standards established by the most current edition of the "Manual of Uniform Standards for Design, Construction and Maintenance of Streets and Highways", as required by F.S. § 336.045.*
 - b. *I hereby certify that the landscaping plan shown hereon is in full and complete compliance with the landscaping requirements of the Highlands County Land Development Regulations.*
6. The improvement plan must contain a certification that "this development is (or is not) within the 100-year floodplain."
7. **Improvement plan time limits.** Where an improvement plan is required, a final plat shall be recorded within two years following issuance of the improvement plan final development order. Failure to record such plat in a timely manner shall constitute cancellation of both the improvement plan final development order and the preliminary plat preliminary development order. A one-year extension may be granted for good cause shown upon written application submitted to the County engineer prior to expiration date of the final development order. When extending the final development order, the County engineer may require the improvement plan to be modified to bring the plan into compliance with any new provision of these regulations in effect at the time of the extension request.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7; Ord. No. 06-07-04, § 4)

Section 12.04.112. Final plat.

A final plat is a drawing of the final design of a site or portion of the site showing the boundaries and locations of all lots and provides a perpetual record of the development. The final plat shall conform to the approved preliminary plat in all respects except that minor variation in dimensions and alignment resulting from more precise final computations may be accepted.

- A. Nine copies of the final plat and all required documents and materials, as required by this section, shall be submitted to the County engineer along with the review fee.
- B. **Action upon receipt of final plat.** County staff will take the following action upon receipt of the final plat.
- C. The County engineer shall transmit one copy of the final plat together with required documents and materials to County staff as listed in these regulations. Each person shall have 20 working days to complete review of the plat and notify the County engineer, in writing, of his findings.
 1. At the end of the 25 working days, the County engineer, acting on behalf of County staff, will either approve or disapprove the final plat, and notify the applicant, in writing, of County staff's determination. A copy of the final plat will be returned to the applicant, either approved or disapproved, along with copies of each staff's comments.

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2. If disapproved, the final plat must be revised and resubmitted as required by notes on the final plat itself, by staff's comments, by comments in the transmittal letter, and by the checklist which shall accompany the plat.
3. If approved, one copy will be returned to the applicant along with detailed instructions for making application for final plat recording. The application in the *Highlands County Technical Standards Manual*, current edition must be used.
4. **Application for plat recording.** Upon receipt of the approved final plat an applicant should file an application for plat recording with the County engineer along with all supporting documents for presentation to the BCC. The following documents with original signatures must be submitted as part of the application:
 - a. Plat certification;
 - b. Health director approval letter;
 - c. Zoning supervisor approval letter;
 - d. County engineer approval letter;
 - e. Planning supervisor approval letter;
 - f. Development services director approval letter;
 - g. Building official approval letter;
 - h. Fire marshal approval letter;
 - i. Recording fee made payable to the clerk;
 - j. One of the following concerning improvements:
 - (1) Letter from County engineer stating that no improvements are required;
 - (2) Letter from County engineer stating that the required improvements have been completed; or
 - (3) Cost estimate prepared and certified by the developer's engineer together with any required bonds (performance and/or maintenance when applicable) previously approved by the County engineer and board attorney;
 - k. Copies of ownership and maintenance responsibility documents where private roads will serve lots or units offered for sale;

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- l. Original executed documents dedicating offsite easements and road rights-of-way where such easements and rights-of-way are required; and
 - m. The original final plat drawing meeting the requirements of these regulations.
 - n. An 11-inch by 17-inch reduced original of the plat for inclusion with documents presented to the board; and
 - o. A digital form of the plat in ".dwg" format must be submitted on compact disc, as required by the County engineer.
5. Upon review and approval by the board attorney of the recording information as to form and legal sufficiency, the County engineer shall submit the final plat to the BCC for recording approval. The final development order will be issued upon approval of the final plat recording.
6. The final plat shall comply with all requirements of F.S. Ch. 177, Pt. I, and shall be prepared as listed below.
 - a. The final plat shall be drawn at a scale not smaller than one inch equals 100 feet unless a different scale is approved in advance by the County engineer; trim line sheet size shall be 24 inches by 36 inches with a one-half-inch margin provided on all sides except for the left binding side where a three-inch margin shall be provided.
 - b. Drawing materials shall comply with requirements of F.S. Ch. 177.
 - c. Required acknowledgments and dedications, notifications, notes, and declarations shall be on the first sheet and extended to following sheets if necessary; each signature shall be witnessed by two witnesses.
7. **Dedications.** The purpose of all reserved areas shown on the plat shall be defined in the dedication on the plat; all areas reserved for use by residents of the subdivision shall be so dedicated and all areas reserved for public use, such as parks, rights-of-way for roads, streets, or alleys, easements for utilities, rights-of-way for drainage purposes, and any other public area, shall be dedicated by the owner of the land at the time the final plat is recorded; all streets shall be named; dimensions and purpose of the easements shall be indicated.
8. **Mortgage's consent and approval.** The mortgagee's consent and approval of dedication shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee(s) must be witnessed by two witnesses and acknowledged. If the mortgagee is a corporation, consent and approval shall be signed by any two officers of the corporation authorized to do so.
9. **Certification of the surveyor.** The final plat shall be prepared under responsible direction and supervision of a professional surveyor, licensed in the State of Florida, who shall certify on the plat that the plat is a true and correct representation of the lands surveyed and that the survey complies with the Department of Business and Professional Regulation, Board of Professional

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Land Surveyors' Minimum Technical Standards for land surveying as defined in Chapter 61G17, Florida Administrative Code, F.S. Ch. 177, and these regulations. The certification shall bear the signature, registration number, and official seal of the land surveyor. The certification shall also state that permanent reference monuments (PRMs) have been set and that the permanent control points (PCPs) have been set or will be set in accordance with F.S. Ch. 177.

10. **Signature blocks for officials.** Signature blocks with titles of the appropriate official shall be provided.
11. **Plat certification.** A plat title certification dated to within 30 days of the recording date of the plat must be submitted. The certification form must be an attorney's opinion of title or a title company certificate acceptable to the board attorney.
12. **Private ownership statement.** Private property that remains under, one ownership (but is required to be platted) must have the following information placed on the first sheet of the final plat in letters no smaller than one-half-inch in height:

**THIS IS NOT A SUBDIVISION
(PARCEL UNDER ONE OWNERSHIP)
Individual Lot Sales Prohibited**

13. **Water and wastewater type.** A statement designating the type of water and wastewater facilities (including the owners' names) that will serve the development shall be placed on the first sheet of the final plat.
14. **Additional restrictions statement.** The statement, "Notice: There may be additional restrictions that are not recorded on this plat that may be found in the public records of this County", shall be placed in a prominent place on the first sheet of every final plat.
15. All lettering shall read from the bottom of the sheet or from the right side of the sheet.
16. No letter or number shall be less than one-tenth of an inch in height and shall be bold enough to remain clearly legible after reduction.
17. Each final plat shall show a metes and bounds description of the lands subdivided. The description must be so complete that from it, without reference to the plat, a starting point and boundary can be determined.
18. The first sheet of a final plat shall contain a site location map inset to indicate the location of the project relative to surrounding area and including at least the nearest arterial or collector roadway.
19. When more than two sheets must be used to accurately portray lands, the plat shall contain an index sheet showing the entire development as well as the sheet layout. In addition, each sheet must show the particular number of that sheet and the total number of sheets including clearly labeled match lines showing where other sheets match or adjoin.

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D. **Additional information required to be included is listed below:**

1. Every subdivision or other development required to be platted shall be given a name by which it shall be legally known. Said name shall not be the same as any other name appearing on any recorded plat except when the proposed subdivision is subdivided as an additional unit or section by the same developer or his successor in title. Every subdivision's name shall have legible lettering of the same size and type including the words "section," "unit," "replat," "amended," and the like. The name of the subdivision shall be indicated on every page.
2. All lots shall be numbered either by progressive numbers or, if in blocks, progressively numbered or lettered except that blocks in numbered additions bearing the same name may be numbered consecutively throughout several additions.
3. All interior excluded parcels shall be clearly indicated and labeled "NOT PART OF THIS PLAT."
4. All contiguous properties shall be identified by subdivision title, plat book, and page or if the land is unplatted, it shall be so designated. If the subdivision to be platted is a resubdivision of a part of the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. All abutting existing easements and rights-of-way must be indicated. Abutting existing rights-of-way must be indicated to the center line.
5. Restrictions pertaining to type and use of existing or proposed improvements, waterways, open spaces, odd-shaped and substandard parcels, building lines, buffer strips and walls, and other restrictions of similar nature shall require establishment of restrictive covenants which shall be submitted with the final plat for recording.
6. Every conservation easement shall be shown, and all restrictions and special conditions shall be noted on the plat.
7. Every on-site drainage easement and retention/detention area utilized in the stormwater system design shall be labeled "DRAINAGE EASEMENT."
8. Where a development does not have frontage on a County, state or city maintained road, a right-of-way connecting the development to a such road shall either be shown on the plat or dedicated by separate instrument.
9. When an off-site easement or road right-of-way is to be utilized in the project design, a document dedicating the easement shall accompany the final plat for simultaneous recording.
10. All streets and their facilities, in developments where individual lot sales may occur and designed to serve more than two platted lots or tracts, shall be dedicated to the public use and shall be constructed to County public road standards. In developments where individual lot sales may occur, private streets constructed to County public road standards, including right-of-way

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widths, shall be allowed provided a property owners' association, or a condominium or cooperative association as defined by Florida law accepts maintenance of the streets and associated drainage facilities. Ownership and maintenance responsibility documents shall be submitted with the final plat, and the dedication contained on the plat shall clearly indicate that maintenance responsibility for the roads and associated drainage facilities has been accepted by the association without recourse to Highlands County or any other public agency.

11. All manmade lakes, ponds, and other manmade bodies of water excluding retention/detention areas shown on the final plat shall be made a part of adjacent private lot(s) as shown on the final plat. Ownership of these bodies of water shall not be dedicated to the public unless approved by Highlands County.
12. At least two PRMs per plat shall be referenced to the Florida State Plane Coordinate System, the geodetic position of which has been rigidly adjusted on the most current North American Datum. The datum used shall be specified.
13. Plats adjacent to meandered streams or lakes shall show the meander lines on the plats including bearings and distances.
14. Lots bounded on any side by lakes or streams shall have a survey line along the approximate high water line to allow the boundary survey closure to be checked.

E. **Minor subdivision.** This section is provided for the purpose of defining and describing an exception to the requirements to provide an improvement plan. The procedures for minor subdivisions shall be followed for any division of residential land creating less than 11 lots not involving the construction or dedication of any new roadway, or reconstruction of existing roads. When land is divided into less than 11 lots in such a manner that all parcels resulting from said subdivision have frontage for access along an existing public road, maintained by Highlands County or the State of Florida, without passing over lands owned or controlled by others, and further provided the subdivision requires no new roads either public or private, including frontage roads, it is exempt from the improvement plan requirement and is called a minor subdivision.

In order to qualify for the exemption through this minor subdivision provision, the following shall be submitted:

1. Application package in accordance with the general application requirements of this article; and
2. A final plat meeting all the requirements of this article.

F. **Cemeteries.** The division of land into cemetery lots or parcels shall be exempt from the requirements and procedures for preliminary subdivision plats and improvement plans; provided, however, nothing contained herein shall exempt such division of land into cemetery lots or parcels from the requirements and procedures for final subdivision plats nor, where required subdivision improvements are contemplated, from the requirements of this section pertaining to subdivision improvement agreements and the posting of subdivision performance security; such division of land into cemetery lots or parcels shall also be subject to and comply with the requirements and procedures for preliminary and final site

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development plans under this section and shall obtain site development plan approval for the entire property proposed for such division of land into cemetery lots or parcels.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.113. Guarantees, sureties, improvements completion, and maintenance.

- A. The provisions of this article apply to all proposed divisions of land and existing subdivisions within unincorporated lands in Highlands County, including private road subdivisions and any development where lots are offered for sale.
- B. This article also applies to dedicated public rights-of-way in existing platted subdivisions recorded prior to the adoption of these regulations where voluntary construction is contemplated.
- C. This article does not modify existing agreements between a developer and the County for subdivisions platted prior to the effective date of these regulations, providing such agreements are current as to all conditions and terms thereof.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.114. Improvement agreement required.

Approval of any final plat for proposed subdivisions or any improvement plan for existing platted subdivisions shall be subject to the applicant providing assurances that all required subdivision improvements including, but not limited to, storm drainage facilities, streets and highways, water distribution and treatment systems, and sanitary wastewater collection and treatment systems shall be satisfactorily constructed according to an improvement plan approved by the County engineer. An improvement agreement shall ensure that all subdivision improvements, whether required by these regulations or constructed at the applicant's option, shall be constructed in accordance with the standards and provisions of these regulations. The agreement shall contain the following:

- A. The term of the agreement which indicates that all required subdivision improvements shall be satisfactorily constructed within the period stipulated:
 - 1. The maximum period of the agreement shall be 16 months; however, the agreement shall limit the construction period to 12 months; and
 - 2. The agreement period shall begin with the recording of the final plat;
- B. The projected total cost for each improvement; cost for construction shall be determined by a signed and sealed estimate prepared and provided by the applicant's engineer;
- C. Specification of improvements to be made, together with a timetable for making improvements;
- D. Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making those improvements, the County may utilize the security provided under the agreement and complete the improvements;

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- E. Description of the amount and type of security provided to insure performance pursuant to the provisions of these regulations; and
- F. A provision that the agreement may be renewed at the discretion of the County engineer upon approval from the board attorney; the renewed agreement period shall begin at the end of the previous agreement's construction period; a written request for renewal containing updated information in accordance with subsections A. through E. of this section must be submitted prior to the expiration of the agreement's construction period.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.115. Amount and type of security:

- A. The project engineer's cost estimate and the amount of the security listed in the improvement agreement shall be approved as adequate by the County engineer.
- B. The security shall be in the amount of 110 percent of the estimated construction cost of the improvements and for a maximum period of 16 months.
- C. The original agreement shall be maintained by the County clerk's office and monitored by the County engineer's office.
- D. Security requirements may be met by, but are not limited to, the following:
 - 1. Cashier's check;
 - 2. Certified check;
 - 3. Interest bearing certificate of deposit;
 - 4. Irrevocable letter of credit; or
 - 5. Surety bond.
- E. Standard improvement agreement forms approved by the BCC are available from the County engineer's office.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.116. Completion of improvements.

- A. When improvements for private facilities are completed, final inspection shall be conducted pursuant to requirements of the approved plans and these regulations. Corrections, if any, shall be completed before final acceptance is recommended by the County engineer. Recommendation for final acceptance shall be made upon receipt of a signed and sealed certification of project completion, one copy of all test results, and a signed and sealed set of "as built" plans submitted by the project engineer.
- B. When subdivision improvements for public facilities have been completed, the developer or project engineer shall advise the County engineer in writing requesting an inspection for accepting the project

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for the development maintenance period. The request shall be accompanied by a signed and sealed certification of project completion from the project engineer, one copy of all test results, and one signed and sealed copy of "as built" plans. All corrections found necessary as a result of this inspection shall be corrected prior to acceptance. Upon the developer's completion of any required corrections and upon the County engineer finding the corrections completed, the developer shall be notified to submit a maintenance agreement and security.

- C. Upon receipt and acceptance by the County of a maintenance agreement and security as described below, the improvement agreement and security will be released.
- D. A maintenance agreement and security shall be provided to assure the County that all required subdivision improvements shall be maintained by the developer according to the requirements listed below.
 - 1. The period of maintenance shall be the greater of either 12 months or until ten percent of the lots fronting on each road within the subdivision contain building structures.
 - 2. The maintenance period shall begin with the acceptance of the construction of the improvements by the County engineer.
 - 3. The security shall be in the amount of 20 percent of the construction cost of the improvements and for a minimum period of 16 months.
 - a. Security requirements may be met by, but are not limited to, the following:
 - b. Cashier's check;
 - c. Certified check;
 - d. Interest bearing certificate of deposit;
 - e. Irrevocable letter of credit; or
 - f. Surety bond.
 - 4. The original agreement shall be maintained by the County clerk's office and monitored by the County engineer's office.
 - 5. Standard maintenance agreement forms approved by the BCC are available from the County engineer's office.
 - 6. Upon completion of the maintenance period, the developer or project engineer shall advise the County engineer in writing requesting final inspection for perpetual maintenance by the County.
 - a. Final inspection shall be held by the County engineer, project engineer, and the developer (or their authorized representatives). Any corrections found necessary as a result of this

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inspection shall be made good immediately. Final acceptance shall not be recommended until all corrections have been made.

- b. In the event perpetual maintenance by the County is not requested, or satisfactory completion is not accepted by the County, prior to the expiration of the maintenance security the County may require renewal of the maintenance agreement and security for a period determined by the County.
7. Roads in a subdivision will be tested on an individual basis for compliance with the requirements for acceptance for perpetual maintenance. Each road being considered, in addition to other requirements of this article must meet the final requirement of being contiguous to another County, state, or city maintained road. It follows that at least one entrance road to a subdivision must first meet the requirements before other roads can be considered.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.117. Maintenance by condominium, owners' association, or co-op.

- A. Whenever a proposed development provides for creation of facilities or improvements that are not proposed for dedication to the public, a legal entity shall be created to be responsible for ownership and maintenance of such facilities and/or improvements.
 1. When a proposed development is to be organized as a condominium under the provisions of F.S. Ch. 718, common facilities and property shall be conveyed to the condominium's association pursuant to that law.
 2. When no condominium is to be organized, an owners' association shall be created, and all common facilities and property shall be conveyed to that association.
 3. No final development order shall be issued for a development for which an owners' association is required until documents establishing such association have been reviewed and approved by the board attorney.
- B. An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the public shall be created by covenants running with the land. Such covenants shall be included with the final plat. Such organization shall not be dissolved nor shall it dispose of any common facilities or open space by sale or otherwise without first offering to dedicate the same to the County.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.118. Variances.

This section conveys to the County engineer the authority to grant land development regulation variances from the terms of these regulations.

- A. **Procedure.** Any person desiring to undertake a development activity not in conformance with the standards and requirements of these regulations may apply for a land development regulation variance in conjunction with an application for a final development order, or as an amendment to a final development order.

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1. Application shall be made on the official County form available from the County engineer's office and submitted to the County engineer.
2. To be eligible for a land development regulation variance from Article 5, as provided by Part F. of this section, a proposed development must comply with all other articles of these regulations. Such compliance shall be demonstrated by approval letters or letters of "no objection" from the development services director, building official, zoning supervisor, planning supervisor, fire marshal, and environmental health director which shall be requested by the County engineer upon receipt of the land development regulation variance application.
3. A plan and/or plat revision may be necessary for any change granted under the terms of this section.

B. Initial determination. Upon receipt of an official written land development regulation variance request, the County engineer shall first determine if the proposed variance arises because of the physical surroundings, shape, topographical conditions, or other physical, developmental, or environmental conditions that are unique to the specific property involved. If so the County engineer shall make the following required findings based on the granting of the land development regulation variance for that site alone. If however, the condition is common to numerous sites so that requests for similar land development regulation variances are likely to be received, the County engineer shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

C. Required findings. The County engineer shall not vary the requirements of any provisions of these regulations unless he makes a positive finding based on substantial competent evidence on each of the following:

1. Granting the variance will not result in noncompliance with the County's adopted comprehensive plan; this shall require the affirmative concurrence of the planning supervisor;
2. A hardship exists that is the result of these regulations or the natural features of the land and not the fault of the applicant;
3. The variance will not adversely affect the adjacent property; and
4. Granting the variance will be in harmony with the general intent and purpose of these regulations, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

D. Limitations.

1. In granting any land development regulation variance, the County engineer may prescribe appropriate conditions and safeguards in conformity with the provisions of these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

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2. A land development regulation issued under this section shall expire concurrently with the expiration of the final development order which authorizes construction and/or plat recording.
3. Under no circumstances, except as permitted above, shall the County engineer grant a variance to permit a use not generally permitted in the land use category or zoning district involved or any use expressly or by implication prohibited by the terms of these regulations in the land use category or zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same land use category or zoning district and no permitted use of lands, structures, or buildings in other land use categories or zoning districts shall be considered grounds for authorization of a variance.

E. **Records.** The County engineer shall maintain a record of all land development regulation variances issued including justification for their issuance.

F. **Appeal of a denied land development regulation variance.** When a variance request is denied by the County engineer the developer may appeal the decision through the appeals process described in this section.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.119. Appeals.

A. **Administrative review.** The BOA shall have the power and duty to hear and decide appeals by the applicant where it is alleged there is error in any order, requirement, decision, or determination made by the County in the enforcement of these regulations.

1. Appeals shall be made by notice of appeal filed with the County engineer within 30 days following issuance of the decision appealed.
2. Appeals shall be heard by the BOA. The BOA shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as notice to the affected parties, and decide the same within a reasonable time. At the hearing, the applicant may appear in person and/or be represented by agent or attorney. A list of hearings to be heard by the BOA shall be published in a newspaper of general circulation in the County at least 15 days prior to each hearing.
3. The notice of appeal submitted by the appellant shall contain:
 - a. The name and address of the appellant or the appellants, and an explanation of how his or her substantial interests will be affected by the determination;
 - b. The legal description of the property;
 - c. A statement of all disputed issues of material fact; (if there are none, the notice of appeal must so indicate);
 - d. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the appellant to relief;

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- e. A demand for relief to which the appellant deems himself entitled; and
 - f. Any other information which the appellant contends is material.
4. Procedures for the hearing and matters relating thereto shall be governed by this Code.
- B. Any person or persons, jointly or severally, aggrieved by the decision of the BOA may apply to the circuit court for judicial relief within 30 days of the decision being rendered. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by Florida Appellate Rules.
- (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30 § 7)

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DIVISION 2.

GENERAL ADMINISTRATIVE PROCEDURES

Section 12.04.200. Application and review procedures.

This article sets forth the application and review procedures required for obtaining development orders and certain types of permits, and also specifies the procedures for appealing decisions and seeking legislative action. (Ord. No. 94-13 effective 1-1-95)(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30 § 7)

Section 12.04.201. Development order and development permit.

A development order is an order granting, denying, or granting with conditions an application for approval of a development project or activity. While both development orders and development permits are considered development orders under state law, for the purposes of these regulations, a distinction is made between development order, which encompasses all orders and permits, and three distinct types of development orders: preliminary development order, final development order, and development permit.

- A. **Preliminary development order.** Any preliminary approval which does not authorize actual construction, mining, or alterations to land and/or structures A preliminary development order may include conceptual and conditional approvals where a series of sequential approvals are required before final action authorizes commencement of construction or land alteration. For purposes of these regulations preliminary development orders include comprehensive plan amendments and zoning changes which affect land use or development standards, preliminary site plan approval, and preliminary plat approval.
- B. **Final development order.** The final authorization of a development project; the authorization which must be granted prior to issuance of a development permit as defined for purposes of these regulations. (The final development order authorizes the project, whereas the development permit authorizes specific components of the project, such as building construction, parking lot installation, landscaping, and the like.) For purposes of these regulations, final development orders include improvement plan approval, final site plan approval, and final plat approval.
- C. **Development permit.** For purposes of these regulations, a development permit is an official County document which authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: all types of construction permits (plumbing, electrical, foundation, mechanical, and so forth, in addition to the building permit itself), land clearing permits, mining operation permits, septic tank permits, sign permits, driveway permits, and house moving permits, etc. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.202. Development order required to be on file.

No development as defined by these regulations, including construction within public rights-of-way, shall be established or changed, and no building shall be constructed, used, occupied, or altered with respect to its use after the effective date of these regulations until there is first on file, approved by official County action, the appropriate development order for the project, or unless the project qualifies for an exemption. Nothing

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herein shall relieve any applicant of the additional responsibility of seeking all permits required by any applicable statute, ordinance, or regulation and compliance with all of the terms of these regulations or any other applicable law. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.203. Inclusions.

This article shall apply to all development in the unincorporated area of Highlands County, not otherwise exempted, including, but not limited to, single-family residential, duplex, manufactured homes, commercial building structures, residential subdivisions, commercial and industrial subdivisions, manufactured home subdivisions, manufactured unit parks, seasonal parks, planned unit developments, and cluster/PUD developments. Further, the terms residential and commercial have the following general meanings:

- A. **Residential.** The term "residential" generally refers to a building or structure, or a subdivision or parcel of land legally accommodating the structure through proper land use and zoning, where the structure is a single-family dwelling, duplex dwelling, or manufactured home.
- B. **Commercial.** The term "commercial" generally refers to a building or structure, or a subdivision or parcel of land legally accommodating the structure through proper land use and zoning, where the structure is a commercial building, a multi-family dwelling of more than two units, an industrial building, or an agricultural building. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.204. Violation.

Whenever, by the provisions of these regulations, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use or development of any land or water, or on the erection of a structure, a failure to comply with such provisions shall constitute a violation of these regulations. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.205. Exemptions--Criteria.

Proposed divisions of land that meet any one of the following criteria shall be exempt from the development order requirement to record a plat:

- A. **Government use.** The division of land is solely for the conveyance of land or granting of easements or rights-of-way to and accepted by a governmental or public agency.
- B. **Ten acre parcels.** The division will create only lots or parcels ten acres or larger in size. All owners of such parcels on non-maintained roads shall complete a "notice of non-maintained access" form that must be recorded with the clerk of courts. Nothing, however, in these regulations is intended to prevent the platting of subdivisions with lot sizes of ten acres or larger, provided a developer desiring to record such plat shall comply with the complete requirements of these regulations concerning the recording of plats.
- C. **Reservation use.** The division of land solely for the conveyance of title to a not-for-profit corporation, approved by the County, for the purpose of preservation of environmental, archaeological, or historic resources located on the property.

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- D. **Family homestead.** Pursuant to F.S. § 163.3179, a parcel, which is no less than one acre in size, created from a larger parcel having a "general agriculture" land use designation, shall be exempt from platting requirements. (Ord. No. 95-23, revised 7-14-95)(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.206. Existing mobile home parks and campgrounds.

Mobile home parks, campgrounds, and RV parks, existing as of February 25, 1985, and not presently platted, are exempt from the development order requirement to record a plat. However, at any time that a mobile home park, campground, or RV park existing on that date is enlarged, the addition shall be platted according to the requirements of these regulations, and the following will be required for the existing part of the park or campground as a condition to recording the addition:

- A. Provide, procure and display a boundary survey and site plan schematic, signed and sealed by a Florida professional land surveyor, showing the boundary of the development together with permanent reference markers;
- B. Include as a part of the site plan schematic of the development, the approximate location of the lots in reference to the center-lines of the streets within said park or campground; the streets shall be referenced with permanent control points;
- C. Post a copy of said site plan schematic in the park or campground office; and
- D. Submit seven copies each of the boundary survey and site plan schematic to the County engineer at the time of submission of the preliminary plat for the addition, for distribution to County staff members.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.207. Commercial building structures.

The County engineer may exempt certain commercial building structures and vehicular surface areas from the requirement to provide preliminary and final site plans providing the following requirements are met:

- A. One of the following:
 - 1. The structure will be on property zoned agriculture and is a permitted use under such zoning; and the structure will be no more than 10,000 square feet in size; and the structure will be located a minimum of 100 feet from all property lines; or
 - 2. The structure will be of a type that the building department will not require the submittal of building plans signed and sealed by a registered architect or an engineer; or
 - 3. The improvement will consist of a structure or accessory structure, including an addition to an existing structure, and/or a new vehicular surface area covering a combined total surface area of no more than 2,000 square feet.

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- B. The owner submits to the County engineer the following:
1. Proof from the appropriate water management district that a drainage permit for the project is in effect or will not be required;
 2. Proof of compliance with parking requirements;
 3. Proof of compliance with landscaping requirements;
 4. A copy of the environmental clearance/land clearing permit, or proof that a County land clearing permit is not required pursuant to environmental clearance, of these regulations; and
 5. Proof of compliance with any driveway permit requirements.
- C. **Signs.** Improvement consisting solely of construction of a sign will be exempt from the preliminary and final site plan review process. (Ord. No. 95-29, revised 9-18-95)(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.208. Driveways and road connections.

For the purposes of these regulations a distinct difference between driveways and road connections is defined here.

- A. A driveway is used to connect a single lot, parcel, or tract to a road with the intention that no more than one or possibly two residential, commercial, or agricultural structures or an undeveloped lot, tract or parcel will be served by the connection. Construction standards and permitting procedures for the various types of driveways are found in the *Highlands County Technical Standards Manual*, current edition. Certain driveways as described in this article are exempt from the development order process.
- B. A road connection is used to connect a public or private road to a public road. This type of connection applies to roads that connect such developments as subdivisions, manufactured home parks, seasonal parks, planned unit developments, and cluster/PUD developments to public roads, and includes roads in existing undeveloped recorded subdivisions. This type of connection will be subject to the requirements of this chapter, unless specifically exempted, as they might apply.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7; Ord. No. 06-07-04, § 5)

Section 12.04.209. Ten acre parcel road connections.

Road connections serving ten acre parcel land divisions which are exempt from the development order requirement for plat recording are exempt from the development order process but not from the requirement to obtain all applicable development permits such as building and driveway. Residential driveway permit application forms will be used, but the design will conform with the standards for public roads of these regulations. The connection shall be constructed from the edge of pavement (or traveled way in the case of an unpaved road) of the public road to the right-of-way line. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

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Section 12.04.210. Commercial driveways.

Certain commercial driveways as listed here will be exempt from the development order process but not from the requirement to obtain all applicable development permits such as building and driveway. Residential driveway permit application forms will be used, but the design will conform with the standards for commercial driveways as detailed in these regulations.

- A. A driveway to serve any commercial, industrial, or agricultural construction where the County engineer has issued a preliminary and final site plan exemption and a connection is to be made to a County road or public right-of-way will be exempt. Where no exemption has been issued, and a connection is to be made to a County road or public right-of-way, the developer's engineer shall design the driveway connection as a part of the required final site plan in full compliance with these regulations. When a connection is to be made to a state road, a copy of the Florida Department of Transportation permit must be provided.
- B. A driveway to serve any commercial, industrial, or agricultural property not concurrently associated with the construction of a structure and where no building permit is being issued will also be exempt.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.211. Residential driveways.

Residential driveways, not concurrently associated with the construction of a single-family residence, duplex structure, or manufactured home, and where no building permit for a structure is being issued, are exempt from the development order process, but not from the requirement to obtain all applicable development permits such as building and driveway. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.212. Existing driveways.

When an existing driveway connection to a public road is to be utilized to satisfy the requirements of these regulations, it must be inspected by the County engineer's office and found to be substantially in conformance with current driveway standards for the type of development that it is intended to serve. This will require the advance payment of an inspection fee as established by the BCC. When an existing driveway connection to a state road is to be utilized, the owner must provide an approval letter from FDOT prior to a building permit being issued. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.213. Utility permits.

Utility construction within County rights-of-way is not considered development and will not require development orders. Application for utility permits shall be submitted to the County engineer in compliance with these regulations. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.214. Existing approved plats and plans.

It is the purpose of this section to provide an orderly process by which certain commercial building structures and land subdivision developments, for which plats and plans are in various stages of submittal and approval at the time of adoption of these regulations, can continue to completion from the last approved stage and receive final development orders for the projects.

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A. Commercial building structures.

1. **For approvals issued prior to January 25, 1991.** All commercial improvement plans and associated driveway permits approved prior to January 25, 1991, for which no construction has commenced as evidenced by poured footers or slab foundations, and for which no building permits remain valid, are canceled as of the date of adoption of these regulations. The applicants must begin at the beginning of the permitting process and comply with all requirements of these regulations. An unexpired building permit or evidence of construction qualifies a project to continue to completion in compliance with the *Highlands County Land Development Regulations* in effect immediately prior to the adoption of these regulations.
2. **For approvals issued January 25, 1991, and later.**
 - a. Where a commercial improvement plan has been approved and a building permit issued on or after January 25, 1991, and before the date of adoption of these regulations, the project can continue to completion in compliance with the *Highlands County Land Development Regulations* in effect immediately prior to the adoption of these regulations.
 - b. Where a commercial improvement plan has been approved but no building permit has been issued, the applicant shall have 12 months from the date of adoption of these regulations to obtain a building permit.
 - c. Where a commercial improvement plan has been submitted to the County engineer but not approved, the applicant shall have six months from the date of adoption of these regulations to secure plan approval and 12 months after approval date to secure a building permit, all under the terms of the land development regulations in effect immediately before the adoption of these regulations.
 - d. The applicant, described in either b. or c. above, may continue to completion under the aforementioned prior regulations, but should he fail to comply with the terms described in b. or c., he must begin at the beginning of the permitting process and comply with all requirements of these regulations.

B. Land subdivision. This subsection applies to any development requiring the division of land and the recording of final plats unless otherwise exempted by these regulations.

1. **For approvals issued prior to January 25, 1991:** All preliminary plats and improvement plan developments approved prior to January 25, 1991, for which no final plat has been recorded and for which permitted construction has not commenced, are canceled as of the date of adoption of these regulations. The applicants must begin at the beginning of the permitting process and comply with all requirements of these regulations. A recorded plat or evidence of construction pursuant to a valid permit qualifies a project to continue to completion in compliance with the *Highlands County Land Development Regulations* in effect immediately prior to the adoption of these regulations.

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2. **For approvals issued January 25, 1991, and later.** Projects in this category shall begin at the last approved stage of the process and continue to completion, paying all fees, and supplying all information according to the schedule of this subsection.
 - a. Where a preliminary plat and an improvement plan have been approved, no final plat has been recorded, and construction pursuant to a valid permit has begun on or after January 25, 1991, and before the date of the adoption of these regulations, the project can continue to completion in compliance with the *Highlands County Land Development Regulations* in effect before the adoption of these regulations. When a final plat has been approved, but not yet recorded, the project will also be allowed to continue to completion under the *Highlands County Land Development Regulations* in effect immediately prior to the adoption of these regulations.
 - b. Where only a preliminary plat has been approved on or after January 25, 1991, and before the date of the adoption of these regulations, the applicant must enter the application process at the point as described in this article entitled general application requirements. The approved preliminary plat may be accepted in lieu of the preliminary plat required by these regulations, but any improvement plan, not actually approved, must be submitted, reviewed, and approved under the terms of these regulations including the submittal of review fees.
 - c. Where a preliminary plat and an improvement plan have been approved on or after January 25, 1991, and before the date of the adoption of these regulations, no final plat has been approved, and construction has not commenced pursuant to a valid permit prior to the adoption date of these regulations, the applicant must enter the application process at the point as described in this article. The approved preliminary plat and the approved improvement plan, both prepared according to the requirements of the land development regulations in effect immediately prior to the adoption of these regulations, may be accepted in lieu of the preliminary plat and improvement plan required by these regulations, but the applicant will be bound by all other requirements of these regulations pertaining to land subdivision including preparation of the final plat. The application fee for the final development order will be due and payable as required by these regulations.
3. **Proof of commencement of construction:** Where required, proof of commencement of construction will be evidenced by a signed and sealed certificate by the applicant's engineer describing the work that has been completed including starting and completion dates of each major category of the finished work. (Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

Section 12.04.215. Antennas and ground mounted towers.

Site plan application requirements. Site plan approval by the County engineer is required for all antennas and ground-mounted towers. Application for site plan approval shall include the following:

- A. Five copies of the site plan shall be submitted. These drawings shall be prepared by a registered architect, landscape architect, or registered engineer licensed in the State of Florida, each certifying to his or her field of expertise. The site plan shall show the proposed new buildings and structures, the

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height of the tower including co-location, increases, the required minimum set-backs, the required separation from adjacent zoning, the required separation distances between towers, the fall zone, the required landscaping, the required signage, camouflage treatment if required, and the required security fencing providing access to only authorized personnel;

- B. A copy of the FAA response to the applicant's notice of proposed construction of alteration, or its replacement;
- C. A letter of intent committing the tower owner and his or her successors and assigns to allow the shared use and co-location of the tower, if additional user(s) agree in writing to meet reasonable terms and conditions for such shared use as determined by industry standards;
- D. A statement by the applicant indicating that government owned property is or is not available within the search ring for the wireless communication facility. If government property is available, the statement should include a full explanation if the applicant does not plan to use it;
- E. A letter from the property owner consenting to the application; and
- F. At the time of initial application, an inventory of all communication facilities (wireless and backhaul) which are under the applicant's control and/or are being used or planned by the applicant, located within the incorporated and unincorporated areas of Highlands County and within one mile outside the County. Information on each tower listed shall include:
 - 1. The type of tower or supporting structure;
 - 2. The height of the tower including antennas;
 - 3. Latitude and longitude and state plane coordinate location;
 - 4. Street and mailing address of the owner and site address of the facility;
 - 5. FCC and applicable FAA permit numbers for each transmission tower and antenna facility;
 - 6. Ability of transmission tower or structure, associated support facilities and site to accommodate additional antenna(s), including the wireless service signal capacity; and
 - 7. Indication whether the site is co-located and if so, the names of the co-located service providers/owners.
 - 8. The applicant shall provide updated information with subsequent applications.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

DIVISION 3.

AFFORDABLE HOUSING

Section 12.04.300. Affordable housing expedited permitting.

When requested by an applicant for an affordable housing project, as defined by F.S. Ch. 420, Pt. VI, and the application is determined to be complete, the County shall grant first priority in review and processing of all preliminary and a final development orders, including plats, site plans, concurrency clearance, driveway permits, and improvement plans, and all other applicable development permits in order to expedite the issuance of these development orders. To effect the successful issuance of a development order and/or permit, the County shall continually monitor the progress of the application. The project, however shall comply with all requirements of these regulations.

(Ord. No. 05-06-05 § 7; Ord. No. 05-06-30, § 7)

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ARTICLE 5.

DISTRICTS AND SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1.

GENERAL

Section 12.05.100. Establishment of districts; provisions for official zoning atlas.

- A. The County is hereby divided into zones or districts as shown in the official zoning atlas, which, together with all explanatory material therein, is hereby adopted by reference and declared to be a part of this Code.
- B. Each page of the official zoning atlas shall be identified by the seal of the County and affixed with original or facsimile signatures of the chairman of the board of County commissioners and the clerk of the circuit court under the following words:

This is to certify that this map is the official zoning atlas, adopted this day of _____, A.D.,

Board of County Commissioners,
Highlands County, Florida

Attest: By:
Clerk, Circuit Court

By:
Chairman

- C. If changes are made in district boundaries or any other matter portrayed on the official zoning atlas, such changes shall be made to the official zoning atlas promptly after the amendment has been approved by the BCC, together with an entry in a log, to be placed at the front of the official zoning atlas, as follows: "On (date) by Resolution of the BCC, the following changes were made on Page Number _____, of the Official Zoning Atlas." A brief description of the nature of the change shall be entered by the zoning supervisor.
- D. No changes of any nature shall be made in the official zoning atlas or matter shown therein except in conformity with the procedures set forth in this chapter.
- E. The official zoning atlas shall be located in the office of the zoning supervisor and shall be the final authority as to the current zoning status of lands, buildings and other structures in the County.

(Res. of 8-18-70, § 3; Ord. No. 93-15, § 12; Ord. No. 94-4, §§ 6, 7, Ord. 98-13 § 2; Ord. 98-22 § 1)(Ord No. 03-04-1)(Old Sec. 12-71)(Ord. No. 05-06-05)

Section 12.05.101. Rules for interpretation of the official zoning atlas boundaries.

Where uncertainty exists as to the boundaries of districts shown in the official zoning atlas, the rules pursuant to section 12.01.107 of this chapter shall be followed and the additional following rules shall apply:

- A. For clarity and convenience in mapping, zoning of water areas is not shown in the official zoning atlas but unless otherwise zoned the water surface and land under the water surface of all canals, rivers,

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waterways, ponds, lakes and other water areas shall be interpreted as being in the same zoning district as the abutting land. If the zoning districts shown in the official zoning atlas are different on opposite sides of the water area, then the district on each side shall be deemed to extend to the centerline or midpoint of the water area.

- B. Distances not specifically indicated in the official zoning atlas shall be determined insofar as possible by the scale of the map.
- C. Where due to scale or illegibility of the official zoning atlas, or where street or property layout existing on the ground is at variance with that shown in the atlas, or where there is uncertainty, contradiction or conflict as to the intended location of any district boundary, the zoning supervisor shall make an administrative determination as to the location of such district boundary and shall record such determination in a log book to be maintained with the official zoning atlas.

(Res. of 8-18-70, § 4)(Ord No. 03-04-1)(Old Sec. 12-73) (Ord. No. 05-06-05)

Section 12.05.102. Application of regulations.

- A. Except as hereinafter provided, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless in conformity with all of the regulations herein specified for the district in which it is located; and provided further that no building or other structure shall hereafter be erected or altered:
 - 1. To exceed the height.
 - 2. To accommodate or house a greater number of families.
 - 3. To occupy a greater percentage of lot area.
 - 4. To have narrower or smaller rear yards, front yards, side yards or other open spaces; than herein allowed; or in any manner contrary to the provisions of this chapter.
- B. No part of a required yard, or other open space, or off-street parking or loading space or in connection with any building or use shall be included as part of a required yard, open space or off-street parking or loading space for any other building or use.
- C. No required yard, lot setback, clearance, parking area or other space existing as of August 18, 1970, shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after January 1, 1971, shall meet the minimum requirements established by this Code.
- D. Within each district, the regulations of this Code shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

(Res. of 8-18-70, § 6)(Ord No. 03-04-1)(Old Sec. 12-74)(Ord. No. 05-06-05)

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DIVISION 2.

DISTRICT REGULATIONS

Section 12.05.200. AU Agricultural District.

- A. **Intent.** The AU agricultural district is intended to apply to those areas presently and primarily agricultural.
- B. **Permitted principal uses and structures are:**
1. One-family dwellings;
 2. Community residential homes licensed by the State of Florida providing for six or fewer residents which otherwise meet the definition of a "community residential home" as that term is defined in F.S. Ch. 419, provided that such community homes shall not be located within a radius of 1,000 feet of another existing community residential home with six or fewer residents (See Definition# 55B); (Ord No. 05-06-05 § 8) (Ord. 05-06-30 § 8)
 3. Church, and accessory residence;
 4. Golf course, country club, private club, or outdoor recreation club, provided all buildings must be at least 50 feet from any street line and 100 feet from any private lot line;
 5. Grove, produce farm, truck garden, horticultural farm, botanical garden, floriculture, nursery, sod farm, crop raising, hydroponic garden, greenhouse, slat house, forestry, beekeeping with use or keeping animals only as incidental or accessory thereto;
 6. Cattle or stock raising and grazing, dairy farm, but not including commercial goat, sheep or hog raising;
 7. Noncommercial raising or keeping a maximum of three in total number of the following animals: hogs, sheep, and goats collectively or singly;
 8. Dock, noncommercial boat pier, slip or boathouse for docking private water craft;
 9. Railroad right-of-way and tracks, team tracts, but not including yards, shops or roundhouses;
 10. Permanent or temporary structures to house farm labor personnel on farm site with structures located at least 300 feet from any other property under separate and different ownership;
 11. Individual mobile home on individual lot, subject to requirements of this chapter;
 12. Wayside stands for sale of agricultural products only as an accessory use to an adjacent farm when that farm is the principal use;

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13. The parking of one nonagricultural commercial vehicle, on a minimum of five acres, where the commercial vehicle is used by a resident of the premises;
14. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility;
15. Public parks/recreation;
16. Schools, public and private (see definitions in # 263). (Ord. No. 06-07-37 § 5)
17. Potable water facilities that have an annual average withdrawal from any source or combined sources less than 100,000 gpd. (Ord. No. 07-08-32 § 4)

C. Limitations on uses. The following limitations on uses in this district shall apply:

1. Structures for the commercial raising of cattle, horses, sheep, goats and the like (excluding hogs and poultry) shall not be located within 500 feet of a dwelling under separate ownership or within 500 feet of residentially zoned property or within 100 feet of any lot line. Structures for raising poultry or hogs shall not be located within 500 feet of any dwelling under separate ownership or within 500 feet of residentially zoned property or within 200 feet of any lot line. For purposes of this paragraph, structures which are located and begin use in conformity with this section and with this chapter, subsequent rezoning of nearby land to residential zoning or construction of a dwelling under separate ownership shall not put such structure in violation of this chapter.
2. The raising of hogs or poultry shall not be placed, kept or permitted within 100 feet of any dwelling under separate ownership or within 50 feet of residentially zoned property or within 50 feet of any lot line. (Ord No. 05-06-05 § 9) (Ord. 05-06-30 § 9)
3. The raising of hogs, sheep, goats, cattle, horses, and poultry by 4-H or FFA members for exhibition at 4-H exhibitions, FFA exhibitions, County fairs or state fairs is allowed and shall not be required to comply with setbacks otherwise required by this section for raising those animals. For purposes of this paragraph, the structures for the raising of hogs, sheep, goats, cattle, horses, and poultry shall not be located within 100 feet of any dwelling under separate ownership or within 50 feet of any lot line. (also see section 12.05.200.G.6).
4. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
5. Nonagricultural commercial vehicle shall not be parked in any front yard or nearer than 25 feet to any side or rear lot line.
6. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW

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public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord. No. 06-07-04 § 6; Ord. No. 06-07-29 § 1)

- D. **Permitted accessory uses and structures.** Accessory uses and structures allowed in this district are accessory to the principal structures and uses. (Ord. 05-06-33 § 6)
- E. **Prohibited uses and structures.** Listed permissible uses in this district do not include, either as a principal or accessory use, any of the following which are listed for emphasis:
1. Manufacturing or industrial establishments;
 2. Wholesale warehouse or storage establishments;
 3. Junkyards, house wrecking yard, automobile wrecking, used auto parts, display, storage or sale;
 4. Automobile, truck or trailer display, storage, service, repair or sale;
 5. Oil, asphalt or petroleum products, storage, processing or sale except as incidental to approved oil well drilling or to agriculture;
 6. Building supplies or material display, storage or sale, except for storage of building materials incidental to agriculture;
 7. Contractor construction or equipment yard;
 8. Any business established for display, storage or sale of used or secondhand merchandise.
- F. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Cemetery, crematory, columbarium, mausoleum;
 2. Race track for animals or vehicles when non-commercial in nature;
 3. Airport, air park or air field with turf or grass runways, etc.;
 4. Public utility and public service buildings;
 5. Dude ranch, riding stable, livery stable, boarding place, fur farm, dog kennel;
 6. The commercial raising or keeping of hogs, sheep, goats, raising or keeping of 100 or more poultry, poultry slaughtering or dressing;
 7. The noncommercial raising or keeping of more than three hogs, sheep or goats collectively or singly;

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8. Raising or keeping or slaughtering or dressing crocodilians for commercial purposes on a lot with a minimum of 20 acres. Structures for this purpose shall not be located within 500 feet of a dwelling under separate ownership, within 500 feet of residentially zoned property, or within 100 feet of any lot line and shall not be placed, kept or permitted within 100 feet of any lot line. These separation requirements are not applicable where a dwelling is located on property which is utilized for the same type of purpose as the use which would otherwise be required to provide specified separation.
9. Boat yard, boat storage, service, repair or building, marine railway marina, mooring and operations incidental thereto;
10. Golf driving range;
11. Outdoor or indoor rifle range and shotgun and pistol shooting range;
12. Eleemosynary or philanthropic institution, including library, public museums/galleries, schools and similar institutions of a noncommercial nature;
13. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.135 of this Code;
14. Sand, gravel, rock or stone pit or quarry or other operation involving the extraction of natural materials, removing of earth or topsoil;
15. Rodeos and carnivals;
16. Day care, residential group home or sanitarium or institution, or nursing home for contagious diseases, mental, alcoholic, drug cases, penal or correctional institution;
17. Residential group home or convalescent home, nursing home, not including contagious diseases, insanity, feeblemindedness, drug addicts or alcoholics;
18. Temporary or permanent housing to house farm labor when located within 300 feet of any property under separate ownership, when such farm labor is not employed on the same property upon which housing is located, or when housing has a greater capacity than one dwelling unit or two persons for each five acres of land contained in the property upon which the housing is located and the farm labor used;
19. Crushing, screening and processing of materials excavated on premises;
20. Storage in bulk of sand, rock or stone for the purpose of transshipment or distribution;
21. Oil wells and oil drilling;

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22. Sale of nursery products;
23. Off-street parking of motor vehicles accessory to a use not located on the same premises or which is located outside of the district;
24. Commercial activity directly serving agricultural pursuits and limited to the service of agricultural pursuits;
25. Camping grounds for temporary camping with primitive or tent camping only and with RVs developed at a gross density of less than two per acre with the maximum stay per resident set at the public hearing but less than two months per any one year;
26. Fireworks or other explosives, manufacture or storage facilities authorized by permit or license by the Bureau of Alcohol, Tobacco and Firearms (BATF);
27. Parking of more than one nonagricultural commercial vehicle on a minimum of five acres, where the commercial vehicles are used by a resident of the premises;
28. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility;
29. Guesthouse, providing that for any grant of special exception for such purpose, the owner shall sign an agreement that such guesthouse will not be used for rental purposes and providing such guesthouse shall have a minimum floor area of 600 square feet;
30. Landfill limited exclusively to natural vegetative material;
31. Landfill limited exclusively to clean concrete, clean cinder block, bricks and ceramic tile;
32. Store, recycle, or mulch, soil, sand, muck and natural vegetative material;
33. Convent, monastery and parish house;
34. Wayside stands for sale of agricultural products when a principal use or not adjacent to a farm;
35. Keeping of exotic and wild animals pursuant to section 12.05.316 of this Code.
36. Landscaping and lawn care services, other than those allowed under section 12.08.109 home occupations.
37. Community Shelters for Victims of Domestic Violence (see definition # 55C) or community residences for the developmentally disabled (see definition # 55A). (Ord.05-06-05 § 10; Ord. 05-06-30 § 10; Ord. No. 06-07-04 § 7; Ord. No. 06-07-29 § 2)

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G. **Minimum lot requirements in regard to area and width shall be as follows:**

1. **Area, minimum.** Five acres and a minimum of 100 feet of road frontage for all uses. Other parcels less than five acres must be created under the following conditions:
 - a. **Parcels created pursuant to the family homestead** provisions of the Florida Statutes and subsection 12.05.200.N. family homestead provisions of this chapter must have a minimum lot size of one acre.
 - b. **Parcels other than those created under the family homestead** provision at a density greater than one dwelling unit per five acres (less than five acres in size) pursuant to either clustering or transfer of development rights subject to the provisions of subsection 12.05.200.O. transfer of development rights/cluster lots.
 - (1) One dwelling unit per one acre on receiving parcel when a density transfer is pursuant to a transfer of development rights or clustering; or
 - (2) One unit per one-half acre on the receiving parcel when transfer of development rights or clustering is required onsite to protect natural resources on sending parcels as identified on the conservation overlay map or as known to occur.
2. **Wetland and floodplain density.** A density of one dwelling unit for every ten acres shall be assigned to any delineated jurisdictional wetland and floodplain area, within the agriculture land use category which is depicted on the future land use map series.
3. A lot with minimum area of 5,000 square feet and minimum width of 50 feet, platted as single lot or acquired by present owner prior to January 1, 1971, may be utilized for single-family dwelling unit or a single-family mobile home.
4. Parcels of land created and recorded in the public records of Highlands County, Florida prior to June 26, 1973, with a minimum area of one acre and 100 feet of road frontage may be utilized for all uses permitted in this district including a single-family dwelling unit or a single-family mobile home.
5. Parcels of land created and recorded in the public records of Highlands County, Florida between June 26, 1973, and January 1, 1991, with a minimum area of one acre and 100 feet of road frontage may be used for a single-family dwelling, all permitted uses in this district, and all special exceptions except for a mobile home unless the lot contains a minimum area of five acres and 100 feet of road.
6. Parcels of land created and recorded in the public records of Highlands County, Florida prior to April 18, 2006, with a minimum area of one acre and 100 feet of road frontage, may be used for a church or any bona fide agriculture use, but none of the special exceptions. (Ord No. 05-06-05 § 11; Ord No. 05-06-30 § 11; Ord No. 05-06-33 § 7; Ord. No. 06-07-04 § 8; Ord. No. 07-08-32 § 5)

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- H. **Maximum impervious surface.** Up to 50 percent for properties that are 1.00 acre or less, up to 20 percent for properties that are more than 1.00 acre, but less than 40 acres, up to ten percent for properties that are 40 acres to 160 acres, and up to five percent for properties that are over 160 acres in size. (Ord. No. 08-09-64 § 3)
- I. **Minimum yard requirements.** The minimum depth of front and rear yards and width of side yards in this district shall be as follows:
1. **Front:** 25 feet.
 2. **Side:** Ten feet minimum required for one-family dwelling and 25 feet for all other uses and 25 feet for parcels of five acres or more as provided in subsection (N) of this section.
 3. **Rear:** 25 feet.
 4. **Corner lots:** 15 feet minimum and 25 feet on both, abutting streets, for parcels of five acres or more, as provided in subsection (N) of this section.
- J. **Maximum height of structures.** No portion intended for human occupancy shall exceed 50 feet in height, except as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 1)
- K. **Minimum area of structures.** Minimum area of structures in this district shall be 480 square feet for a mobile home and otherwise 400 square feet for one person occupancy; 750 square feet for a family dwelling unit.
- L. **Limitations on signs shall apply in this district as follows:** No signs intended to be read from off the premises, except:
1. Service signs and off-site signs, subject to general regulations.
 2. One non-illuminated sign on a dwelling unit, indicating the name of the occupant and a permitted home occupation, such sign being a wall or ground sign, not exceeding 12 square feet in area.
 3. One identification sign for each farm, ranch, grove, nursery or other permitted agricultural use, such sign not to exceed 32 square feet in area for each 500 feet or major fraction thereof of street frontage on the street along which the sign is placed.
 4. One bulletin board, not exceeding 32 square feet in area for each church, hospital, club, library, museum, institution or public building or public owned or operated use, in addition to any identification sign, not to exceed 32 square feet in area. These uses may each have one combination vertical and roof sign, not to exceed 100 square feet in total area, five feet in projection beyond the wall or ten feet in height above the roof.
 5. Directional signs on a lot, none to exceed 12 square feet in area.
 6. Trespassing or caution sign, none to exceed 12 square feet in area.

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7. No ground sign shall exceed 25 feet in overall height above the ground or grade of the adjacent road, whichever may be higher.
8. Where use of land is authorized pursuant to special exception, the BOA may also allow signs of such size, number and location as the BOA may find appropriate and consistent with this chapter.

M. **Reserved.** (Ord No. 05-06-05 § 12; Ord No. 05-06-30 § 12)

N. **Family homestead provisions.** A minimum of one acre with at least 100 feet frontage on a road shall be required for a parcel of property used solely as the homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child or grandchild of the person who conveyed the parcel to said individual; provided, however, that the family homestead provision of the Florida Statutes and this Code shall apply only once to any individual and further provided that:

1. The parcel of land so created shall be established and recorded in the official records of the County in accordance with the applicable land subdivision requirements of the County; and
2. The individual provides the County with a written certification that he has not taken title to more than one such property pursuant to F.S. § 163.3179; and
3. The deed with which the individual takes title to the property affirmatively states that it is a conveyance pursuant to F.S. § 163.3179; and
4. The parcel of land so created shall have direct access to a publicly maintained road; and
5. The parcel of land so created shall have at least one-half acre of upland which will accommodate the proposed development, in accordance with wetland and other land protection polices contained in Comprehensive Plan Natural Resource Element Objective 3.
6. The remaining portion of the original parcel shall have a minimum lot requirement of one acre and 100 feet of road frontage to be recognized as a legal lot of record. (Ord. No. 07-08-32 § 6)

O. **Transfer of development rights/cluster lots.** Parcels other than those created under the family homestead provisions at a density greater than one dwelling unit per five acres (less than five acres in size) pursuant to either clustering or transfer of development rights are subject to the following requirements:

1. A minimum lot size of one-half acre with at least 100 feet frontage on a road is required; and
2. The requirements adopted by the BCC for clustering or transfer of development rights are followed; and
3. The gross land use density is not exceeded without an approved transfer of development rights agreement; and

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4. The proposal must achieve the purposes of Comprehensive Plan FLUE policy 3.3, or protect agriculture lands that are being used for farming, or achieve the purposes of the land protection objectives of Comprehensive Plan Natural Resource Element Objectives 3 and 4 and comply with Division 6 of Article 12 of this Code (Environmental Clearance and Land Clearing Permits); and
5. The proposal must conform to all other requirements of the adopted land development regulations (including platting requirements), zoning code, and comprehensive plan; and
6. The parcel must have direct access to a publicly maintained road; and
7. The parcel must have at least one acre of upland which will accommodate the proposed development, in accordance with wetland and other land protection polices contained in Comprehensive Plan Natural Resource Element Objectives 3 and 4; and
8. The owners of the parcel must record a legal instrument that acknowledges the receipt and understanding of the provisions of F.S. § 823.14, the Florida Right to Farm Act; and
9. The receiving parcel must provide a minimum of 50 feet buffer and building setback from any property line between an adjacent agriculture use and any non-agriculture use proposed on the property; and
10. Use of the undeveloped portion of the tract that is the sending parcel and is used to transfer development density to the receiving parcel, pursuant to the transfer provisions and requirements of the transfer of development rights ordinance, must be restricted by either an agriculture, open space, or conservation easement. The agriculture, open space, or conservation easement shall not be extinguished unless an equivalent transfer of density from another parcel and an equivalent easement is accepted by the BCC and recorded meeting identical purposes of Comprehensive Plan FLUE policy 3.3, including protection of agriculture lands that are being used for farming or achieving the purposes of the land protection objectives of Comprehensive Plan Natural Resource Element Objectives 3 and 4; and
11. The sending parcel's density must be equal to or less than the receiving parcel's density; and
12. The easement required in subparagraph 10. of this paragraph shall result in the preservation of at least 75 percent of the combined acreage of both the sending and receiving parcels; and
13. Subdivision development for lots each of which is equal to or greater than five acres shall not be required to follow the clustering or transfer of development rights provisions stated above but shall be required to conform to the platting requirements of the land development regulations and to all other requirements of the adopted land development regulations, zoning regulations, and comprehensive plan; and

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14. New subdivisions which create more than 20 lots shall be required to cluster. Such lots shall have frontage on a publicly maintained road and shall have reasonable access to other urban services.

P. Special Use Permits: Permissible in this district by the Board of County Commissioners after public hearing and subject to appropriate conditions and safeguards are:

1. Ethanol or Biofuel Production pursuant to the requirements of 12.08.102. (Ord. No. 07-08-31 § 2)
2. Wholesale nurseries on parcels greater than 75 acres having a maximum impervious surface ratio greater than otherwise allowed by 12.05.200.H. (Ord. No. 08-09-64 § 4)

(Res. of 8-18-70 (sched. AU); Res. of 6-26-73; No. 90-02; Ord. No. 93-15, §§ 13 & 18; Ord. No. 94-4, § 8; Ord. No. 95-5, § 1; Ord. No.95-28, § 1& 3; Ord. No. 96-05,§ 3; Ord. No. 96-30, §§ 2, 4; Ord. 98-04, § 2 & 3; Ord. 98-13, §§§ 3, 4 & 5, Ord. 99-3, § 3;)(Ord. No. 99-18 § § 3, 22, 41; Ord No. 00-01-1 §4)(Ord No. 00-01-11 §1 thru 9)(Ord No. 03-04-1)(Old Sec. 12-82)(Ord. No. 05-06-05, §§ 8--12; Ord. No. 05-06-30, §§ 8--12; Ord. No. 05-06-33, §§ 6, 7; Ord. No. 06-07-04, §§ 6--8; Ord. No. 06-07-29, §§ 1, 2; Ord. No. 06-07-37, § 5; Ord. No. 07-08-31 § 2; Ord. No. 07-08-32, §§ 3--6; Ord. No. 08-09-64 §§ 3,4; Ord. No. 09-10-03 § 1)

Section 12.05.201. EU Estate District.

A. Intent. The EU estate district is intended to be single-family residential area, ranging from low to medium population density with minimum lot area.

B. Permitted principal uses and structures in this district are:

1. One-family dwelling. Single-family dwelling or a modular home not including a mobile home. (Ord. No. 07-08-32 § 7)
2. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services having six or fewer residents which otherwise meet the definition of a "community residential home" as that term is defined in F.S. Ch. 419, provided that such community homes shall not be located within a radius of 1,000 feet of another existing community residential home with six or fewer residents. (See Definition# 55B) (Ord No. 05-06-05 § 13; Ord. No. 05-06-30 § 13)
3. Home occupations, as allowed pursuant to section 12.08.108 such as any occupation or profession carried on by a member of the family residing on the premises. There shall be no exterior advertising of such home occupation, other than a nameplate, not exceeding one square foot in area, or any display that will indicate from the exterior that the building is used for any purpose other than that of a dwelling and there shall not be kept thereon any stock in trade and provided that such home occupation is incidental to the main use of the building as a dwelling. (Ord. No. 07-08-32 § 7)
4. Recreation buildings and facilities, playgrounds, play fields, parks and beaches, owned and operated by federal, state, County or municipal governments.
5. Existing cemetery, crematory or mausoleum.
6. Existing railroad right-of-way, not including switching, freight or storage tracts, yards, buildings or maintenance structures.

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7. Publicly owned or operated library, art gallery or museum.
 8. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
 9. Schools, public and private (see in definitions # 263). (Ord. No. 06-07-37 § 6)
- C. **Permitted accessory uses and structures** in this district shall be uses accessory to any of the permitted uses when located on the same lot, and not involving conduct of any business, trade, occupation or profession, except a home occupation as allowed in section 12.08.108. (Ord. No. 07-08-32 § 8)
- D. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to the appropriate conditions and safeguards are:
1. Public utility buildings.
 2. Educational, recreational and social centers not operated for profit and intended to serve the surrounding neighborhood.
 3. Churches.
 4. Private schools offering curricula substantially equivalent to public schools of comparable grades and meeting requirements of the state department of education.
 5. Golf course, not including miniature golf course or practice driving tee, providing lot comprises at least 100 acres of land in one parcel and any accessory parking area, building or structure is located not less than 100 feet from any residentially zoned property which is not a part of the plat.
 6. Open parking lots accessory only to the permitted uses either as a first permitted use or by special exception in the district in which the special exception is being sought.
 7. Guesthouse, providing that for any grant of special exception for such purpose, the owner shall sign an agreement that such guesthouse will not be used for rental purposes and providing such guesthouse shall have a minimum floor area of 600 square feet.
 8. The keeping or pasturing of hooved animals, fowl, or livestock, subject to the appropriate conditions and safeguards pertaining to setbacks from property lines and dwellings under separate ownership, number and type of hooved animals, fowl, or livestock, to be kept which shall be set at the public hearing. Such setbacks for structures shall be not less than otherwise allowed in that district without a zoning variance.
 9. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.

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E. **Minimum lot requirements.**

1. When located in an area mapped for low density residential use on the Comprehensive Plan Future Land Use Map, the minimum lot requirements in the EU district shall be 20,000 square feet minimum lot area and 100 feet minimum lot frontage; or
2. When located in an area mapped for General Agriculture use on the Comprehensive Plan Future Land Use Map, the minimum lot requirements in the EU district shall be five acres or greater minimum lot area and 100 feet minimum lot frontage for all parcels except those described in paragraph 3. of this subsection; or
3. Parcels that are one acre or greater, have 100 feet of frontage, and are created pursuant to the family homestead provisions of the Florida Statutes and zoning regulations must meet the requirements of section 12.05.200(N) of this Code.

F. **Maximum impervious surface and maximum lot coverage.** Maximum lot coverage by all buildings in this district shall be 35 percent and maximum impervious surface is up to 50 percent site coverage. (Ord. No. 05-06-05 § 14; Ord. No. 05-06-30 § 14)

G. **Minimum yard requirements.** The depth of front and rear yards, width of side yards for a residence in this district shall be:

1. **Front:** 35 feet, minimum.
2. **Side:** Ten feet, minimum.
3. **Rear:** 25 feet, minimum.
4. **Corner:** 15 feet, side street, minimum.

H. **Maximum height of structures.** Maximum height of structures shall be as follows:

1. **Residence.** No dwelling shall exceed 35 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104.
2. **Permitted non residence.** Same, except that with approval of BOA, maximum height may be 50 feet if BOA shall find such action will not injure surrounding property and accords with spirit and purpose of this chapter. Exceptions as provided in Section 12.05.302 may apply. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 2)

I. **Permitted nonresidential structures or uses** in this district shall be subject to the following yard requirements:

1. **Front:** 35 feet (except accessory buildings, structures or uses).
2. **Side:** 20 feet, with increase in minimum of one foot for each two feet of height of structure in excess of 20 feet (except accessory buildings, structures or uses).

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3. **Rear:** 25 feet (except accessory buildings, structures or uses).
 4. **Corner:** 25 feet.
- J. **Minimum floor areas** in this district shall be 1,000 square feet; ground floor area 750 square feet excluding carports, porches, patios, storage and utility.
- K. **Limitations on signs shall apply in this district as follows:** No signs intended to be read from off the premises, except:
1. One non-illuminated wall or ground sign not over six square feet in area, advertising sale or rental of property upon which the sign is located.
 2. One non-illuminated wall or ground sign not over two square feet in area to prohibit trespassing, for safety or caution.
 3. On a lot containing permitted, nonresidential use other than an accessory use, one identification wall sign not over 12 square feet in area and one bulletin sign not over 32 square feet in area on each side street.
 4. Two soft lighted illuminated subdivision identification signs and two non-illuminated project signs on a subdivision under development to advertise the sale of lots or new houses, each having an area not over 128 square feet, provided such subdivision has an area of at least three acres.
 5. No animated, roof or projecting type signs permitted. Overall height of any ground sign not to exceed four feet above the ground, except that bulletin sign or subdivision sign may extend a maximum height of 12 feet above the ground.
 6. One temporary construction project ground sign, not to exceed 32 square feet of area, on each street side on which lot abuts, such sign not to be closer than 15 feet to any property line, not to be erected more than 60 days prior to beginning actual construction and to be removed upon completion of construction. If construction is not begun within 60 days after sign is erected or if construction shall not be continuously and actively prosecuted to completion, sign shall be removed.
 7. Neon-type signs prohibited.
 8. Strip lighting prohibited.
- L. **Limitations on uses.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.

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2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC. (Ord No. 05-06-05 § 15; Ord No. 05-06-30 § 15)

(Ord. No. 99-18 § 23) (Res. of 8-18-70, § 5 (sched. EU); Ord. No. 90-02; Ord. No. 93-15, §§ 19-21; Ord. No. 94-4, §§ 9, 10; Ord. No. 96-10, § 1; Ord. No. 96-30, § 5; Ord. 98-04 §4; Ord. 98-22 § 2, Ord. 99-3, § 4; Ord. No. 99-18 §§ 4, 23 Ord No. 00-01-11 §11; Ord No. 00-01-25 § 6)(Ord No. 03-04-1)(Old Sec. 12-83) (Ord. No. 05-06-05, §§ 13--15; Ord. No. 05-06-30, §§ 13--15; Ord. No. 06-07-37, § 6; Ord. No. 07-08-32, §§ 7, 8; Ord. No. 09-10-03 § 2)

Sections 12.05.202--12.05.209. Reserved.

Section 12.05.210. R-1A residential district.

- A. **Intent.** The R-1A residential district is intended to be single-family residential area, medium population density with minimum lot area.
- B. **Permitted principal uses and structures are as follows:**
 1. Any use permitted in EU district.
 2. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
 3. Schools, public and private (see definitions in # 263). (Ord. No. 06-07-37 § 7)
- C. **Permitted accessory uses and structures.** Permitted accessory uses and structures in this district shall be accessory uses and structures when located on the same lot and not involving the conduct of any business, trade, occupation or profession, except as permitted in the EU district.
- D. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are any special exception in EU district except the following:
 1. The keeping or pasturing of livestock or animals.
 2. Unattached guesthouse.
 3. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
- E. **Minimum lot requirements** in regard to area and width, in this district are 10,000 square feet lot area; minimum 80-foot frontage.
- F. **Maximum lot coverage by all buildings and maximum impervious surface.** The maximum lot coverage by all buildings in this district shall be 35 percent and the maximum impervious surface is up to 60 percent site coverage. (Ord No. 05-06-05 § 16; Ord No. 05-06-30 § 16)

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G. **Minimum yard requirements.** The minimum depth of front and rear yards and width of side yards, for a residence in this district shall be:

1. **Front:** 25 feet.
2. **Side:** Seven and one-half feet.
3. **Rear:** 25 feet.
4. **Corner:** 15 feet side street setback.

H. **Maximum height of structures.** Maximum height of structures shall be as follows:

1. **Residence:** No dwelling shall exceed 35 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104.
2. **Permitted nonresidential:** Same as EU Estate District. (Ord. No. 09-10-03 § 3)

I. **Permitted nonresidential structure or use yards.** Yards of permitted nonresidential structures or uses in this district shall be subject to the same requirements as for the EU district.

J. **Minimum floor area** in this district shall be 1,000 square feet, 750 square feet ground floor level, excluding carports, porches, patios, storage, and utility rooms.

K. **Limitation on signs shall apply in this district.** No signs intended to be read from off the premises, except:

1. Same as EU district.

L. **Limitations on uses.** The following limitations on uses apply in this district:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord No. 05-06-05 § 17; Ord No. 05-06-30 § 17)

(Res. of 8-18-70, § 5 (sched. R-1A); Ord. No. 90-02; Ord. No. 91-11, § 2; Ord. No. 93-15, §§ 22, 24; Ord. No. 94-4, § 11; Ord. No. 99-18 §§ § 5, 24, 43 Ord No. 00-01-11 §12; Ord No. 00-01-25 § 7)(Ord No. 03-04-1)(Old Sec. 12-84) (Ord. No. 05-06-05 §§ 16, 17; Ord. No. 05-06-30, §§ 16, 17; Ord. No. 06-07-37, § 7; Ord. No. 09-10-03 § 3)

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Section 12.05.211. R-1 residential district.

Regulations for the R-1 residential district shall be the same as the R-1A district, except the minimum floor area shall be 750 square feet with same exclusions.

(Res. of 8-18-70, § 5 (sched. R-1)(Ord No. 03-04-1) (Old Sec. 12-85) (Ord. No. 05-06-05)

Section 12.05.212. R-2 two-family dwelling district.

A. **Permitted principal uses and structures** in the R-2 two-family dwelling district shall be:

1. Any use permitted in R-1 district, subject to the limitations, requirements and procedures specified for such use, unless such use is specifically permitted in this district.
2. Two-family dwelling, which may be under multiple ownership with proper fire separation as required under section 704.4 Standard Building Code.
3. Two one-family dwellings.
4. Church.
5. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.

B. **Permitted accessory uses and structures** in this district shall be accessory uses and structures when located on the same lot and not involving the conduct of any business, trade, occupation or profession, except as permitted in R-1 district.

C. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Public utility buildings.
2. Same as for R-1 district, except that churches are permitted in R-2 districts.
3. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.

D. **Minimum lot requirements** in this district, in regard to area and width, are: Residential: 10,000 square feet; frontage, 80 feet.

E. **Maximum impervious surface and maximum lot coverage.** Maximum lot coverage by all buildings in this district shall be 40 percent and the maximum impervious surface is up to 60 percent site coverage.
(Ord No. 05-06-05 § 18; Ord No. 05-06-30 § 18)

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- F. **Minimum yard requirements.** The minimum depth of front and rear yards, and width of side yards, for a residence in this district shall be:
1. **Front:** 25 feet.
 2. **Side:** Seven and one-half feet.
 3. **Rear:** 25 feet.
 4. **Corner:** 15 feet side yard.
- G. **Maximum height of structures.** No portion intended for human occupancy shall exceed the limits as provided for R-1 and R-1A districts.
- H. **Permitted nonresidential structures or uses** in this district shall be subject to the following requirements:
1. **Front:** 30 feet.
 2. **Side:** Ten percent of frontage width; minimum ten feet; maximum 20 feet.
 3. **Rear:** 25 feet.
 4. **Corner:** 20 feet.
- I. **Minimum floor area** in this district shall be 750 square feet, except that the minimum for the second unit in a two-family dwelling is 600 square feet under same roof.
- J. **Limitations on signs shall apply in this district as follows:** No signs intended to be read from off the premises, except:
1. Same as EU district.
- K. **Limitations on use.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord No. 05-06-05 § 19; Ord No. 05-06-30 § 19)

(Ord. No. 99-18 § 25) (Res. of 8-18-70, § 5 (sched. R-2); Ord. No. 90-02; Ord. No. 93-15, §§ 25-28, Ord. 99-3, § 5; Ord. No. 99-18 § § 6, 25, 44 Ord No. 00-01-11 §13; Ord No. 00-01-25 § 8)(Ord No. 03-04-1)(Old Sec. 12-86) (Ord. No. 05-06-05, §§ 18, 19; Ord. No. 05-06-30, §§ 18, 19)

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Section 12.05.213. R-3 multiple-family dwelling including motel and hotel district.

- A. **Permitted principal uses and structures** in the R-3 multiple-family dwelling including motel and hotel district are:
1. Any use permitted in R-2 district, subject to the limitations, requirements and procedures specified for such use, unless such use is specifically permitted in this district.
 2. Two-family dwelling which may be under multiple ownership with proper fire separation as required under section 704.4 standard building code; multiple-family dwellings which may be under multiple ownership with proper fire separation as required under section 704.4 standard building code; apartment houses; cooperative apartments; motels and hotels; tourist home; boardinghouse.
 3. Hospitals; sanitariums; convalescent homes; nursing homes.
 4. Orphanages, institutions for the aged, indigent or infirm but not including mental cases.
 5. Private club; lodge; fraternity; sorority and other similar uses not operated for profit.
 6. Institutions of an educational; philanthropic or eleemosynary character; not operated for profit; other than penal or correctional institutions or vocational or trade schools.
 7. Colleges and universities offering courses of study leading to an academic degree and meeting the requirements of the Southern Association of Colleges and Secondary Schools.
 8. Medical or dental office or clinic.
 9. Schools, public, and private. (see in definitions # 263). (Ord. No. 06-07-37 § 8)
 10. Nursery school or child care center, when building is located not less than 20 feet from any other lot in a residential district, enclosed by a fence not less than five feet in height.
 11. Community garage for parking.
 12. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
 13. Assisted living facility (see definition # 26A).
 14. Boarding home for sheltered care (see definition # 32A).
 15. Community residences for the developmentally disabled (see definition # 55A).
 16. Community residential home (see definition # 55B).

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17. Community shelters for victims of domestic violence (see definition # 55C).
18. Congregate living facility (see definition # 62A).
19. Continuing care retirement community (see definition # 67A).
20. Convalescent home (see definition # 70).
21. Extended care facility (see definition # 114A).
22. Health services (see definition # 143).
23. Intermediate care facility (see definition # 157A).
24. Nursing home (see definition # 211).
25. Residential health care facility (see definition # 250A). (Ord No. 05-06-05 § 20; Ord No. 05-06-30 § 20)

B. Permitted accessory uses and structures in this district shall be uses accessory to any of the permitted uses when located on the same lot, and not involving conduct of any business, trade, occupation or profession, except as permitted in the R-1 district, and as follows:

1. Hotels, apartment hotels, or motels having less than 50 rental units or sleeping rooms may have restaurants, excluding any sales of alcoholic beverages, subject to the approval by the County health department and Florida Hotel and Restaurant Commission approval.
2. Hotels, apartment hotels and motels having 50 or more rental units or sleeping rooms may have restaurants, nightclubs, dining rooms or bars which permit the sale of alcoholic beverages, pursuant to the requirements of section 12.08.101, which are located in the main building and which are of such design and size as to cater primarily to the guests of the main use.
3. Hotels, apartment hotels, multiple-family dwellings and motels having 100 or more guest rental units or sleeping rooms may have retail stores, personal service shops, offices and similar uses for the convenience of their guests.

C. Special exceptions. Permissible by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Same as for R-2 district.
2. Mobile home parks, providing each park shall meet all applicable requirements of section 12.08.117 and 12.08.119 of Article 8 of this chapter, applicable provisions of the County subdivision regulations on mobile home subdivisions and all other pertinent regulations.
3. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.

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4. Alcoholic beverage sales of beer and wine only in restaurants located in hotels, apartment hotels, or motels with less than 50 rental units or sleeping rooms and at least 20 rental units or sleeping rooms and possessing an appropriate license from the State of Florida. The extent of alcoholic beverage sales shall be decided by the BOA at public hearing. (Ord No. 05-06-05 § 21; Ord No. 05-06-30 § 21)

D. Minimum lot requirements in this district, in regard to area and width, are:

1. **Residential:** Area: 10,000 square feet; frontage, 80 feet.
2. **All other permitted uses:** Width: 100 feet; Area: 12,000 square feet. (Ord No. 05-06-05 § 22; Ord No. 05-06-30 § 22)

E. Maximum lot coverage by all buildings in this district is as follows:

1. One-story, 50 percent.
2. Two-story, 48 percent.
3. Three-story, 47 percent.
4. Four-story, 45.5 percent.
5. Five-story, 44 percent.
6. Six-story, 42.5 percent.
7. Seven-story, 41 percent.
8. Eight-story, 39.5 percent.
9. Nine-story, 38 percent.
10. Ten-story, 36 percent.
11. 11-story, 34.5 percent.
12. 12-story, 33 percent.
13. 13-story, 32 percent.
14. 14-story, 31 percent.
15. 15-story, 30 percent.

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- F. **Minimum yard requirements.** The minimum depth of front and rear yards, width of side yards in this district shall be as follows:
1. **Front:** 25 feet, plus two and one-half feet front yard depth for each ten feet or major fraction thereof by which height of building exceeds 100 feet.
 2. **Side:** Two-family, seven and one-half feet; all other permitted uses, ten feet, plus three feet for each ten feet or major fraction thereof by which height of building exceeds 22 feet.
 3. **Rear:** 25 feet, plus two feet for each ten feet or major fraction thereof by which height of building exceeds 50 feet.
 4. **All corner lots:** Front yard as specified and side yard 15 feet, unless greater width is required as stated above.
- G. **Maximum density, maximum impervious surface, and height of structures.**
1. The maximum density without central water and central wastewater is four dwelling units per acre up to nine dwelling units per acre, pursuant to the requirements of F.S. § 381.0065 and approval of the County health department and the maximum density is 12.00 units per acre with central water and central wastewater, except that assisted living facilities shall be allowed with central water and central wastewater not to exceed 30 units per acre.
 2. **Maximum impervious surface:** Up to 70 percent site coverage.
 3. No structure shall exceed a maximum of 150 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 4)
 4. Medical and dental offices or clinics are not to exceed three stories or 35 feet. (Ord. No. 05-06-05 § 23; Ord. No. 05-06-30 § 23)
- H. **Minimum floor area in this district shall be as follows:**
1. **Each dwelling unit:** Two-family, same as for R-2.
 2. **Multiple-family dwelling:** 400 square feet.
 3. **Rental sleeping room:** 150 square feet.
- I. **Limitations on signs shall apply in this district as follows:** No signs intended to be read from off the premises except:
1. Signs as permitted in R-2 district.

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2. Where the principal use of premises is for hotel, motel, apartment, villas, bungalow court or any combination thereof:
 - a. One on-site ground sign which may have two faces, each not over 300 square feet in area, not over 25 feet in overall height above the ground, may be located in a required front yard or street side yard, but not to exceed nearer than ten feet to any street line or base building line.
 - b. One on-site pylon sign, which may have two faces, each not over 300 square feet in area, not to extend more than 25 feet above roof line of main building.
 - c. One on-site combination vertical and roof sign not to exceed 400 square feet on either face, or a height of 15 feet above the roof line, for one story building and a total area of 800 square feet on either face, or a height of 30 feet above roof line for building over one story in height. Signs are not to project more than four feet beyond the building wall.
 - d. One on-site wall sign not to exceed 400 square feet in area for a one story building, with an additional 100 square feet of area permitted for each story above the first story.
 - e. One on-site wall sign not over 32 square feet in area for advertising the permitted special accessory uses.
 - f. One on-site ground sign which may have two faces, each not exceeding 40 square feet in area to advertise a restaurant.
3. Neon type signs allowed.
4. Strip lighting allowed.

J. Limitations on uses. The following limitations on uses apply in this district:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC.
3. **Site specific criteria of assisted living facilities.** All ALF facilities must meet the following:
 - a. Have access on or to a traffic collector or arterial road;

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- b. Have access to on-site or adjacent open space areas or be near a County or city park or recreation area; and
- c. Have central water and sanitary wastewater or equivalent or comply with the restrictions of F.A.C. 10D-6. (Ord. No. 05-06-05 § 24; Ord. No. 05-06-30 § 24)

(Res. of 8-18-70, § 5 (sched. R-3); Ord. No. 90-02; Ord. No. 93-15, §§ 29-31; Ord. No. 94-4, § 12 Ord.98-04 § 5, Ord. 99-3, § 6; Ord. No. 99-18 §§ 7, 26, 45; Ord No. 00-01-11 §14; Ord No. 00-01-25 § 9)(Ord No. 03-04-1)(Old Sec. 12-87) (Ord. No. 05-06-05, §§ 20--24; Ord. No. 05-06-30, §§ 20--24; Ord. No. 06-07-37, § 8; Ord. No. 09-10-03, § 4)

Section 12.05.214. R-3 NC non-commercial multiple-family dwelling.

A. **Intent.** The R-3 NC district is designed to primarily accommodate a mixture of multiple-family dwelling units with higher density in areas served by central water and sewer and to assure a comfortable, healthy, safe, and pleasant environment in which to live, buffered from incompatible and disruptive activities that properly belong in non-residential districts.

B. R-3 NC permitted principal uses and structures are:

1. Community residential homes licensed by the Florida Department of Children and Families having six or fewer residents which otherwise meet the definition of a "community residential home" as that term is defined in F.S. Ch. 419, provided that such community homes shall not be located within a radius of 1,000 feet of another existing community residential home with six or fewer residents (See definition # 55B);
2. Home occupations, such as any occupation or profession carried on by a member of the family residing on the premises. There shall be no exterior advertising of such home occupation, other than a nameplate, not exceeding one square foot in area, or any display that will indicate from the exterior that the building is used for any purpose other than that of a dwelling and there shall not be kept thereon any stock in trade and provided that such home occupation is incidental to the main use of the building as a dwelling;
3. Recreation buildings and facilities, playgrounds, play fields, parks and beaches, owned and operated by federal, state, County or municipal governments or special districts;
4. Existing railroad right-of-way, not including switching, freight or storage tracts, yards, buildings or maintenance structures;
5. One-family dwelling unit;
6. Two-family dwelling which may be under multiple ownership with proper fire separation as required under section 704.4 standard building code; multiple-family dwellings which may be under multiple ownership with proper fire separation as required under section 704.4 standard building code; apartment houses; cooperative apartments;
7. Orphanages; institutions for the aged; indigent or infirm but not including mental cases;
8. Assisted living facilities, as defined by F.S. § 400.402;

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9. Adult day-care facilities, as defined by F.S. § 400.551;
 10. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
 11. Assisted living facility (see definition 26A).
 12. Boarding home for sheltered care (see definition 32A).
 13. Community residences for the developmentally disabled (see definition 55A).
 14. Community residential home (see definition 55B).
 15. Community shelters for victims of domestic violence (see definition 55C).
 16. Continuing care retirement community (see definition 67A).
 17. Convalescent home (see definition 70).
 18. Extended care facility (see definition 114A).
 19. Health services (see definition 143).
 20. Residential health care facility (see definition 250A). (Ord. No. 05-06-05 § 25; Ord. No. 05-06-30 § 25)
- C. **R-3 NC Permitted accessory uses and structures** in this district shall be uses accessory to any of the permitted uses when located on the same lot, and not involving conduct of any business, trade, occupation or profession, except as permitted in the R-1 district, and as follows:
1. Multiple-family dwellings having 75 or more dwelling units may have retail stores, personal service shops, offices and similar uses, restaurants, dining rooms or bars which are for the convenience of their occupants, located in the main building, and which are of such design and size as to cater primarily to the occupants of the main use not to exceed a total of ten percent of the total floor area of the combined living area of the dwelling units;
 2. Community garage for parking;
- D. **R-3 NC special exceptions.** Permissible by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility;
 2. Public utility buildings;

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3. Educational, recreational and social centers, not operated for profit and intended to serve the surrounding neighborhood;
4. Churches;
5. Open parking lots accessory to residential uses;
6. Guesthouse, providing that for any grant of special exception for such purpose, the owner shall sign an agreement that such guesthouse will not be used for rental purposes and providing such guesthouse shall have a minimum floor area of 600 square feet. (Ord. No. 05-06-05 § 26; Ord. No. 05-06-30 § 26)

E. **Minimum lot requirements in regard to area and width are:**

1. **Residential:** Area: 10,000 square feet; frontage, 80 feet.
2. **All other permitted uses:** Width: 100 feet; Area: 12,000 square feet.

F. **Maximum lot coverage by all buildings:**

1. One-story, 50 percent.
2. Two-story, 48 percent.
3. Three-story, 47 percent.
4. Four-story, 45.5 percent.
5. Five-story, 44 percent.
6. Six-story, 42.5 percent.
7. Seven-story; 41 percent.
8. Eight-story, 39.5 percent.
9. Nine-story, 38 percent.
10. Ten-story, 36; percent.
11. 11-story, 34.5 percent.
12. 12-story, 33 percent.
13. 13-story, 32 percent.
14. 14-story, 31 percent.

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15. 15-story, 30 percent.

G. **Minimum yard requirements.** The minimum depth of front and rear yards, and width of side yards shall be:

1. **Front:** 25 feet, plus two and one-half feet front yard depth for each ten feet or major fraction thereof by which height of building exceeds 100 feet;
2. **Side:** Two-family, seven and one-half feet; all other permitted uses, ten feet, plus three feet for each ten feet or major fraction thereof by which height of building exceeds 22 feet;
3. **Rear:** 25 feet, plus two feet for each ten feet or major fraction thereof by which height of building exceeds 50 feet;
4. **All corner lots:** Front yard as specified and side yard 15 feet, unless greater width is required as stated above;

H. **Maximum density, maximum impervious surface, and height of structures.**

1. The maximum density without central water and central wastewater is four dwelling units per acre up to nine dwelling units per acre, pursuant to the requirements of F.S. § 381.0065 and approval of the County health department and the maximum density is 12.00 units per acre with central water and central wastewater, except that assisted living facilities shall be allowed with central water and central wastewater not to exceed 30 units per acre.
2. **Maximum impervious surface:** Up to 70 percent site coverage.
3. No structure shall exceed a maximum of 150 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104. (Ord. No. 05-06-05 § 27; Ord. No. 05-06-30 § 27; Ord. No. 09-10-03 § 5)

I. **Minimum floor area shall be:**

1. Each dwelling unit floor area. 750 square feet, except that the minimum for the second unit in a two-family dwelling is 600 square feet under same roof;
2. Multiple-family dwelling. 400 square feet;

J. **Limitations on signs shall apply as follows:** No signs intended to be read from off the premises except:

1. One non-illuminated wall or ground sign not over six square feet in area, advertising sale or rental of property upon which the sign is located;
2. One non-illuminated wall or ground sign not over two square feet in area to prohibit trespassing, for safety or caution;

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3. On a lot containing permitted, nonresidential use other than an accessory use, one identification wall sign not over 24 square feet in area and one bulletin sign not over 32 square feet in area on each side street;
4. Two soft lighted illuminated subdivision identification signs and two non-illuminated project signs on a subdivision under development to advertise the sale of lots or new houses, each having an area not over 128 square feet, provided such subdivision has an area of at least three acres;
5. No animated, roof or projecting type signs permitted. Overall height of any ground sign not to exceed four feet above the ground, except that bulletin sign or subdivision sign may extend a maximum height of 12 feet above the ground;
6. One temporary construction project ground sign, not to exceed 32 square feet of area, on each street side on which lot abuts, such sign not to be closer than 15 feet to any property line, not to be erected more than 60 days prior to beginning actual construction and to be removed upon completion of construction. If construction is not begun within 60 days after sign is erected or if construction shall not be continuously and actively prosecuted to completion, sign shall be removed;
7. Neon-type signs prohibited;
8. Strip lighting prohibited;

K. Limitations on uses. The following limitations on uses apply in this district:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC.
3. **Site specific criteria of assisted living facilities.** All ALF facilities must meet the following:
 - a. Have access on or to a traffic collector or arterial road; and
 - b. Have access to on-site or adjacent open space areas or be near a County or city park or recreation area; and
 - c. Have central water and sanitary wastewater or equivalent or comply with the restrictions of F.A.C. 10D-6. (Ord. No. 05-06-05 § 28; Ord. No. 05-06-30 § 28)

(Ord. No. 99-18 § 27)(Ord. 98-15 § 1, Ord. 99-3, § 7; Ord. No. 99-18 §§ 8, 27, 46; Ord No. 00-01-11 §15; Ord No. 00-01-25 § 10)(Ord No. 03-04-1)(Old Sec. 12-87.1) (Ord. No. 05-06-05, §§ 25--28; Ord. No. 05-06-30, §§ 25--28; Ord. No. 09-10-03 § 5)

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Sections 12.05.215--12.05.219. Reserved.

Section 12.05.220. M-1 mobile home subdivisions district.

- A. **Intent.** The M-1 mobile home subdivisions district is intended to be mobile home residential area, medium density with minimum lot area.
- B. **Permitted principal uses and structures.**
1. Mobile homes.
 2. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
- C. **Permitted accessory uses and structures** in this district shall be accessory uses and structures when located on the same lot and not involving the conduct of any business, trade, occupation or profession, except as permitted in the R-1 district and as follows:
1. Carports, porches, patios and utility buildings subject to Article 8 of this chapter.
- D. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Retail stores and personal service establishments for the primary use of the residents subject to Article 10 of this chapter.
 2. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
- E. **Minimum lot requirements** in this district, in regard to area and width, are 5,000 square feet with minimum frontage of 50 feet, with central sewer and water. In addition, the lot must meet state air and water pollution Regulations.
- F. **Maximum lot coverage by all buildings in this district shall be 40 percent.**
- G. **Special requirements for this district are:**
1. Septic tanks and individual wells, minimum lot area 10,000 square feet, minimum 80 feet frontage and subject to County health department approval.
 2. Setback requirements as for R-1.
- H. **Minimum yard requirements with central sewer and water are:**
1. **Front:** Ten feet.

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2. **Sides:** Seven and one-half feet.
 3. **Rear:** Ten feet.
 4. **Corner:** 15 feet on one or the other abutting street.
- I. **Minimum yard requirements with septic tanks and individual wells are:**
1. **Front:** 25 feet.
 2. **Sides:** Seven and one-half feet.
 3. **Rear:** 25 feet.
 4. **Corner:** 15 feet on one or the other abutting street.
- J. **Minimum floor area is 480 square feet.**
- K. **Encroachments of minimum yard requirements.** No encroachment of minimum yard requirements with any accessory additions or structures (i.e., carport, patio, utility building, cabana) is allowed without zoning variance or special exception.
- L. **Proximity of accessory utility buildings to rear or inside lot line.** Accessory utility building may be located not less than seven and one-half feet from a rear or inside lot line.
- M. **Maximum height of structures.** No structure shall exceed 16 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 6)
- N. **Limitations on signs shall apply in this district as follows:** No signs intended to be read from off the premises, except:
1. One non-illuminated wall or ground sign not over six square feet in area advertising sale or rental of property upon which sign is located.
 2. One non-illuminated wall or ground sign not over two square feet in area to prohibit trespassing for safety or caution.
 3. Two non-illuminated subdivision or project signs, ground only, each having an area not over 128 square feet on a subdivision under development to advertise the sale of lots, provided such subdivision has an area of at least three acres.
- O. **Limitations on uses.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.

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2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord. No. 05-06-05, § 29; Ord. No. 05-06-30, § 29)

(Sched. M-1); Res. of 6-26-73; Ord. No. 90-02; Ord. No. 93-15, § 32; Ord. No. 94-4, § 13; Ord. No. 99-18 § § 9, 28, 47; Ord No. 00-01-11 §16; Ord No. 00-01-25 § 11)(Ord No. 03-04-1)(Old Sec. 12-88) (Ord. No. 05-06-05; Ord. No. 05-06-30, § 29; Ord. No. 09-10-03 § 6)

Section 12.05.221. M-1-S mobile home and residential subdivisions district.

- A. **Intent.** The M-1-S mobile home and residential subdivisions district is intended to encumber certain existing recorded and unrecorded subdivisions in which residential use is accomplished by conventional construction and mobile homes. These areas are to remain in mixed residential use as a choice of the individual ownerships.
- B. **Permitted principal uses and structures in this district are:**
 1. One-family dwelling.
 2. Mobile home.
 3. Recreation buildings and facilities, playgrounds, play fields, parks and beaches owned and operated by federal, state, County or municipal governments.
 4. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
- C. **Permitted accessory uses and structures** in this district shall be accessory uses and structures when located on the same lot and not involving the conduct of any business, trade, occupation or profession, except as permitted in the R-1 district.
- D. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
 1. Same as for R-1.
- E. **Minimum lot requirements in this district, in regard to area and width, are the same as for R-1.**
- F. **Maximum lot coverage by all buildings in this district is the same as for R-1.**
- G. **Minimum yard requirements.** The minimum depth of front and rear yards and width of side yards, in this district is the same as for R-1.

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- H. **Maximum height of structures.** Residential is the same as for R-1; mobile homes is 16 feet in height. Exceptions as provided in Section 12.05.302 may apply. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 7)
- I. **Permitted nonresidential structure or use.** Yard requirements for permitted nonresidential structures or uses in this district are the same as for R-1.
- J. **Minimum floor area** in this district is for residential construction, 750 square feet; for mobile homes, 600 square feet.
- K. **Limitations on signs in this district are the same as for R-1.**
- L. **Encroachment of minimum yard requirements.** No encroachment of minimum yard requirements with any accessory additions or structures (i.e., carport, patio, utility building, cabana) is allowed without zoning variance or special exception.
- M. **Proximity of accessory utility building to rear or inside lot line.** Accessory utility building may be located not less than seven and one-half feet from a rear or inside lot line.
- N. **Limitations on uses.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord. No. 05-06-05, § 30; Ord. No. 05-06-30, § 30)

(Res. of 8-18-70, § 5 (sched. M-1-S); Res. of 6-26-73; Ord. No. 90-02; Ord. No. 93-15, §§ 33, 34; Ord. No. 94-4, § 14; Ord. No. 99-18 § 10; Ord No. 00-01-11 §17; Ord No. 00-01-25 § 12)(Ord No. 03-04-1)(Old Sec. 12-89) (Ord. No. 05-06-05; Ord. No. 05-06-30, § 30; Ord. No. 09-10-03 § 7)

Section 12.05.222. M-2 mobile home parks district.

- A. **Intent.** The M-2 mobile home parks district is intended to regulate the establishment and approval of mobile home parks where mobile homes are placed on rental spaces on transient, seasonal or permanent basis. Only single-family uses of mobile homes, travel trailers, and recreation units are allowed.
- B. **Permitted principal uses and structures in this district are:**
1. Mobile home parking.
 2. Community utility.
 3. Community recreation facilities.

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4. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.

5. Travel trailers, recreational vehicles, and recreation units.

C. Permitted accessory uses and structures in this district are:

1. Single-family residence for owner, manager or custodian of park.

2. Accessory buildings for storage incidental to operation of park.

D. Special exceptions. Permissible by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.

E. Special requirements in this district are: All plans submitted for mobile home park approval will first be approved by the state department of health and rehabilitative services. No mobile home will be permitted within 100 feet of the mean high water line of lake front property.

F. Minimum lot and rental space requirements. Five acres of land area for the M-2 district. Each rental space shall have a minimum width of 40 feet and a minimum area of 4,000 square feet. (Ord. No. 05-06-05, § 31; Ord. No. 05-06-30, § 31)

G. Maximum impervious surface and maximum lot coverage. Maximum lot coverage by all structures is 40 percent of total park area, excluding streets and maximum impervious surface: up to 70 percent site coverage. (Ord. No. 05-06-05, § 32; Ord. No. 05-06-30, § 32)

H. Maximum height of structures. Maximum height of structures shall be as follows:

1. **Residence.** No structure shall exceed 16 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104.

2. **Permitted non residence.** Same, except that with approval of BOA, maximum height may be 35 feet if BOA shall find such action will not injure surrounding property and accords with spirit and purpose of this chapter. Exceptions as provided in Section 12.05.302 may apply. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 8)

I. Maximum density per acre in this district shall be maximum eight mobile homes, recreational vehicles, recreation units, and travel trailers permitted per acre with water and sewer facilities.

J. Minimum yard requirements in this district are:

1. **Front,** ten feet.

2. **Sides,** no roof to be closer than ten feet to adjacent structure.

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3. **Rear**, no roof to be closer than ten feet to adjacent structure.
 4. **Corner**, no roof to be closer than ten feet to adjacent structure.
 5. No roof is to be closer than ten feet to outside perimeter line of a mobile home park.
- K. **Encroachments of minimum yard requirements.** No encroachment of minimum yard requirements with any accessory additions or structures (i.e., carport, patio, utility building, cabana) is allowed without a zoning variance.
- L. **Infringement of minimum street width.** The 30-foot road or any of the required parking spaces for each living unit is not to infringe on minimum street width of 25 feet with off-street parking. See section 12.10.200 for parking space requirements.
- M. **Nonconforming parks.** All mobile home parks licensed and operating prior to June 26, 1973, including M-2 parks, as long as the same shall remain licensed, shall not be required to comply with the provisions of this chapter, except a five-foot setback shall be kept in front and rear and sides. Mobile homes may be removed and replaced with mobile homes of like size and appurtenances. Ten-foot sides to roof lines.
- N. **Limitations on uses.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC. (Ord. No. 05-06-05, § 33; Ord. No. 05-06-30, § 33)
- O. **Limitations on signs shall apply in this district as follows.** No signs intended to be read from off the premises, except:
1. Signs as permitted for B-2.
 2. No sign within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1 or E-U district.
 3. No ground sign to exceed 25 feet in overall height above ground.
 4. No off-site signs permitted.
 5. Roof signs not to exceed 25 feet in height above the roof and not to obstruct light or air of adjacent property.

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6. Vertical projecting signs, not to extend over five feet beyond the wall.
7. Temporary construction signs. Same as for R-3.

P. Additional requirements.

1. The site proposed shall have not less than 20, mobile home spaces completed and available at first occupancy and shall have no more than a maximum of eight mobile home spaces per gross acre.
2. A landscaped vegetative buffer zone, ten feet in width and eight feet in height, shall be provided where a park adjoins other lot lines, not zoned for mobile homes.
3. No part of any mobile home or addition thereto shall be placed within ten feet of any other mobile home or addition thereto. No part of any mobile home or addition thereto shall be located within 25 feet of any accessory or service building or structure used in connection with the mobile home park.
4. Access roads shall be provided to each mobile home space. Roads in new parks and roads added to existing parks shall have a minimum width of 30 feet unless adequate off-street parking for automobiles is provided, in which event 25 feet shall be the minimum road width. Perimeter roads, having mobile homes parked on one side only, shall have a minimum width of at least 20 feet and be adequately lighted. Note: See section 12.10.200 for parking space requirements.
5. A potable water supply shall be supplied to each mobile home site. No mobile home shall be located more than 200 feet from approved toilet facilities, except that this provision shall be deemed to have been met where approved sewage hookups are supplied to the mobile home site and where the mobile home to be placed on the site is provided with adequate toilet facilities. Garbage, trash and refuse collection shall be provided to each site.
6. A mobile home park shall have a sewage disposal system and approved by the Highlands County Health Department and the Florida Department of Environmental Protection.
7. Porches, additions and other appurtenances to mobile homes shall comply with this chapter and the building regulations of the County. All canvas, portable or demountable roofs, porches or appurtenances shall be dismantled and stored if the mobile home is not to be occupied for a period of 30 days or more. A roof, porch or appurtenance constructed under a building permit issued by the County building department is not subject to dismantling and storage provisions.
8. A mobile home park providing more than 40 spaces may have retail stores and personal service establishments for the primary use of the occupants of the mobile home park, providing that such uses are conducted within a completely enclosed building, no signs or displays indicating such uses are visible from any public street and such uses are for the convenience of the occupants of the mobile home park and are not normally available to other persons.

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9. A recreation area shall be provided equivalent to 100 square feet of area for each mobile home site; such recreation area shall not be longer than two times its width. The area shall be developed and maintained in a clean and presentable condition.
10. In a mobile home park, display or sale of mobile homes is prohibited, except an occupied mobile home, or an unoccupied mobile home previously occupied on the same site or a mobile home affixed to a lot or space and shown as a model for sale to remain on the lot or space.
11. Service stations or repair garages are prohibited in mobile home parks. No secondhand merchandise shall be offered for sale, displayed or stored on the premises, except as incidental to the bona fide sale of a mobile home.
12. Dwelling units or living quarters, except in a mobile home or as an accessory use, are prohibited in a mobile home park.
13. No exterior public address system shall be permitted.
14. Required recreation/disaster shelter building shall be provided if required by section 12.08.120.R-3. (Ord. No. 05-06-05, § 34; Ord. No. 05-06-30, § 34)

(Res. of 8-18-70, § 5 (sched. M-2); Res. of 6-26-73; Ord. No. 90-02; Ord. 93-15, §§ 35-40; Ord. No. 95-28, § 4; Ord. No. 96-30, § 6; (Ord. No. 99-18 § 11, 48; Ord No. 00-01-15 § 2 (Res. of 8-18-70, § 13(6); Ord. No. 93-15, § 68)(Res. of 8-18-70, § 13(6); Ord. No. 93-15, § 68)(Ord No. 03-04-1)(Old Sec. 12-90 & 12-238) (Ord. No. 05-06-05, §§ 31--34; Ord. No. 05-06-30, §§ 31--34; Ord. No. 09-10-03 § 8)

Section 12.05.223. RV park (FUD).

- A. **Intent.** The RV park (FUD) district is intended to regulate the establishment and approval of RV parks where RVs, park models, mobile homes, and manufactured homes are placed on rental spaces on transient, seasonal or permanent basis. Only single-family RVs, park models, mobile homes, and manufactured homes are permitted. All units required to have park and service permit.
- B. **Permitted principal uses and structures in this district are:**
 1. RV and park model parking (permits required).
 2. A screen room, vinyl room, cabana room or rigid awning consisting of no more than 500 square feet, without plumbing, unless approved otherwise in the FUD. All such uses shall require a permit issued by the County building department and shall be firmly attached to a travel trailer, park model, mobile home, manufactured home, or recreation unit and to the ground so as to withstand winds as required by the Florida Building Code.
 3. Individual utility buildings consisting of no more than 65 square feet, with not more than one electrical outlet and no plumbing, unless approved otherwise in the FUD. All such utility buildings shall be anchored in a manner which will withstand winds as required by the Florida Building Code. All utility buildings shall meet all state and County setback requirements. No more than one utility building may be located on any rental space.
 4. Community utility.

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5. Community recreation facilities.
6. Wastewater and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
7. Mobile homes and manufactured homes shall be allowed only when the mobile home or manufactured home replaces one or more park models located on rental spaces on July 1, 2005, pursuant to all of the requirements of this section, including 12.05.223.E.3., and F. and Q--X.
8. Outdoor storage, of boats, campers, RVs, and other similar recreational or motor vehicles owned by the owner of the RV park or by the owners of the RVs and park models located on RV sites in the RV park when at least 100 feet from the nearest dwelling space and approved by the board of directors or the RV park owner. The requirements shall comply with the transitional protective yard type C of the land development regulations. (Ord. No. 07-08-32, § 9)

C. Permitted accessory uses and structures in this district are:

1. Single-family residence for owner, manager or custodian of park.
2. Accessory building for storage incidental to operation of park.

D. Special exceptions. Permissible by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
2. Outdoor storage, of boats, campers, RVs, and other similar recreational or motor vehicles owned by the owner of the RV park or by the owners of the RVs and park models located on RV sites in the RV park when stored less than 100 feet from the nearest dwelling space and approved by the board of directors or the RV park owner. The requirements shall comply with the transitional protective yard type C of the land development regulations. (Ord. No. 07-08-32, § 9; Ord. No. 08-09-63 § 2)

E. Special requirements in this district are:

1. All RV parks (FUD) are to be flexible unit developments.
2. All plans submitted for RV park (FUD) approval must first be approved by the state department of health and rehabilitative services. No unit will be permitted within 100 feet of the mean high water line of lake front property.
3. Mobile homes and manufactured homes shall also be allowed when the following requirements are satisfied:
 - a. Reserved.

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- b. The mobile home or manufactured home replaces one or more park models located on campsites on July 1, 2005.
- c. The mobile home or manufactured home located on a campsite which has a minimum width of 40 feet and shall have no more than 40 percent lot coverage.
- d. Before a section or unit of an RV park is reconfigured pursuant to this section or any RV park is enlarged or any mobile home or manufactured home is placed in an RV park pursuant to this section, the land included in the reconfiguration or addition or on which the mobile home or manufactured home is to be located, the applicant shall:
 - (1) Provide a boundary survey and site plan schematic, signed and sealed by a Florida professional land surveyor, showing the boundary of the area being changed together with permanent reference markers; and
 - (2) Include as a part of the site plan schematic of the area, the approximate location of the rental spaces in reference to the centerlines of the streets within the park; the streets shall be referenced with permanent control points; and
 - (3) Post a copy of said site plan schematic in the campground office; and
 - (4) Submit seven copies each of the boundary survey and site plan schematic to the County engineer for distribution to County staff prior to the issuance of a building permit for a mobile home or manufactured home pursuant to subsection 12.05.226.D.

- 4. Not more than 40 percent of the total campground area is covered by structures, excluding streets.
- 5. Required recreation/disaster shelter building shall be provided if required by section 12.08.120.

F. **Minimum lot and rental space requirements.** The minimum lot size in this district is five acres of land area for RV park (FUD) alone or in combination with CG-1, CG-3 and/or M-2 classifications. Each rental space shall have a minimum lot width 40 feet and a minimum area of 2,400 square feet. Any section or unit of an RV park reconfigured under this subsection shall comply with the requirements of paragraph 3. of subsection E. of this section.

G. **Maximum lot coverage by all structures is 40 percent of total park area, excluding streets.**

H. **Maximum height of structures.** Maximum height of structures shall be as follows:

- 1. **Residence.** No structure shall exceed 16 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104.

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2. **Permitted non residence.** Same, except that with approval of BOA, maximum height may be 35 feet if BOA shall find such action will not injure surrounding property and accords with spirit and purpose of this chapter. Exceptions as provided in Section 12.05.302 may apply. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 9)
- I. **Maximum density per acre** in this district shall be determined by the FUD at the public hearings by the P&Z and the BCC.
 - J. **Minimum yard requirements.**
 1. **Front**, ten feet.
 2. **Sides**, no roof line to be closer than ten feet to adjacent roof line.
 3. **Rear**, no roof line to be closer than ten feet to adjacent roof line.
 4. **Corner**, no roof line to be closer than ten feet to one street side and 15 feet to other street side.
 5. No roof line closer than ten feet to outside perimeter line of RV park.
 - K. **Encroachment of minimum yard requirements.** No encroachment of minimum yard requirements with any principal or accessory additions or structures (i.e., carport, patio, utility building, screen room, vinyl room, cabana room or rigid awning) is allowed.
 - L. **Infringement of minimum street width.** Encroachments into roads shall not be allowed. On street parking shall not be allowed on roads which are less than 30 feet wide.
 - M. **Limitations on uses.** The following limitations on uses apply in this district:
 1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the PW public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC.
 - N. **Limitations on signs shall apply in this district as follows.** No signs intended to be read from off the premises, except:
 1. Signs as permitted for B-2.
 2. No sign within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1 or E-U district.

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3. No ground sign to exceed 25 feet in overall height above ground.
 4. No off-site signs permitted.
 5. Roof signs not to exceed 25 feet in height above the roof and not to obstruct light or air of adjacent property.
 6. Vertical projecting signs, not to extend over five feet beyond the wall.
 7. Temporary construction signs: Same as for R-3.
- O. **Minimum size and completion.** The site proposed shall contain not less than five acres, shall have not less than 20 RV or park model spaces completed and available at first occupancy and shall meet all flexible unit development requirements.
- P. **Buffer zone.** A landscaped vegetative buffer zone, ten feet in width and eight feet in height, shall be provided where a park adjoins other lot lines which are not zoned for RV park (FUD) or mobile home park.
- Q. **Minimum spacing.** No part of any RV, park model, mobile home, manufactured home or addition thereto shall be placed within ten feet of any other RV, park model, mobile home, manufactured home or addition thereto. No part of any RV, park model, mobile home, manufactured home or addition thereto shall be located within 25 feet of any accessory or service building or structure used in connection with the RV park.
- R. **Roads.** Access roads shall be provided to each RV, park model, mobile home, and manufactured home space. Roads in new parks and roads added to existing parks shall have a minimum width of 30 feet unless adequate off-street parking for motor vehicles is provided, in which event 25 feet shall be the minimum road width. Perimeter roads having RVs, park models, mobile homes or manufactured homes located only on one side shall have a minimum width of at least 20 feet and be adequately lighted.
- S. **Utilities.** A potable water supply shall be supplied to each RV, park model, mobile home, and manufactured home site. No RV shall be located more than 200 feet from approved toilet facilities, except that this provision shall be deemed to have been met where approved sewage hookups are supplied to the RV site and where the RV to be placed on the site is provided with adequate toilet facilities. All park models, mobile homes, and manufactured homes shall be connected to the sewage disposal system. Garbage, trash and refuse collection shall be provided to each site.
- T. **Sewage disposal system.** An RV park shall have a sewage disposal system approved by the County health department and the department of health and rehabilitative services of the state.
- U. **Porches, additions and other appurtenances.** Porches, additions and other appurtenances to RVs, park models, mobile homes, and manufactured homes shall comply with this chapter and the building regulations of the state and County. All canvas, portable or demountable roofs, porches or appurtenances shall be dismantled and stored if the RV, park model, mobile home or manufactured home is not to be

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occupied for a period of 30 days or more. A roof, porch or appurtenance constructed under a building permit issued by the County building department is not subject to dismantling and storage provisions.

- V. **Retail stores and personal service establishments.** An RV park providing more than 40 spaces may have retail stores and personal service establishments for the primary use of the occupants of the RV park, providing that such uses are conducted within a completely enclosed building, no signs or displays indicating such uses are visible from any public street and such uses are for the convenience of the occupants of the RV park and are not normally available to other persons.
- W. **Recreation area.** A recreation area shall be provided equivalent to 100 square feet of area for each RV, park model, mobile home or manufactured home site. That recreation area shall not be longer than two times its width. That recreation area shall be developed and maintained in a clean and presentable condition.
- X. **Activities prohibited in RV-FUD parks.**
1. In an RV park, display or sale of RVs, park models, mobile homes, and manufactured homes is prohibited, except an occupied RV, park model, mobile home or manufactured home, or an unoccupied RV, park model, mobile home or manufactured home previously occupied on the same rental space or an RV, park model, mobile home or manufactured home affixed to a rental space and shown as a model for sale to remain on that rental space.
 2. Service stations and repair garages are prohibited in RV parks. No secondhand merchandise shall be offered for sale or displayed or stored on the premises, except as incidental to the bona fide sale of an RV, park model, mobile home or manufactured home.
 3. Dwelling units or living quarters, except in an RV, park model, mobile home or manufactured home or as an allowed accessory use, are prohibited in an RV park.
 4. No exterior public address system shall be allowed.
- Y. **Required recreation/disaster shelter building shall be provided if required by section 12.08.120.**
(Ord. No. 90-1; Ord. No. 90-02; Ord. No. 93-15, § 41; Ord. No. 94-4, §§ 15, 16; Ord. No.96-30, § 7; Ord. No. 99-18 § § 12, 31, 49; Ord No. 00-01-11 §20; Ord. No. 00-01-15 § 3; Ord No. 03-04-1)(Old Sec. 12-90.1)(Ord. No. 05-06-05, § 35; Ord. No. 05-06-30, § 35; Ord. No. 07-08-32, §§ 9, 10; Ord. No. 08-09-63 § 2; Ord. No. 09-10-03 § 9)

Section 12.05.224. CG-1 campground district.

- A. **Intent.** The CG-1 district is intended to regulate the establishment and approval of campgrounds for public use of campsites rented for use as temporary living quarters for recreational purposes.
- B. **Permitted principal structures and uses in this district are:**
1. Campsites for tents, travel trailers and recreation units.
 2. Sanitary facilities, baths and toilets.

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3. Community recreational facilities.
4. Fish camps with camping or with cottage facilities may have boat rentals, bait, etc.
5. Individual utility buildings consisting of no more than 65 square feet, with not more than one electrical outlet and no plumbing. All such utility buildings shall be anchored in a manner to withstand winds pursuant to the requirements of Article 16 Building Code. All utility buildings shall meet all state and County setback requirements. No more than one utility building may be located on any campsite.
6. There shall further be permitted awnings or screen enclosures of nonrigid, canvas or fabric construction, except for kick panel with a maximum height of 24 inches and rigid frame screen door, supported by the travel trailer or recreational unit or by supports attached to the ground. All screen enclosures and awnings shall be manufactured by travel trailer or recreation unit manufacturers. No homemade structures shall be permitted.
7. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility. (Ord. No. 05-06-05, § 36; Ord. No. 05-06-30, § 36)
8. Outdoor storage, of boats, campers, RVs, and other similar recreational or motor vehicles owned by the owner of the RV park or by the owners of the RVs and park models located on RV site in the RV park when at least 100 feet from the nearest dwelling space and approved by the board of directors or the campground owner. The requirements shall comply with the transitional protective yard type C of the land development regulations. (Ord. No. 07-08-32, § 11)

C. **Permitted accessory structures and uses in this district are:**

1. Single-family residence for campground owner or operator; and
2. Storage buildings for campground owner's equipment and supplies.

D. **Special exceptions.** Permissible by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
2. Outdoor storage of boats, campers, RVs, and other similar recreational or motor vehicles owned by the owner of the RV park or by the owners of the RVs and park models located on RV site in the RV park when stored less than 100 feet from the nearest dwelling space and approved by the board of directors or the campground owner. The requirements shall comply with the transitional protective yard type C of the land development regulations. (Ord. No. 07-08-32, § 9; Ord. No. 08-09-63 § 3)

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E. **Special requirements.**

1. All plans submitted for campsite approval must first be approved by the state department of health and rehabilitative services. All existing and future campgrounds shall comply with the regulations of the state department of health and rehabilitative services and the Highlands County Health Department. No structure intended for human habitation shall be permitted within 100 feet of the mean high water line of lakefront property.
2. All structures, improvements and additions thereto may be made only after the campground owner has applied for and received a building permit from the Highlands County Building Department. All such applications must be signed by the campground owner, and the campground owner shall be responsible for assuring that all construction, when completed, complies with the provisions of this Code.
3. All building permit applications must be accompanied by a schematic plan showing the size of the campsite, the location of each corner of the campsite, the location and setbacks, both side, front and back, of every structure located and to be located on the campsite. No permit shall be issued by the Highlands County Building Department without having first received this schematic plan.
4. The requirements of sections 12.08.105 and 12.08.120 of this chapter shall also be satisfied. (Ord. No. 05-06-05, § 38; Ord. No. 05-06-30, § 38)

F. **Minimum lot requirements.** A minimum of five acres of land will be required for campground classification.

G. **Maximum density and maximum impervious surface.** A maximum of 15 campsites per acre with central water and central wastewater with a maximum density of four campsites per acre up to nine campsites per acre without central water and central wastewater, pursuant to the requirements of F.S. § 381.0065 and approval of the County health department will be allowed in this district. A maximum of one camping unit per campsite will be allowed. Maximum impervious surface: Up to 70 percent site coverage. (Ord. No. 05-06-05, § 37; Ord. No. 05-06-30, § 37)

H. **Minimum separation.**

1. **Front**, five feet.
2. **Sides**, no roof line to be closer than ten feet to adjacent roof line.
3. **Rear**, no roof line to be closer than ten feet to adjacent roof line.
4. **Corner**, no roof line to be closer than ten feet to adjacent roof line.
5. No roof line closer than 20 feet to outside perimeter line of campground.

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- I. **Maximum height.** Maximum height of structures shall be as follows:
1. **Residence.** No structure shall exceed 16 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104.
 2. **Permitted non residence.** Same, except that with approval of BOA, maximum height may be 35 feet if BOA shall find such action will not injure surrounding property and accords with spirit and purpose of this chapter. Exceptions as provided in Section 12.05.302 may apply. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 10)
- J. **License revocation.** In addition to the penalties imposed pursuant to this Code, violation of this section shall constitute grounds for revocation of the County occupational license for the campground.
- K. **Limitations on uses.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord. No. 05-06-05, § 39; Ord. No. 05-06-30, § 39)
 3. Park trailer shall not exceed 400 square feet and shall comply with the requirements of ANSI A-119.5 standards, pursuant to F.S. § 320.01. (Ord. No. 07-08-32, § 13)
 4. Permanent attachments such as screen rooms, cabana rooms, carports, etc. are not permitted. (Ord. No. 07-08-32, § 13)
- L. **Limitations on signs shall apply in this district as follows:** No signs intended to be read from off the premises, except:
1. Signs as permitted for B-2.
 2. No sign within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1 or E-U district.
 3. No ground sign to exceed 25 feet in overall height above ground.
 4. No off-site signs permitted.
 5. Roof signs not to exceed 25 feet in height above the roof and not to obstruct light or air of adjacent property.
 6. Vertical projecting signs, not to extend over five feet beyond the wall.

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7. Temporary construction signs.

M. Required recreation/disaster shelter building shall be provided if required by section 12.08.120.

(Ord No. 05-06-05 § 40, Ord. No. 05-06-30 § 40)

(Res. of 8-18-70, § 5 (sched. CG-1); Ord. No. 85-1; Ord. No. 89-21; Ord. No. 90-02; Ord. No. 90-12; Ord. No. 93-15, § 43; Ord. No. 94-4, § 18; Ord. No. 96-30, § 8; Ord. 99-18 §§ 32, 50; Ord. No. 00-01-15 § 5; Ord No. 03-04-1)(Old Sec. 12-92)(Ord. No. 05-06-05, §§ 36--40; Ord. No. 05-06-30, §§ 36--40; Ord. No. 07-08-32, §§ 11--13; Ord. No. 08-09-63 § 3; Ord. No. 09-10-03 § 10)

Section 12.05.225. CG-2 campground district.

The CG-2 campground district is intended to include private not-for-profit, quasi-public, and public camps, e.g., Boy Scouts or Girl Scouts, with facilities for daily, weekly or monthly operation. Regulations for the CG-2 campground district shall be the same as for the CG-1 campground district.

(Aug. 18, 1970, § 5 sched. CG-2 and Ord. No. 85-1.)(Ord. No. 90-12; Ord. No. 93-15, § 44; Ord No. 03-04-1)(Old Sec. 12-92.1)(Ord. No. 05-06-05)

Section 12.05.226. CG-3 campground district.

Only those areas having CG-3 campground district classification on both January 1, 1990, and October 31, 1990, shall be permitted to have CG-3 campground district classification. Regulations for the CG-3 campground district shall be the same as for the CG-1 campground district, except that:

- A. A maximum of 11 campsites will be allowed per acre, pursuant to the requirements of F.S. § 381.0065 and approval of the County health department;
- B. Park models shall also be allowed;
- C. No travel trailer, park model or recreation unit having an exterior area in excess of 500 square feet when in the setup mode (including, but not limited to, expandable rooms, tip outs, slide ins, add-a-rooms, sunrooms, bay windows and other extrusions other than screen rooms, vinyl rooms, cabana rooms, and rigid awnings) shall be allowed. If the travel trailer, park model, or recreation unit has an exterior area of more than 800 square feet inclusive of the appurtenances listed in subsections 12.05.226.C and 12.05.226.D. then the campsite must have a minimum area of 2,400 square feet;
- D. A screen room, vinyl room, cabana room or rigid awning consisting of no more than 500 square feet, without plumbing, and firmly attached to a travel trailer, park model or recreation unit and to the ground so as to withstand winds as required by the Florida Building Code and the requirements of Article 16 (Building Code) will be allowed. If the travel trailer, park model, or recreation unit has an exterior area of more than 800 square feet inclusive of the appurtenances listed in subsections 12.05.226.C and 12.05.226.D. then the campsite must have a minimum area of 2,400 square feet;
- E. The campground owner shall, at all times, display a copy of the campground plat showing the tenant on each campsite by name and address;
- F. Maximum impervious surface: Up to 70 percent site coverage; and
- G. A recreation/disaster shelter building shall be provided if required by section 12.08.120.

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- H. Mobile homes and manufactured homes shall also be allowed when the following requirements are satisfied:
1. The mobile home or manufactured home has an exterior area of not more than 1,000 square feet, inclusive of the appurtenances listed in subsections 12.05.226.C and 12.05.226.D.
 2. The mobile home or manufactured home replaces one or more campsites located on campsites in existence on July 1, 2005.
 3. The mobile home or manufactured home is located on a campsite which has a minimum width of 40 feet and a minimum area of 2,400 square feet and the applicant shall:
 - a. Provide a boundary survey and site plan schematic, signed and sealed by a Florida professional land surveyor, showing the boundary of the area being changed together with permanent reference markers; and
 - b. Include as a part of the site plan schematic pursuant to the approximate location of the campsites in reference to the centerlines of the streets within the campground; the streets shall be referenced with permanent control points; and
 - c. Post a copy of said site plan schematic in the campground office; and
 - d. Submit seven copies each of the boundary survey and site plan schematic to the County engineer for distribution to County staff prior to the issuance of a building permit for a mobile home or manufactured home pursuant to subsection 12.05.226.D.
 4. Mobile homes and manufactured homes shall have no more than 40 percent lot coverage.
 5. Not more than 40 percent of the total campground area is covered by structures, excluding streets.

(Ord. No. 85-1; 90-12; Ord. No. 90-12; Ord. No. 93-15, § 45)(Ord No. 03-04-1)(Old Sec. 12-92.2)(Ord. No. 05-06-05, § 41; Ord. No. 05-06-30, § 41)

Section 12.05.227. Nonconforming campground uses.

- A. **Nonconforming uses.** Any structure located within the confines of CG-1 campgrounds, CG-2 campgrounds or CG-3 campgrounds on October 31, 1993, in violation of this chapter shall be declared a nonconforming use.
- B. **Declaration.** Every campground owner shall make a declaration to the Highlands County Zoning Department on or before December 31, 1993, identifying each nonconforming use within the campground owner's campground as of October 31, 1990. Every nonconforming use not identified on that declaration shall be conclusively deemed to be a post-October 31, 1990, nonconforming use and shall be immediately removed at the expense of the campground owner.
- C. **No structures constructed without a building permit.** Every structure constructed or installed without a building permit issued by the Highlands County Building Department or constructed or installed in a

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manner other than that allowed by such permit shall be immediately removed at the expense of the campground owner.

- D. **No alterations or additions.** No alterations or additions may be made to any nonconforming use. In the event any alteration or addition is made by a campground owner or operator or any other person to a nonconforming use, the campground owner and operator shall be deemed to be in violation of this section, and the nonconforming use shall immediately be removed at the expense of the campground owner.
- E. **Limitation on restoration.** In the event any nonconforming use should be destroyed in excess of 50 percent of its physical value, it shall not be restored as a nonconforming use. In such event, any restoration or reconstruction shall be done in full and complete compliance with all then-existing provisions of this chapter.
- F. **Removal.** The removal of any part of a structure shall void this grandfather provision for the nonconforming use, and the remainder of the structure shall immediately be removed at the expense of the campground owner.
- G. **License revocation.** In addition to the penalties imposed pursuant to this Code, violation of this section shall constitute grounds for revocation of the County occupational license for the campground.

(Ord. No. 85-1; Ord. No. 90-12; Ord. No. 93-15, § 46 Ord. No. 99-18 § 51, Ord. No. 99-30 § 3)(previously designated § 12-93.1 prior to amendment by Ord. No. 90-12.)(Ord No. 03-04-1)(Old Sec. 12-93)(Ord. No. 05-06-05)

Sections 12.05.228--12.05.239. Reserved.

Section 12.05.240. B-1 neighborhood business district.

- A. **Intent.** The B-1 neighborhood business district is intended primarily to provide for very limited retail and personal service needs for a limited surrounding residential area. The retail and service establishments permitted therein are intended to provide convenience goods and personal service needs which are customary daily necessities for residential neighborhoods. Such establishments do not require large lots and do not do large volumes of business. Businesses of a type deleterious to residential property by reason of excessive noise, lights or night operation are prohibited.
- B. **Permitted principal uses and structures in this district are:**
1. Retail outlets for sale of food and nonalcoholic beverages, wearing apparel, sundries and notions, drugs, hardware, garden supplies, including fertilizer packaged for retail sale, toys and similar products. Florist, gift and jewelry shops, pet and hobby supply outlets are permitted. Other retail outlets of similar character are permitted.
 2. Personal service establishments, such as barber shops, beauty parlors, shoe repair and shine shops, restaurants, self-service laundry, ice stations, tailor or dressmaking shop, watch or jewelry repair, laundry or dry cleaning pickup station.
 3. Miscellaneous uses such as medical or dental office, church, private or parochial school, nursery school or child care center, parking lot and parking garage.

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4. Wastewater and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
5. Assisted living facility (see definition 26A).
6. Boarding home for sheltered care (see definition 32A).
7. Congregate living facility (see definition 62A).
8. Intermediate care facility (see definition 157A).
9. Nursing home (see definition 211). (Ord. No. 05-06-05, § 42; Ord. No. 05-06-30, § 42)

C. Limitation on uses. The following limitations on uses apply in this district:

1. Sale, display, preparation and storage to be conducted within a completely enclosed building.
2. No sale, display or storage of secondhand or used merchandise, except as incidental to the sale of new merchandise.
3. No retail store to have floor area open to the public, including display, service and sale of greater than 5,000 square feet.
4. Products to be sold at retail only.
5.
 - a. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 - b. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC. (Ord. No. 05-06-05, § 43; Ord. No. 05-06-30, § 43)

D. Permitted accessory uses and structures in this district are accessory uses and structures, including residential uses incidental to a permitted use.

E. Prohibited uses and structures. Listed permissible uses in this district do not include, either as a principal or accessory use, any of the following, which are listed for emphasis:

1. Automobile, truck, trailer, motorcycle, boat or machinery sales, storage or service, including repair garages, used car lots and washing and polishing establishments.
2. Mortuaries.

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3. Business offices and professional offices not listed under permitted uses.
 4. Vocational or business schools.
 5. Drive-in restaurants or drive-in refreshment stands.
 6. Wholesale establishments.
 7. Pawnshops.
 8. Sales, storage or display of lumber or building materials.
 9. Theaters, nightclubs, establishments for sale or consumption of alcoholic beverages on or off the premises.
 10. Plumbing, electrical or sheet metal shops.
 11. Animal hospitals and veterinary clinics.
 12. Cabinet or carpenter shops.
 13. Storage or warehouse uses, except as incidental to a permitted use.
 14. Any other use first permitted in a less restrictive district.
- F. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Service stations, but not to include garage repair services.
 2. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
 3. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.135 of this Code.
- G. **Minimum lot requirements** in this district, in regard to area and width, are 80 feet frontage, 10,000 square feet.
- H. **Minimum yard requirements.** (Depth of front and rear yards, width of side yards.) See sections 12.05.307 and 12.05.402 of this Code. Side yard, seven and one-half feet minimum.

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I. **Maximum intensity (floor area ratio), impervious surface, and height of structures.**

1. **No portion intended for human occupancy shall exceed:**

a. **For use first permitted in B-1 district**, 30 feet in height, except as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104.

b. **For any other use:** 50 feet in height, except as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 11)

2. a. **Maximum intensity** (floor area ratio): Up to 0.70 FAR for office; Up to 0.80 for other commercial uses.

b. **Maximum impervious surface:** Up to 80 percent site coverage. (Ord. No. 05-06-05, § 44; Ord. No. 05-06-30, § 44)

J. **Limitations on signs shall apply in this district as follows:** No sign intended to be read from off the premises except:

1. Signs as permitted in R-3.

2. No off-site, animated, projecting or roof signs, except as specified.

3. No signs within 50 feet of EU, M-1-S, M-1, M-2, R-1A, R-1, R-2 or R-3 districts.

4. On-site ground sign each not to exceed 100 square feet in area and not exceeding 12 feet in overall height above ground.

5. On-site wall signs not exceeding 20 percent of wall area upon which such signs are placed.

6. Marquee signs not to extend beyond marquee and not to exceed four feet in height.

7. On-site combination vertical and roof signs, not to extend more than four feet above the building wall and not to extend more than five feet above the roof.

8. Aggregate area of all signs not to exceed four square feet in area for each foot of frontage of building displaying sign or two square feet for each foot of frontage of property occupied by such buildings or devoted to such use, whichever is the greatest.

9. Neon type sign allowed.

10. Strip lighting allowed.

(Res. of 8-18-70, § 5 (sched. B-1); Ord. No. 89-21; Ord. No. 90-02; Ord. No. 93-15, § 47; Ord. No. 99-18 § 14; Ord. No. 00-01-42 § 6)(Ord. No. 03-04-1)(Old Sec. 12-94) (Ord. No. 05-06-05, §§ 42--44; Ord. No. 05-06-30, §§ 42--44; Ord. No. 09-10-03 § 11)

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Section 12.05.241. B-2 limited business district.

- A. **Intent.** The B-2 limited business district is intended to provide retail and service needs for several neighborhoods or a substantial territory. Retail stores include convenience, fashion and durable goods. Service needs extend beyond the provision of purely personal services, but repair activities are limited. Professional uses are encouraged.
- B. **Permitted principal uses and structures in this district are:**
1. Any use permitted in a B-1 district.
 2. Hotel, motel.
 3. Retail establishments, such as department stores, household furnishings and home appliances, office furniture and equipment, automobile new parts and accessories, camera and photographic supply, package liquor, sporting goods, bait and tackle, musical instruments, television and radio, including repair incidental to sales, paint and wallpaper, pet store.
 4. Service establishments such as service stations, utility trailer display and storage incidental to service station, with not more than five such rental trailers, radio and television repair, hospitals and other health institutions, interior decorator, photographic studio, drive-thru restaurants.
 5. Office uses, such as banks and financial institutions, business and professional offices, governmental and utilities offices, travel agencies, employment office, and newspaper office.
 6. Miscellaneous commercial uses, such as business, commercial, art, dancing, music, radio, television, day nursery or nursery schools, fortune telling, artist studio, dental or medical laboratory or research or experimental activity.
 7. Noncommercial uses such as church, church school, library, museum, community buildings, private club, lodge, fraternity and similar uses not operated for profit.
 8. Wastewater and water treatment facilities serving a single development when the water treatment.
 9. Community residences for the developmentally disabled (see definition 55A).
 10. Continuing care retirement community (see definition 67A).
 11. Convalescent home (see definition 70).
 12. Extended care facility (see definition 114A).
 13. Intermediate care facility (see definition 157A).
 14. Nursing home (see definition 211).

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15. Residential health care facility (see definition 250A). (Ord. No. 05-06-05, § 45; Ord. No. 05-06-30, § 45)

C. **Limitations on uses.** The following limitations on uses apply in this district:

1. Sale, display, preparation and storage to be conducted within a completely enclosed building.
2. Products produced to be sold only at retail.
3. No sale, display or storage of secondhand or used merchandise, except in an antique shop, or as incidental to the sale of new merchandise.
4.
 - a. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
 - b. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW, public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord. No. 05-06-05, § 46; Ord. No. 05-06-30, § 46)

D. **Permitted accessory uses and structures** in this district are accessory uses and structures, including residential uses incidental to a permitted use.

E. **Prohibited uses and structures.** Listed permissible uses in this district do not include, either as a principal or accessory use, any of the following, which are listed for emphasis:

1. Automobile, truck, trailer, motorcycle or machinery sales, display, storage or repair, including repair garages, new car agencies, used car lots and auto carwash.
2. Mortuaries, vocational schools, except as specifically permitted.
3. Drive-in theaters, drive-in restaurants, drive-in refreshment stands, establishments for the consumption of alcoholic beverages on-premises.
4. Bulk sales, storage or display of lumber or building materials.
5. Wholesale establishments.
6. Pawnshops.
7. Display or sale of secondhand or used merchandise, except in antique shop, or as incidental to the sale of new merchandise.
8. Cabinet, carpenter, plumbing, electrical, sign or sheet metal shops.

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9. Animal hospital or veterinary clinic.
 10. Storage or warehouse uses, except as accessory to a permitted use.
 11. Any other use first permitted in a less restricted district.
- F. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Fishing or amusement pier.
 2. Public utility station or substation.
 3. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
 4. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.135 of this Code.
- G. **Minimum lot requirements in this district,** in regard to area and width, are 100 feet frontage, 15,000 square feet.
- H. **Minimum yard requirements.** (Depth of front and rear yards, width of side yards.) Minimum side yard depth seven and one-half feet. See sections 12.05.307 and 12.05.402 of this Code.
- I. **Maximum intensity (floor area ratio), impervious surface, and height of structures.**
1. No portion intended for human occupancy shall exceed 50 feet in height, except as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 12)
 2. When the comprehensive plan category is **commercial/industrial mixed use**:
 - a. **Maximum intensity (floor area ratio):** Up to 0.80 FAR.
 - b. **Maximum impervious surface:** Up to 80 percent site coverage.
 3. When the comprehensive plan category is **commercial**:
 - a. **Maximum intensity (floor area ratio):** Up to 0.70 FAR for office; Up to 0.80 for other commercial uses.
 - b. **Maximum impervious surface:** Up to 80 percent site coverage. (Ord. No. 05-06-05, § 47; Ord. No. 05-06-30, § 47)

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- J. **Minimum floor areas in this district shall be:** 120 square feet for each sleeping room.
- K. **Limitations on signs in this district shall be:** No signs intended to be read from off the premises except:
1. Signs as permitted for B-1.
 2. No signs within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1, M-2 or EU districts.
 3. No ground signs to exceed 25 feet in overall height above ground.
 4. Off-site signs permitted subject to general Regulations for such signs.
 5. Marquee signs.
 6. Wall, ground, roof and pylon signs. Roof sign not to exceed 25 feet in height above roof and not to obstruct light or air of adjacent property.
 7. Combination vertical and roof signs not to exceed 200 square feet in area for one story building, plus additional 50 square feet of area for each story above first story. Such signs not extending more than four feet from building wall and not more than 15 feet above roof.
 8. Temporary construction signs: Same as for R-3.
 9. Neon type signs allowed.
 10. Strip lighting allowed.

(Res. of 8-18-70, § 5 (sched. B-2); Ord. No. 89-21; Ord. No. 90-02; Ord. No. 93-15, § 48; Ord. No. 99-18 §§ 15, 34, 53; Ord. No. 00-01-42 §7)(Ord. No. 03-04-1)(Old Sec. 12-95)(Ord. No. 05-06-05, §§ 45--47; Ord. No. 05-06-30, §§ 45--47; Ord. No. 09-10-03 § 12)

Section 12.05.242. B-3 business district.

- A. **Intent.** The B-3 business district is intended to apply to general business, retail and wholesale, warehouse storage and other services of a general character.
- B. **Permitted principal uses and structures in this district are:**
1. Any use permitted in a B-1 or B-2 district.
 2. Retail establishments such as those for display and sale of heavy machinery, new automobiles, trucks, mobile homes and boats; display and sale of used automobiles in running order and of used mobile homes and boats; display and storage of utility trailers for sale or rental; tires and batteries; plumbing and electrical fixtures; lawnmower service, sale and rental; dairy supplies; feed and fertilizer; flea markets--inside only.

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3. Service establishments such as repair and service garage; pest control agency; carwash, hand laundry, home appliance repair--inside only, job printing shop or newspaper plant, locksmith, barbecue stand or drive-in restaurant or refreshment stand, pawnshop, auction houses, plant nursery or landscaper, taxidermist, veterinarian or animal hospital or boarding kennels; dyeing; cleaning; carpet or rug cleaning establishments; diaper service; linen supply; crating, packing, shipping service, including fruit packing and shipping; distribution service; packing, delivery, wholesale magazine agency; milk distribution agency or creamery; soft drink bottling; telephone exchange.
4. Commercial sports activities, such as bowling alley, golf driving range or miniature golf course, skating rink, swimming pool, archery range, pony ride.
5. Commercial recreation activities, such as boxing, sports arena or go-cart track; nightclub, tavern, bar or other establishment for consumption of alcoholic beverages on-premises, pool room, theater, aquarium, assembly hall, museum and exhibits, games of skill and chance, penny arcades.
6. Sale and display of automobile secondhand parts, (no wrecking); secondhand merchandise, inside storage only; construction machinery and equipment, tractors, agricultural implements, heavy machinery; pumps; welding equipment and supplies; restaurants and hotel supplies and equipment; motorcycles; monuments; building supplies (in a building); lumberyard; utility trailers (including storage).
7. Service establishments, such as ambulance service, trade or vocational school.
8. Miscellaneous utility uses, such as express office, gas regulator station, railroad freight yards and storage tracks, transformer and electrical switching station, motor bus terminal.
9. Repair and shop uses, such as auto body and paint shop, awning and canvas shop, carpenter, cabinet or furniture repair shop, heating, roofing, sheet metal, electrical or plumbing contractor or repair shop, sign shop, upholstering, tinsmith, boat and boat motor repair (up to 45 feet).
10. Light assembly of pre-manufactured products.
11. Water related uses, such as boat and marine motor service and repair while boats are in water, boat rental, charter boats, commercial wharves, piers, slips and anchorages.
12. Wholesale, warehouse or storage uses, such as ice or cold storage plant and frozen food lockers; wholesale establishments, storage warehouse.
13. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
14. Community residences for the developmentally disabled (see definition 55A).
15. Continuing care retirement community (see definition 67A).

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16. Convalescent home (see definition 70).
 17. Extended care facility (see definition 114A).
 18. Intermediate care facility (see definition 157A).
 19. Residential health care facility (see definition 250A). (Ord. No. 05-06-05, § 48; Ord. No. 05-06-30, § 48)
- C. **Permitted accessory uses and structures** in this district are accessory uses and structures, including residential uses incidental to a permitted use.
- D. **Prohibited uses and structures.** Permissible uses in this district do not include, either as a principal use or accessory use, any of the following, which are listed for emphasis:
1. Motor freight terminal.
 2. Open air display, sale or storage of used building materials.
 3. Any use first permitted in a less restricted district.
- E. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Mobile home as accessory use for security to protect property against vandals, thieves, etc., providing that any grant of a special exception shall set a time limit of not to exceed five years. However, this shall not permit the use of an RV or travel trailer for this purpose.
 2. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
 3. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.135 of this Code.
 4. Keeping of exotic and wild animals pursuant to section 12.05.316 of this Code.
 5. Flea market, open. Approval shall be subject to the conditions and requirements pursuant to section 12.08.108 of this Code.
- F. **Minimum lot requirements in this district, in regard to area and width, are:**
1. **Width:** 100 feet.
 2. **Area:** 20,000 square feet.

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- G. **Minimum yard requirements.** (Depth of front and rear yards, width of side yards.) Minimum side yard width seven and one-half feet. See section 12.05.402 of this Code.
- H. **Maximum intensity (floor area ratio), impervious surface, and height of structures.**
1. No portion intended for human occupancy shall exceed 90 feet in height, except as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 13)
 2. When the comprehensive plan category is **commercial/industrial mixed use**:
 - a. **Maximum intensity (floor area ratio):** Up to 0.80 FAR.
 - b. **Maximum impervious surface:** Up to 80 percent site coverage.
 3. When the comprehensive plan category is **commercial**:
 - a. **Maximum intensity (floor area ratio):** Up to 0.70 FAR for office; up to 0.80 for other commercial uses.
 - b. **Maximum impervious surface:** Up to 80 percent site coverage. (Ord. No. 05-06-05, § 49; Ord. No. 05-06-30, § 49)
- I. **Limitations on signs shall apply in this district as follows.** No signs intended to be read from off the premises, except:
1. Signs as permitted for B-2.
 2. No sign within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1, M-2 or EU district.
 3. No ground sign to exceed 25 feet in overall height above ground.
 4. Off-site signs permitted subject to general Regulations for such signs.
 5. Roof signs not to exceed 25 feet in height above the roof and not to obstruct light or air of adjacent property.
 6. Vertical projecting signs, not to extend over five feet beyond the wall.
 7. Temporary construction signs. Same as for R-3.
- J. **Limitations on uses.** The following limitations on uses apply in this district:
1. Light assembly uses shall not require the processes or machinery which could, by the emission of noise, vibration, odor, water or pollution create conditions detrimental to the value of, or existing use of adjacent properties.

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2. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
3. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC. (Ord. No. 05-06-05, § 50; Ord. No. 05-06-30, § 50)

(Res. of 8-18-70, § 5 (sched. B-3); Res. of 7-8-75; Ord. No. 89-21; Ord. No. 90-02; Ord. No. 93-15, § 49; Ord. No. 95-28, § 5-7; Ord. No. 99-15 § 2; Ord. No. 99-18 §§ § 16, 35, 54; Ord No. 00-01-42 §8; Ord No. 00-01-11 §25; (Ord No. 00-01-25 § 21)(Ord No. 03-04-1)(Old Sec. 12-96) (Ord. No. 05-06-05, §§ 48--50; Ord. No. 05-06-30, §§ 48--50; Ord. No. 09-10-03 § 13)

Section 12.05.243. B-4 business district.

- A. **Intent.** The B-4 business district is only those areas having B-4 business district classification on October 27, 2003, shall be permitted to have B-4 business district classification. intended to apply to general business, retail and wholesale, warehouse storage and other services of a general character. Regulations for the B-4 business district shall be the same as for the B-3 business district, except that:
- B. **Permitted principal uses and structures in this district are:**
 1. Any use permitted in B-1, B-2, and B-3 districts.
 2. Retail establishments, such as those for the display and sale of heavy machinery, dairy supplies; feed and fertilizer; secondhand merchandise.
 3. Service establishments such as repair and service garage; pest control agency; auction houses; large animal hospital or boarding kennels; laundering; dyeing; cleaning; carpet or rug cleaning establishments; diaper service; linen supply; crating, packing, shipping service, including fruit packing and shipping; distribution service; packing, delivery, wholesale magazine agency; milk distribution agency or creamery; soft drink bottling.
 4. Commercial sports activities such as boxing, sports arena or go-cart track.
 5. Miscellaneous utility uses, such as express office, gas regulator station, railroad freight yards and storage tracks, transformer and electrical switching station, motor bus terminal.
 6. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
- C. **Permitted accessory uses and structures** in this district are accessory uses and structures, including residential uses incidental to a permitted use.

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D. **Prohibited uses and structures.** Permissible uses in this district do not include, either as a principal use or accessory use, any of the following, which are listed for emphasis:

1. Motor freight terminal.
2. Open air display, sale or storage of used building materials.
3. Any use first permitted in a less restricted district.
4. Dwelling, except as an accessory to a permitted use.
5. Hospitals, sanitarium, orphanages and similar institutions for the care or treatment of persons.

E. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Mobile home as accessory use for security to protect property against vandals, thieves, etc., provided that any grant of a special exception shall set a time limit of not to exceed five years. However, this shall not permit the use of an RV or travel trailer for this purpose.
2. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
3. Flea market, open. Approval shall be subject to the conditions and requirements pursuant to section 12.08.108 of this Code.
4. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.16 of this Code.
5. Keeping of exotic and wild animals pursuant to section 12.05.316 of this Code.

F. **Minimum lot requirements in this district, in regard to area and width, are:**

1. **Width:** 100 feet.
2. **Area:** 20,000 square feet.

G. **Minimum yard requirements.** (Depth of front and rear yards, width of side yards.) See section 12.05.402 of this Code. Side yard width shall be a minimum of seven and one-half feet.

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H. **Maximum intensity (floor area ratio), impervious surface, and height of structures.**

1. No portion intended for human occupancy shall exceed 90 feet in height, except as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 14)
2. When the comprehensive plan category is **commercial/industrial mixed use**:
 - a. **Maximum intensity (floor area ratio)**: Up to 0.80 FAR.
 - b. **Maximum impervious surface**: Up to 80 percent site coverage.
3. When the comprehensive plan category is **commercial**:
 - a. **Maximum intensity (floor area ratio)**: Up to 0.70 FAR for office; Up to 0.80 for other commercial uses.
 - b. **Maximum impervious surface**: Up to 80 percent site coverage. (Ord. No. 05-06-05, § 51; Ord. No. 05-06-30, § 51)

I. **Limitations on signs shall apply in this district as listed below.** No signs intended to be read from off the premises except:

1. Signs as permitted for B-2.
2. No sign within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1, M-2 or EU districts.
3. No ground sign to exceed 25 feet in overall height above the ground.
4. Off-site signs permitted subject to general Regulations for such signs.
5. Roof signs not to exceed 25 feet in height above the roof and not to obstruct light or air of adjacent property.
6. Vertical projecting signs, not to extend over five feet beyond the wall.
7. Temporary construction sign, same as for R-3.

J. **Limitations on uses.** The following limitations on uses apply in this district:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW

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public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC. (Ord. No. 05-06-05, § 52; Ord. No. 05-06-30, § 52)

(Ord. No. 89-21)(Ord. 00-01-25 § 22)(Ord. 03-04-1)(Old Sec. 12-96.1)(Ord. 05-06-05 §§ 51, 52; Ord. 05-06-30 §§ 51, 52; Ord. No. 09-10-03 § 14)

Section 12.05.244. O office district.

- A. **Intent.** The O office district is intended to provide for the establishment of small-scale office activities at strategic locations where the transition between nonresidential and residential land uses may be problematic or where nonretail-oriented services may be conveniently provided to adjoining neighborhoods as a means to reduce highway travel.
- B. **Permitted principal uses and structures in this district are:**
1. Accounting, auditing and bookkeeping services.
 2. Architect and design studios.
 3. Artist's studio.
 4. Branch banks, savings and loans, thrifts, brokerage houses, investment counseling and financial services.
 5. Data processing and information services.
 6. Engineering and survey offices.
 7. Health care professional offices.
 8. Insurance agencies.
 9. Law firm and other legal services.
 10. Libraries and reading rooms.
 11. Marketing and advertising services.
 12. Photographic studios.
 13. Private investigation and security office.
 14. Real estate agencies.
 15. Secretarial, stenographic, telephone and similar business services.
 16. Travel and touring agencies.

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17. Wastewater and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.

C. Limitations on uses. The following limitations on uses apply in this district:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in Section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC.
3. Accessory retail uses, and display or storage of merchandise are permitted when:
 - a. In conjunction with and completely incidental to a permitted use such as the dispensing of medicines, medical supplies, optical products, etc., from a doctor's office or clinic; or
 - b. A pharmacy is less than 10,000 square feet; or
 - c. A lunch counter, snack bar or restaurant serves the users of the building in which it is located or is less than 5,000 square feet. (Ord. No. 05-06-05, § 53; Ord. No. 05-06-30, § 53)

D. Permitted accessory uses and structures. Uses accessory to a principal permitted use are allowed.

E. Prohibited uses and structures. Listed permissible uses in this district do not include, either as a principal or accessory use, any of the following which are listed for emphasis:

1. Businesses and stores that rely on continuous retail sales from customer traffic, except pursuant to section 12.05.244(C).
2. Outside storage or display areas for any purpose.
3. Any industrial activities.

F. Special exceptions. Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:

1. Automobile parking lots (unsigned, landscaped and not to include vehicle storage lots);
2. Child or adult day care facilities;
3. Civic, social and fraternal orders, associations or institutions;

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4. Churches and other sanctuary building complexes for a religious order;
 5. Medical, prosthetic and pharmacological products in connection with prescribed medical treatments;
 6. Residential model and home sale building;
 7. Residential nursing care facilities for up to eight unrelated individuals plus staff for the mentally or physically disabled, not to include residential lockup, detention facilities or mainstream facilities for juvenile delinquents, convicted criminals or persons with severe mental illness or contagious diseases;
 8. Veterinary clinics, treatment only, no boarding or grooming;
 9. Other office uses which, in the opinion of the P&Z, are similar in nature, intensity and scope to the business categories listed under permitted principal uses and structures in subsection (B) of this section and which are consistent with the purpose and intent of the O zoning district; and
 10. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
- G. **Minimum lot requirements** in this district, in regard to area and width, are 100 feet frontage, 12,000 square feet.
- H. **Minimum yard requirements.** The minimum depth of front and rear yards and width of side yards, in this district shall be:
1. **Front:** 25 feet.
 2. **Side:** 10 feet.
 3. **Rear:** 25 feet.
 4. **Corners:** 15 feet side street setback.
- I. **Maximum height of structures.** No structure shall exceed 30 feet in height, except as provided in Sections 12.05.302. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 15)
- J. **Maximum lot coverage** by all buildings and paved areas in this district shall not exceed 70 percent of the gross lot area.
- K. **Maximum floor area** by all buildings and floors in this district shall not exceed 70 percent of the gross lot area.

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L. **Limitations on signs in this district shall be:** No signs intended to be read from off the premises, except:

1. One on-site ground monument sign not to exceed 32 square feet in area and not exceeding eight feet in overall height above ground as measured from the finished grade at the base of the sign to its topmost component.
2. On-site wall signs not exceeding 20 percent of wall area upon which such signs are placed.
3. Illuminated signs are allowed and shall be accomplished by exterior uplighting to the exclusion of all other types of lighting.

(Ord. No. 99-18 § 39; Ord. 00-01-11 §29; Ord. No. 94-4, § 20; Ord. No. 99-18 § § 20, 39,57; Ord. 00-01-25 § 25)(Ord. 03-04-1)(Old Sec. 12-100)(Ord. No. 05-06-05, § 53; Ord. No. 05-06-30, § 53; Ord. No. 09-10-03 § 15)

Section 12.05.245. BC-1 business campus, research, and light manufacturing park district.

A. **Intent.** The BC-1 Business Campus, Research, and Light Manufacturing Park district is intended to locate uses within integrated and structurally designed developments which would have similar or less intensive impacts than the I-1 Industrial district uses and are amenable to the development of highly specialized and technological industries, industrial support facilities, research and experimental institutions and administrative facilities that would create more diversity of uses within the site than allowable in a single zoning district. It is intended that these parks be created to:

1. Produce a campus-like setting;
2. Be, aesthetically pleasing and able to not decrease property values in the surrounding area;
3. Provide employment generating uses other than retail except for ancillary businesses supporting workers and visitors of the primary businesses;
4. Be located so as to be readily accessible to major transportation facilities;
5. Provide compatibility between the uses both internal and external to the site; and
6. Have potable water and central wastewater services.

B. **Permitted principal uses and structures in this district are:**

1. Professional and business offices including but not limited to call centers and back office operations (NAICS 561 = Administrative and support services).
2. Office-warehouses, warehouses, or general warehousing and storage (NAICS 493 = Warehousing and storage).

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3. Specialized and technological industrial activities including research and development laboratories and offices with ancillary teaching and instructional facilities, such as:
 - a. Data processing and computer centers including centers for programming and software development.
 - b. Solar and alternative energy technologies and applications.
 - c. Laser technology and applications.
 - d. Communications equipment sales, service, and repair.
 - e. Medical laboratories engaged in genetic research, experimentation, display, demonstration, or testing.
 - f. Research, testing, design, development, and training for aerospace, aeronautics, telecommunications, automobile, satellite, medical, computer, electronics, and robotics research and development.
 - g. Research, testing, design, development, and training for food and agricultural products research and development.
 - h. Similar uses for design of pilot or experimental products.
4. Processing and/or light manufacturing, fabrication, assembly of components, and assembly line operations shall be permitted, including storage, warehousing and distribution for such facilities and products, and uses as in I-1 industrial district.
5. Wholesaling - distribution and wholesale (includes all NAICS 421 = Durable goods and NAICS 422 = Non durable goods) including but not limited to: Sporting and recreational goods, Motor vehicle supplies and new parts, Medical and hospital equipment, Electronic parts and equipment, and Drugs, proprietaries and sundries.
6. Medical and dental or chiropractor offices and clinics.
7. Manufacturer's agents and display rooms, banks and financial institutions, offices of building trades contractor (not including outside storage or use of a vehicle in excess of one ton capacity or any equipment, machinery, ditching machines, tractors, bulldozers or other heavy construction equipment).
8. Research, dental and medical laboratories, manufacturers of prosthetic appliances, dentures, eyeglasses, hearing aids, and similar products.
9. Radio or television broadcasting offices or studios, but not transmitters or antennas.
10. Parcel distribution and shipping such as UPS, Fed Express, and the Post Office.

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11. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
- C. **Permitted accessory uses and structures** in this district include retail (commercial) establishments to support the workers and visitors, such as restaurants, convenience stores, dry cleaners, gift shops or "news-stands." Accessory retail shall not exceed 15 percent of the total permitted floor area of the development site and shall be located within the park facilities in such a way as to minimize drawing traffic from adjacent highways. Accessory uses shall include essential services, including water, sewer, gas, telephone, radio and electric, and off-street parking lots for premises requiring off-street parking lots, meeting the requirements and standards listed in subsection F of this section.
- D. **Prohibited uses and structures** in this district include, either as a principal or accessory use, any of the following, which are listed for emphasis:
1. Landfill, mining, dumping, or disposal of trash.
 2. Incineration of garbage, waste material, or trash.
 3. The manufacture of any product or the utilization of any process or operation expressly specified for the I-2 Industrial district, except as specifically permitted in subsection B. of this section.
 4. Junk yards, recycling.
 5. Paint or varnish manufacture; oil compounding or barreling.
 6. Manufacture of asphalt, brick, tile, cement, lime, plaster, concrete or products thereof.
 7. Storage in bulk of asphalt, brick, building materials, butane, cement, clay products, concrete products, coal, contractor's equipment, cotton, fuel, gasoline, grain, gravel, grease, hay, ice, lead, lime, liquor, plaster, pipe, lumber, machinery, propane, roofing, rope, sand, stone, tar, tarred or creosoted products, terra cotta, timber, wood or wool.
 8. Institutions for the housing, care or treatment of sick, indigent, aged or adolescent persons.
 9. Dwellings, except when permitted as an accessory use allowed pursuant to subsection E. of this section, mobile homes, RV or travel trailers, apartments, rooming, boarding or lodging-houses, villas, bungalow courts.
 10. Motor freight terminals.
- E. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards.
1. Dormitories ancillary to research facilities to temporarily house visiting students, faculty and researchers.

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2. Accessory apartment(s) (i.e. not a freestanding home) for security personnel.
3. Accessory kennels for security animals.
4. Communication towers pursuant to sections 12.08.133 and 12.08.135 of the Code.
5. Retail sales of all types of merchandise, service establishments including restaurants, and the retail sale and service of alcoholic beverages for either on-premises or off-premises consumption or both. Alcoholic beverages for on-premises consumption shall not exceed 25 percent of the building of which it is a part or 40 seats, whichever is greater.
6. Day care centers.
7. Hotels and motels.
8. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
9. Governmental and utility offices.
10. Vocational schools.
11. Educational facilities associated with research facilities in the development.
12. Mobile home as accessory use for security to protect property against vandals, thieves, etc., providing that any grant of a special exception shall set a time limit of not to exceed five years. However, this shall not permit the use of an RV or travel trailer for this purpose.

F. **Minimum development standards.** Minimum requirements in this district:

1. **Minimum park size.** No minimum park size for this zoning district.
2. **Minimum lot size.** One acre minimum lot size.
3. **Minimum lot width.** 100 feet.
4. **Minimum setbacks.** Front: 25 feet, rear: 15 feet; all other sides: 15 feet. All property that directly abuts a residential district, without a street, alley, canal, or other open space between them, shall have a required setback of 25 feet.

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5. **Maximum lot coverage and intensity (floor area ratio).** The maximum area of allowable coverage of a lot or parcel by structures in the district is determined by application of the provisions of this subsection, including F.6. of this subsection and by the following:
 - a. **When the comprehensive plan category is commercial/industrial mixed use:** Maximum intensity (floor area ratio): Up to 0.80 FAR.
 - b. **When the comprehensive plan category is industrial:** Maximum intensity (floor area ratio): Up to 1.00 FAR.
6. **Maximum impervious surface.** Development shall not exceed an impervious surface area of 65 percent.
7. **External boundary buffers and landscaping.** External boundary buffers for the entire project shall be 20 feet along all property boundaries and shall incorporate a landscape transitional protective yard Type C, pursuant to section 12.11.111 of Article 12 of Chapter 12 of the Code of Ordinances.
8. **Maximum height of structures.** No structure shall exceed 45 feet, or 35 feet in height when located within 100 feet of any residentially zoned property. Exceptions to height of structures may apply as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 16)
9. **Enclosed processing.** All assembly, manufacturing and processing activities, functions, operations, and uses shall be conducted within enclosed buildings or structures.
10. **Outdoor storage.** No outdoor storage is allowed except when screened by a solid wall, which is the height of the primary wall of the building which it services or six feet in height, whichever is greater. The height of the stored materials shall not exceed the height of the solid wall. No storage shall be located on any easement.
11. **Temporary structures or trailers.** No temporary structure, trailers, or open-sided covered structures will be permitted.
12. **Screening.** One single load space (ten feet by 20 feet) is permitted in the front or side of a building for small truck (single rear axle) deliveries. Loading spaces for larger trucks shall be located to the side or rear of the building such that the loading dock and related door are not facing the street. All large truck-loading areas shall be screened from view by a solid wall and the walls screening that storage shall not be located within required setbacks. All equipment, electrical substations, and mechanical devices shall be screened from view from all public and private streets and adjacent property. Screened from view shall mean totally hidden from view by a solid wall built to a minimum of six feet in height where no structure or item being screened is visible from either public or private road or from adjacent property at ground floor level. Parking lots located in either the side or rear yards shall be screened with a transitional protective yard Type D, pursuant to section 12.11.111 of Article 11 of Chapter 12 of the Code of Ordinances.

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13. **Accessory buildings.** Accessory buildings, when such are required for the function of the principal use(s), are permitted provided that all such accessory buildings comply with all setbacks, screening and facade design which are required for principal buildings.
14. **On-street parking.** On-street parking is not permitted.
15. **Central sewage treatment and potable water facilities.** No uses shall be permitted unless served by central sewage treatment and potable water facilities. Limitations on uses related to wastewater treatment facilities and potable water facilities shall be the same as in the I-1 Industrial district.
16. **Pedestrian access, sidewalks and bicycle path.** All public or private roads within the development shall accommodate a pedestrian and/or bicycle path within the right-of-way. The bicycle path may be shared with the roadway as a specifically marked lane, but the pedestrian path must be separated from the roadway by a minimum of six feet. This system may occur in part within the open spaces of the development. The grade level of all proposed structures shall provide for safe pedestrian access and be coordinated with the location of these paths.
17. **Underground utilities.** All electric, telephone, telecommunications, and other service lines within the project boundaries shall be underground and comply with local codes. Temporary lines may be overhead during the construction periods, but must be removed upon issuance of a certificate of occupancy.
18. **Streets.** At the time of construction, all public streets and private streets within the property shall be landscaped pursuant to transitional protective yard Type D, section 12.11.111 of Article 11 of Chapter 12 of the Code of Ordinances. These areas shall also be irrigated pursuant to Article 11 of Chapter 12 of the Code of Ordinances.
19. **Signs shall be as follows:**
 - a. Each lot is permitted one freestanding identification (business name and address) sign that shall be of a monument style no higher than five feet.
 - b. The park may have one freestanding identification sign at each entrance to the park. If there is only one entrance, a second freestanding identification sign may be permitted. The identification of the sign shall be limited to the address of the park (if appropriate) and the name of the park.
 - c. Attached identification signs (signs on the building of the business name) shall be located on the front facade and shall not exceed ten percent of the surface area of the front facade.
 - d. Attached directional or information signs are permitted on all sides of the building and shall be of a uniform style. The size of such signs shall be consistent with other local, state, or federal regulations.

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- e. All other directional or information signs shall be of a uniform design and shall be consistent with other local, state, or federal regulations.
- f. No strip lighting is permitted.
- g. No monument signs shall encroach into required clear zones.

20. **Developer's agreement.** A developer's agreement between the County and developer or property owner shall govern the installation of all improvements required by this district. Covenants and related deed restrictions shall be administered by the property owners' association (POA), which shall maintain the public facilities including but not limited to roads, water, sewer, and common areas, open space, landscaping, and all other requirements of the developer's agreement. The following issues may, at the discretion of the developer, be addressed as elements of the developer's agreement, once the site plan is approved.

- a. **Architectural style.** Consideration must be given within the development program to architectural design and appearance within the campus development. Conceptual building elevations are to be incorporated with the individual site plans in order that the siting characteristics and structural elements will be compatible with the pedestrian scale and enhance existing structures already in place within the campus development. Architectural performance standards, according to a theme, may be established by the developer.
- b. **Smart park technology.** The developer may provide the infrastructure necessary to make available current technologies to all potential companies coming into the campus development. These technologies include digital switching and integrated digital networks, fiber optics, internet access, video conferencing and wireless capabilities.

21. **Performance standards.** No land or structure in the district will be used or occupied in any manner, which create dangerous, injurious, noxious or otherwise objectionable conditions through emission of odor, fumes, dust, smoke, gas, noise or vibration.

22. **Surface drainage retention areas** shall be sculptured into the site design, utilizing slope ratios of 3:1 or greater and prohibiting the use of the engineered concrete box or ditch or pit. (Ord. No. 05-06-05, § 54; Ord. No. 05-06-30, § 54)

G. **General site design guidelines.** The following general design and functional elements shall be included in the development of the site plan and shall be used as one basis for the review of the site plan.

- 1. **Open space.** The development shall incorporate a system of open spaces that will include common spaces comprising:
 - a. Natural and landscaped areas which encourage the use of existing site vegetation, especially at the perimeters of the development, as well as the designed buffer areas.

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- b. Active and passive recreation areas specially designed and provided for the workers within the development by their respective employers.
 - c. Internal green ways provided by existing environmental habitats and/or drainage ways on site or green way corridors linking together activity nodes facilitating pedestrian movement within the campus development.
2. **Pedestrian pathways or sidewalks.** An integrated walkway available to all workers within the total development for their use and enjoyment and a means to establish a campus environment for the pedestrian within the working hours.
 3. **Landscape plan.** A landscape plan that will provide for the uniform landscaping of the individual lots and common areas of the project.
 4. **Lighting plan.** An integrated lighting plan that will provide sufficient illumination within the campus development, security for all users of the facilities within the campus and assurance that the disturbance caused by excessive ambient light does not impact adjacent uses within and outside the campus development. Also, a common family of lighting fixtures may be considered.

H. **Limitations on uses.** The following limitations on uses apply in this district:

1. Structures for wastewater treatment facilities or structures for or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC.
3. When the comprehensive plan category is commercial/industrial, the mixed use ratio: Up to 40 percent of gross site area can be used for the secondary industrial use. There is no similar restriction when the comprehensive plan category is industrial. (Ord. No. 05-06-05, § 55; Ord. No. 05-06-30, § 55)

(Ord. No. 01-02-5 § 2)(Ord. 03-04-1)(Old Sec. 12-103)(Ord. No. 05-06-05, §§ 54, 55; Ord. No. 05-06-30, §§ 54, 55; Ord. No. 09-10-03 § 16)

Section 12.05.246. BC-2 business campus, research, and light manufacturing park district.

- A. Regulations for the BC-2 district shall be the same as the BC-1 district, and all permitted principal uses and structures in the BC-1 district shall also be permitted in the BC-2 district. The following additional manufacturing uses shall be allowed in the BC-2 district:
 1. Aircraft engines, parts, rebuilding (NAICS 33641 = Aerospace products and parts manufacturing).

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2. Aircraft parts and auxiliary equipment; search, detection, navigation, guidance, aeronautical and nautical systems and instruments (NAICS 3345 = Navigational, measuring, electro medical, and control instruments manufacturing).
3. Motor vehicle parts and accessories (NAICS 336 = transportation equipment manufacturing).
4. Miscellaneous plastic products (NAICS 326 = Plastics product manufacturing); Plastics bottles; Plastics foam products; Plastics plumbing fixtures (NAICS 326191 =Plastics plumbing fixture manufacturing).
5. Bakery products (NAICS 3118 = Bakeries and tortilla manufacturing, 31181 = Bread and bakery product manufacturing). Cookies and crackers.
6. Canned and frozen food products, canned fruit and vegetables (NAICS 31142 = Fruit and vegetable canning, pickling, and drying), Frozen specialties, (NAICS 31141 = Frozen food manufacturing).
7. Frozen bakery products (NAICS 311813 = Frozen cakes, pies, and other pastries manufacturing).
8. Sporting and athletic goods (NAICS 33992 = Sporting and athletic goods manufacturing).
9. Industrial machinery and equipment, pumps and pumping equipment (NAICS 33391 = Pump and compressor manufacturing), blower and fans (NAICS 333412 = Industrial and commercial fan and blower manufacturing), packaging machinery (NAICS 333993 = Packaging machinery manufacturing), General industrial machinery.
10. Boat building and repairing (NAICS 336612 = Boat manufacturing, 326199 = Boats, inflatable plastics manufacturing).
11. Medical equipment including surgical and medical instruments (NAICS 3391 Medical Equipment and Supplies Manufacturing) and Electromedical Apparatus (NAICS 3345 = Navigational, measuring, electro medical, and control instruments).

(Ord. No. 01-02-5 § 3)(Ord. 03-04-1)(Old Sec. 12-104)(Ord. No. 05-06-05)

Sections 12.05.247--12.05.250. Reserved.

Section 12.05.251. I-1 industrial district.

- A. **Intent.** The I-1 industrial district is intended to locate certain industrial occupancies which, though they may be large in area, will not require the use of equipment, processes or machinery which will, by the emission of noise, vibration, odor, water or other pollution create conditions detrimental to the value or existing use of adjacent properties, or in any way be incompatible with nearby residential districts. In order to preserve the character and to minimize conflict in this district, uses which are permitted in a higher restricted district are prohibited.

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B. Permitted principal uses and structures in this district are:

1. Any use permitted in B-3 and B-4 districts which is not permitted in a more restricted district; and
2. Processing and/or manufacture, including storage, warehousing and distribution facilities for such products as:
 - a. Food and food products, but not to include slaughtering or products specifically assigned to the I-2 districts.
 - b. Precision instruments and electronic devices.
 - c. Television, radio, phonograph, electrical fixtures.
 - d. Clothing and leather products, but not including tanning.
 - e. Cosmetics, toiletries and pharmaceuticals.
 - f. Tobacco products.
 - g. Electrically fired ceramics and pottery.
 - h. Hardware or cutlery.
 - i. Jewelry.
 - j. Orthopedic and medical appliances.
 - k. Canvas products.
 - l. Musical instruments.
 - m. Brooms and brushes.
 - n. Novelties.
 - o. Small parts and devices.
 - p. Heavy equipment.
 - q. Miscellaneous processes such as:
 - (1) Motion picture studio.
 - (2) Pattern tool.

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- (3) Gauge shop.
- (4) Hatchery.
- (5) Cutting and blending of liquor.
- (6) Battery repair and rebuilding.
- (7) Auto body and/or paint shop.
- (8) Sign manufacturing.

- r. General warehouse and storage activities, including ice or cold storage plant and frozen food lockers.
- s. Pest control agency.
- t. Sexually oriented businesses subject to regulation pursuant to section 12.08.125 and Article IV of Chapter 4 of this Code.
- u. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.

C. **Permitted accessory uses and structures** in this district are accessory uses and structures, including living quarters, accessory to a permitted use.

D. **Prohibited uses and structures.** Permissible uses in this district do not include, either as a principal or accessory use, any of the following, which are listed for emphasis:

1. The manufacture of any product or the utilization of any process or operation expressly specified for an I-2 district.
2. Paint or varnish manufacture; oil compounding or barreling.
3. Manufacture of asphalt, brick, tile, cement, lime, plaster, concrete or products thereof.
4. Storage in bulk of asphalt, brick, building materials, butane, cement, clay products, concrete products, coal, contractors equipment, cotton, fuel, gasoline, grain, gravel, grease, hay, ice, lead, lime, liquor, plaster, pipe, lumber, machinery, propane, roofing, rope, sand, stone, tar, tarred or creosoted products, terra cotta, timber, wind, wood or wool.
The above prohibition does not apply to storage of these materials in warehouses.
5. Use of automatic screw machines.
6. Institutions for the housing, care or treatment of sick, indigent, aged or adolescent persons.

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7. Dwellings, except as accessory to a permitted use.
 8. Hotels, motels, apartment hotels, rooming, boarding or lodging houses, villas, bungalow courts.
 9. Motor freight terminals.
- E. **Special exceptions.** Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards are:
1. Mobile home as accessory use for security to protect property against vandals, thieves, etc., provided that any grant of a special exception shall set a time limit of not to exceed five years. However, this shall not permit the use of an RV or travel trailer for this purpose.
 2. Wastewater and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
 3. Flea market, open. As permitted in the B-4 district.
 4. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.135 of the Code.
 5. Uses as permitted in the B-1 and B-2 districts when those uses are not allowed in the B-3 and B-4 as a permitted use.
 6. Increase in the maximum height of structures to exceed the maximum established in section 12.05.251.H but not to exceed 110 feet or eleven stories. (Ord. No. 05-06-05, § 56; Ord. No. 05-06-30, § 56)
- F. **Minimum lot requirements in this district, in regard to area and width are:**
1. **Width:** 200 feet.
 2. **Area:** 20,000 square feet.
- G. **Minimum yard requirements.** (Depth of front and rear yards) See sections 12.05.307 and 12.05.402 of the Code.
- H. **Maximum [intensity (floor area ratio), impervious surface, and] height of structures.**
1. No portion intended for human occupancy shall exceed 50 feet in height. Exceptions to height of structures may apply as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 17)

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2. When the comprehensive plan category is **commercial/industrial mixed use**:
 - a. **Maximum intensity (floor area ratio)**: Up to 0.80 FAR.
 - b. **Maximum impervious surface**: Up to 80 percent site coverage.
3. When the comprehensive plan category is **industrial**:
 - a. **Maximum intensity (floor area ratio)**: Up to 1.00 FAR.
 - b. **Maximum impervious surface**: Up to 70 percent site coverage. (Ord. No. 05-06-05, § 57; Ord. No. 05-06-30, § 57)

I. **Limitations on signs.** The following limitations on signs shall apply in this district: No signs intended to be read from off the premises, except:

1. Signs as permitted in B-2.

J. **Limitations on uses.** The following limitations on uses apply in this district:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC.
3. When the comprehensive plan category is commercial/industrial, the mixed use ratio: Up to 40 percent of gross site area for the secondary industrial use. There is no similar restriction when the comprehensive plan category is industrial. (Ord. No. 05-06-05, § 58; Ord. No. 05-06-30, § 58)

(Ord. 00-01-25 § 23)(Ord. 03-04-1)(Old Sec. 12-97)(Ord. No. 05-06-05, §§ 56--58; Ord. No. 05-06-30, §§ 56--58; Ord. No. 09-10-03 § 17)

Section 12.05.252. I-2 industrial district.

A. **Intent.** The I-2 industrial district is intended to locate industrial and manufacturing occupancies which, due to employment of heavy equipment and machinery, may create noise and vibration objectionable to residential or business neighborhoods. All occupancies in this district will utilize all safeguards to prevent pollution of air, land and water by the emission of fumes, toxic gases, dust, smoke, toxic effluents and other wastes and to mitigate their effects.

B. **Permitted principal uses and structures in this district are:**

1. Any use permitted in the I-1 district except those uses allowed in B-3 and B-4 which shall be allowed by special exception.

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2. Automobile accessories and tires.
3. Textiles, mattresses, rope, etc. boxes.
4. Disinfectants and insecticides.
5. Malt beverages and liquor.
6. Cork or excelsior; concrete or metal culvert, septic tanks.
7. Construction or contractors yard.
8. Machine or welding shop.
9. Millwork, lumber or planing mill.
10. Automobile assembly plant.
11. Truck or motor freight terminal and depot.
12. Meat processing, fish smoking, curing and canning.
13. Storage in bulk of such products as building materials, butane, clay and concrete products, grain, gravel, sand, hay, ice, lead, liquor, machinery, timber, wool, oil or gasoline.
14. Concrete batching or transit mix plant, paving plant.
15. Asphalt storage--Liquid or solid.
16. Electric power plant.
17. Feed grinding and processing.
18. Livestock auction and sale.
19. Excavation, removal, distribution, crushing and screening of rock, sand, gravel or soil.
20. Storage.
21. Septic tank service.
22. Monument works.
23. Vessel, boat and ship building and repair.

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24. Bulk storage of petroleum and petroleum products; gas holder, butane and propane.
 25. Cold compounding of nonodorous fertilizer materials foundry,
 26. Storage of poisonous gases.
 27. Bag cleaning.
 28. Iron or steel fabrication.
 29. Sandblasting.
 30. Such miscellaneous activities as:
 - a. Airport or sea plane base.
 - b. Circus or carnival.
 - c. Animal cemetery or refuge.
 - d. Correctional or penal institution.
 31. Sexually oriented businesses subject to regulation pursuant to Section 12.08.125 and article IV of chapter 4 of this Code.
 32. Wastewater treatment and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.
 33. Sugar based feedstock Ethanol Production pursuant to the requirements of 12.05.252 (J). (Ord. No. 07-08-31 § 3)
- C. **Permitted accessory uses and structures** in this district are accessory uses and structures, including living quarters, accessory to a permitted use.
- D. **Prohibited uses and structures** in this district do not include, either as a principal or accessory use, any of the following, which are listed for emphasis:
1. Dwellings, except as accessory to a permitted use.
 2. Hotels, motels, apartment hotels, rooming, boarding or lodging houses, villas, bungalow courts.
 3. Institutions for the housing, care or treatment of sick, indigent aged, adolescent or other persons.
- E. **Special exceptions.** Permissible in this district by the after public hearing and subject to appropriate conditions and safeguards are:
1. Racetrack—Auto, horse, dog, motorcycle.

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2. Rifle range.
 3. Animal slaughterhouse or abattoir; asphalt manufacture or refining; asphalt paving plant; corrosive acid manufacture including hydrochloric, nitric, sulphurous and sulfuric acids; bone distillation; blast furnace; butane and propane manufacture or storage; cement; lime gypsum or plaster of paris, manufacture or grinding; creosote manufacture or treatment; coke oven; distillation of coal tar, petroleum, refuse, grain or wood; drilling, production or refining of petroleum or inflammable liquids; drop forge plant; fat rendering; fertilizer manufacture, except the cold compounding of nonodorous materials foundry; gunpowder, fireworks or other explosives, manufacture or storage, except as incidental to a permitted use; garbage, offal, dead animals, refuse, rancid fats; incineration, reduction of storage, glue size or gelatin manufacture, where the processes used include the refining or recovering of products from fish, animal refuse or offal; house wrecking yards, used building material yards; junkyards, automobile wrecking yards; salvage yard; paper and pulp mills; pyroxylin and pyroxylin product manufacture; rubber manufacture from raw materials; sewage disposal plants; smelting or refining of metals or ores; steel manufacture by Bessemer, open hearth or other process; steel mills, rolling mills, blooming mills; stock yards or feeding pens, tanning, curing or storage of raw hides or skins, except as incidental to taxidermy; tallow, grease or lard manufacture or refining from animal fat; extraction of animal, vegetable or fish fat and oils; poisons, poison gases; acids, batteries, die casting, foundry, drop forging, stamping, dyeing, shearing or punching of metal.
 4. Mobile home as accessory use for security to protect property against vandals, thieves, etc., provided that any grant of a special exception shall set a time limit of not to exceed five years. However, this shall not permit the use of an RV or travel trailer for this purpose.
 5. Landfill limited exclusively to natural vegetative material;
 6. Landfill limited exclusively to clean concrete, clean cinder block, bricks and ceramic tile.
 7. Store, recycle, or mulch, soil, sand, muck and natural vegetative material.
 8. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities, pursuant to the standards contained in sections 12.08.133 and 12.08.135 of this Code.
 9. Uses as permitted in the B-1, B-2, B-3, and B-4 zoning districts.
- F. **Minimum lot requirements** in this district, in regard to area and width, are, for use first permitted in I-2 district:
1. **Width:** 200 feet.
 2. **Area:** 20,000 square feet.

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- G. **Minimum yard requirements.** (Depth of front and rear yards, width of side yards) See sections 12.05.307 and 12.05.402 of this Code.
- H. **Maximum intensity (floor area ratio), impervious surface, and height of structures.**
1. No portion intended for human occupancy shall exceed 150 feet in height. Exceptions to height of structures may apply as provided in Sections 12.05.302, 12.08.133, and 12.08.135. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 18)
 2. **Maximum intensity (floor area ratio):** Up to 1.00 FAR.
 3. **Maximum impervious surface:** Up to 70 percent site coverage. (Ord. No. 05-06-05 § 59; Ord. No. 05-06-30 § 59)
- I. **Limitations on signs** shall apply in this district as follows: No signs intended to be read from off the premises, except:
1. Signs as permitted in B-2.
 2. Temporary construction sign. Same as for R-3.
- J. **Limitations on uses.** The following limitations on uses apply in this district:
1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131., wall or similar structure may be substituted in lieu of the vegetative screening.
 2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC.
 3. All sugar based feedstock Ethanol Production Facilities shall:
 - a. Not locate any production facility closer than 1,000 feet from an existing residential use; and
 - b. Have a Fire Safety Plan approved by the County Fire Marshall, pursuant to 12.08.102.E.13; and
 - c. Have no outdoor lighting fixtures allowed to shine or glare onto adjacent properties. All illumination from lights/fixtures shall be directed towards the ground and shielded to ensure that illumination does not radiate upon other properties unless other adjacent property is developed together and adopted as a single plan; and

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- d. Have a deed restriction or covenant running with the land that will be in favor of the County and surrounding land owners that is recorded which consents to controlled burns on surrounding properties. (Ord. No. 05-06-05 § 60; Ord. No. 05-06-30 § 60; Ord. No. 07-08-31 § 4)

(Ord. No. 99-18 § 38) (Res. of 8-18-70, § 5 (sched. I-1); Ord. No. 89-21; Ord. No. 90-02; Ord. No. 93-15, § 52; Ord. No. 95-28, §§ 11, 12 Ord.98-04 § 7; Ord. No. 99-18 § § 19, 38; Ord. 00-01-42 §§11,12; Ord. 00-01-11 §28; (Ord. 00-01-25 § 24)(Ord. 03-04-1) (Old Sec. 12-98)(Ord. No. 05-06-05, §§ 59, 60; Ord. No. 05-06-30, §§ 59, 60; Ord. No. 07-08-31 §§ 3, 4; Ord. No. 09-10-03 § 18)

Sections 12.05.253--12.05.259. Reserved.

Section 12.05.260. TND: Traditional neighborhood development district.

A. **Intent.** The intent of this chapter is to create an implementing district that will allow the optional development and redevelopment of land within the unincorporated areas of Highlands County consistent with the program and design principles of the Traditional Neighborhoods Development (TND). This district is intended to implement the Mixed Use (MU) designation on the Future Land Map (FLUM). The establishment of this urban development vernacular should contain most of the following attributes which identify an authentic traditional neighborhood development in that it: (See Figure 1 in subsection I. of this section)

1. **Is compact.** Compact development is an essential principle in traditional neighborhood development. It has proven to be more efficient in the use of land and has effectively reduced the costs of providing public infrastructure and services. Also, compactness provides the propinquity of activities that promotes social interaction between individuals engaged in those activities. The approximate distance out from the established center of the neighborhood should be approximately one-quarter mile (1,320 feet) or the time it takes to walk in five minutes.
2. **Is designed to the human scale.** This compactness provides the opportunity to design development to the human scale, where the relationship between the dimensions of the human body and the proportions of the spaces people use are in balance.
3. Provides a mix of residential, commercial, office, public institutional and recreational activities in close proximity to each other within the confines of the neighborhood. The traditional neighborhood concept brings different, but supporting uses or activities together providing a continuing and sustainable relationship between non-residential uses such as in the work place, retail facilities and public services into a juxtaposition with residential uses.
4. Provides a mix of housing types, styles and sizes, including auxiliary and affordable units to accommodate households of all ages, sizes and incomes. Because of the integration of multiple uses within the traditional neighborhood concept, opportunities are present to incorporate various housing types and sizes such as townhouses, rowhouses, garden apartments, studios and single-family attached and detached houses with options for auxiliary and affordable dwelling units to accommodate different family sizes and persons of all ages and incomes.
5. Incorporates a system of narrowed interconnected streets with sidewalks, bikeways and transit stops that offer multiple routes for motorists, pedestrians and bicyclists on streets that are connected to adjacent existing and future developments. The vehicular circulation patterns within the traditional neighborhood are designed to promote the safe and efficient use of various

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transportation modes utilizing an hierarchy of interconnected streets. This interconnected grid pattern is meant to preclude the use of the cul-de-sac which forces the major portion of vehicular trips onto a few directional major collectors, and to provide a number of alternative routes to any one selected destination, thereby distributing the vehicular trips more evenly within the roadway network. This attribute will also facilitate the effective quick response for emergency vehicles in the event of a blocked street. Incorporated within this circulation system is the interblock network of service alleys which provide access to individual garages, solid waste collection and service to the retail shops within the neighborhood.

Given the compact design of the traditional neighborhood, the conventional wide subdivision street is replaced with a pedestrian scale, narrowed tree lined roadway with shorter blocks and closer intersections. The narrowed roadway and traffic calming devices promote slower vehicular speeds making them more attractive to pedestrian and bicyclist use as a means to access the workplace, the retail shops and recreation in lieu of the automobile. (Also see Figure 2 in Subsection I. of this section)

6. Retains existing buildings and historic and/or architectural features that gives the sense of place and visual enhancement of the community. Traditional neighborhood development is a coherent, visible choice in the way a community is created and it is not exclusive only to new development. It is a quintessential means to also redevelop or recreate existing neighborhoods, retaining the richness of "place". An integral attribute of the neighborhood's sense of place would be the deliberate consideration and preservation of the features and elements that contributed to its historic founding.
7. Incorporates significant environmental elements into the development program and design of the neighborhood. Environmental issues such as wetlands, floodplains, steep slopes or terrain, critical wildlife areas and areas of highly erodible soils are no longer viewed as constraints to development but are viewed as assets and community wide amenities when prudently incorporated into the public open space and recreation system. Also, environmentally sensitive management of surface drainage systems, coupled with the prudent preservation of selected existing vegetative cover and the use of indigenous (native) plant materials within the new landscape would be essential characteristics of traditional neighborhood development.
8. **Focuses on an identifiable neighborhood center.** The neighborhood center is both a civic focus and informal place of gathering for the neighborhood community. It not only may contain places of work, shopping and commercial services, but also may provide space for ceremonies, fairs, concerts and casual meetings among neighbors. The neighborhood center is not intended to function as the town or village center, which should be the focus of a number of neighborhoods.
9. **Has designated sites for civic buildings.** Civic buildings represent a community's collective spirit. They are physical symbols of its social, cultural and religious activities prominently located as visual terminus for streets and open spaces. They preserve the lessons and instruments of culture, offer a forum for timely issues, encourage democratic initiatives and consequently ensure the balanced development of the larger community of which the neighborhood is a part.
10. Is organized to be self-governing deciding matters of neighborhood maintenance, security and physical change. Organizational associations, such as home owners associations (HOA),

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property owners association (POA), neighborhood planning associations (NPA) or similar quasi-public associations, which represent the will of the vested interests within the neighborhood, will be in place to determine distribution of responsibilities pertaining to neighborhood maintenance, security, enforcement of covenants and changes in the physical plan of the neighborhood. Taxation is the responsibility of the larger community or local government.

B. Permitted principle uses. The traditional neighborhood development comprises designated residential areas and mixed use areas of residential, commercial, professional/commercial office, public or institutional and open space uses. The mixed uses or facilities are generally located within or near the neighborhood center. All residents in the community should be within approximately one-quarter mile or a five-minute walk to any of these mixed uses. Individual businesses should not exceed 5,000 square feet in GFA. Any business exceeding this size is perhaps more appropriately located within the town center or within a regional, commercial, area. Also, similar land uses shall face each other across streets and thoroughfare s. Dissimilar land uses may face each other across a square, plaza, park or other similar transitions, or abut at the rear lot lines.

1. **Residential areas.** Maximum height for single-family structures shall not exceed 35 feet. Maximum height for multiple-family units shall not exceed 50 feet when combined with commercial uses. Exceptions to height of structures may apply as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 19)
 - a. Single-family detached dwellings, including manufactured homes;
 - b. Single-family attached dwellings, including duplexes, townhouses, rowhouses;
 - c. Multi-family dwellings, including senior housing;
 - d. Secondary (auxiliary) dwelling units or in-law units; and
 - e. Affordable housing units shall be indistinguishable from other surrounding homes and integrated into the market rate units.
2. **Mixed use (residential/commercial) areas:**
 - a. **Single-family:** (attached dwellings, including duplexes, townhouses and row houses. No detached dwellings.)
 - b. **Multiple-family:** (apartments or suites over commercial including senior and special assisted living facilities.)
 - c. **Live/work units:** (units that combine a residence with a workplace this includes commercial or business in the front and residence in the rear, artist loft or other home occupation.)

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3. **Commercial use areas.** Maximum height of commercial structures shall not exceed 35 feet unless topped with commercial offices or residential uses which allows structures up to 50 feet in height. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 20)
 - a. **Food services:** (neighborhood grocery stores, butcher shops, bakeries, restaurants, cafes, coffee shops, neighborhood bars and pubs, and other food services permitted in B-2: Limited Business district; no drive-through that serve customers in their automobiles.)
 - b. **Retail uses:** (convenience stores, florists, hardware stores, stationery stores, book stores, studios, galleries and shops for artists and artisans and other retail uses permitted in B-2: Limited Business district.)
 - c. **Services:** (day care centers, music, dance or exercise studios, offices including professional and medical, barber hair salon, dry cleaning outlets and other services permitted in B-2: Limited Business district, precluding all vehicular oriented uses)
 - d. **Accommodations:** (bed and breakfast establishments, small hotels or inns and other accommodations permitted in B-2: Limited Business district.)
4. **Public or institutional uses.** These uses may be designed architecturally within the structural program of the neighborhood center or more appropriately stand alone as the visual focus within their pre-determined planned locations.
 - a. **Public:** (Government agency/offices, fire stations, libraries, museums, community meeting facilities and post offices).
 - b. **Institutional:** (Places of worship and educational facilities).
 - c. **Transportation:** (Transit shelters or stops).
5. **Open space uses.** Uses identified here should be incorporated into the traditional neighborhood development as appropriate. Large open recreation areas should be located at the periphery or edge of the neighborhood boundary rather than near central locations in order that the facility may interface with adjacent neighborhoods for greater interactive use.
 - a. **Assembly and recreation.** These open spaces are essential elements within the neighborhood center and shall include, either a central plaza or square, neighborhood, park and/or an open water body, all with attendant facilities to engage the assembled residents. These areas would also create the focus of access and activity to the neighborhood center for the walkway and trail systems within the neighborhood. A transit stop and bicycle parking would be appropriate within these areas.
 - b. Environmental corridors such as open space linkages between larger conservation areas, wildlife forage access corridors, floodplains and pedestrian trail systems;
 - c. Protected natural areas such as wetlands, within and at the edge of the neighborhood;

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- d. Community parks;
- e. Streams, creeks, ponds and larger water bodies;
- f. Stormwater detention/retention facilities when of sufficient size to be designed as open free play areas. When used otherwise, the ubiquitous engineered angular ditch, pit or channel is to be avoided in favor of earth sculpturing into curved depressions integrated into the corresponding hard surface designs for which they accommodate. Over-designed flood control devices are to be avoided and replaced with imaginative innovations consistent with landscape architectural principles sufficient to effect the minimum engineered requirements.

- 6. **Total open space.** At least 20 percent of the gross acreage of the traditional neighborhood development must be in open space. Open space may include undevelopable areas such as steep slopes, wetlands, and stormwater detention and retention areas. If these detention/retention areas are used in the calculations, they must be designed and appear as integral elements within the open space and not appear as pits, trenches or ditches, as cited in B.5.f. above. At least 25 percent of the open space must be common open space dedicated to the public as parkland. The common open space, circumstances permitting, must be within one-quarter mile or a five-minute walk from residential areas. (Ord. No. 06-07-04, § 9)

C. **Size and density.** The Traditional Neighborhood Development (TND) district is an alternative or optional set of Regulations for development within Highlands County. The number of residential dwelling units and the amount of non-residential development (excluding open spaces) shall be determined as follows:

- 1. **Minimum development size.** 60 acres a smaller development may be considered for TND if it functions as an infill or extension of an existing development, manifesting the essential attributes of a TND, or by its being adjacent to an existing TND development.
- 2. **Maximum development size.** 150 acres developments larger than 150 acres shall be developed as multiple neighborhoods, each individually subject to all these requirements. (Rule: the approximate distance out from the established center of the neighborhood should be approximately one-quarter mile (1,320 feet) or the time it takes to walk in five minutes. The neighborhood size to optimize this walking distance is 125 to 150 acres.)
- 3. **Minimum density.** Five dwelling units per gross acre computed on the total size of the proposed neighborhood development. A critical mass of residents in close proximity to daily commercial services and activities is necessary to support local businesses, therefore, it is recommended that the average neighborhood density exceed five dwelling units per gross acre, with the maximum density determined at the time of application.

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4. **Range in densities/intensities.**
 - a. **In areas designated residential:**
 - (1) The number of single-family detached and/or attached shall be five to eight dwellings units per gross acre.
 - (2) The number of multiple-family units or suites shall not exceed 30 dwelling units per gross acre.
 - (3) Secondary (auxiliary) dwelling units on the same lot may be permitted in this section. However, the total number of secondary (auxiliary) dwelling units may comprise, but not exceed 15 percent within the total number of authorized dwelling units.
 - (4) For each affordable housing unit provided under this section, one additional dwelling unit shall be permitted, but not to exceed 15 percent increase in the authorized number of dwelling units.
 - b. **In areas designated mixed use (residential/commercial):**
 - (1) The number of single-family and multiple-family dwelling units permitted shall be determined the same as a. above, plus an additional number of affordable housing units may be added, but not to exceed 15 percent of the authorized amount.
 - (2) All dwelling units constructed above commercial uses shall be included in the number of dwelling units authorized under this section. The actual numbers designated above commercial uses shall be a factor of the prevailing market. However, at least 15 percent of the authorized dwelling units above commercial uses shall be a minimum requirement for the neighborhood center.
 - c. **In areas designated commercial.**
 - (1) Minimum: 50 square feet of commercial GFA per dwelling unit.
 - (2) Maximum: 75 square feet of commercial GFA per dwelling unit.
5. **Continuity.** Similar land uses shall face each other across streets and thoroughfares. Dissimilar land uses may face each other across a square, plaza, park or other similar transitions, or abut at the rear lot lines.
 - a. Affordable housing units shall be indistinguishable from other surrounding homes and integrated into the market rate units. (Ord. No. 06-07-04, § 10)

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D. **Lot size standards.** Lot widths may vary depending on the type of structure being proposed. The range in lot widths for the following building types are: (Also see Figure 3 of subsection I. of this section.)

1. **Detached residential:**
45 to 60 feet for an interior lot.
55 to 70 feet for a corner lot.
2. **Attached residential:**
20 feet for an interior lot.
30 feet for a corner lot.
3. **Mixed residential:**
45 feet for an interior lot.
55 feet for a corner lot.
4. **Commercial/residential:**
45 feet for an interior lot.
55 feet for a corner lot.
5. **Commercial:** May vary.
6. **Civic/public:** May vary.

All lots shall have frontage on a street providing the main pedestrian entrance to each principle structure on the lot. Auxiliary buildings must access from an alley, unless the auxiliary structure is associated with a detached residence and is set back the full depth of the residential structure in order to access the street.

E. **Building setbacks.** Setbacks vary with the use.

1. **Front.**
Residential and mixed residential use--15 feet porches may extend into the setback area.
Mixed non-residential use--Zero feet, commercial, institutional and public buildings should abut the sidewalks.
2. **Back.**
Residential and mixed residential use--25 feet for the primary residence and five feet for the garage/auxiliary dwelling unit when on an alley.
Mixed non-residential use--Zero feet, off-street parking is to be accommodated with rear shared facilities
3. **Side.**
Residential and mixed residential use - single-family detached may use zero lot-line with 15 feet between structures (or one 15 feet side yard). Single-family attached, rowhouses, etc. zero feet.
All corner lots ten feet side yard.
Mixed non-residential use - Interior lot zero feet. Corner lot five feet.

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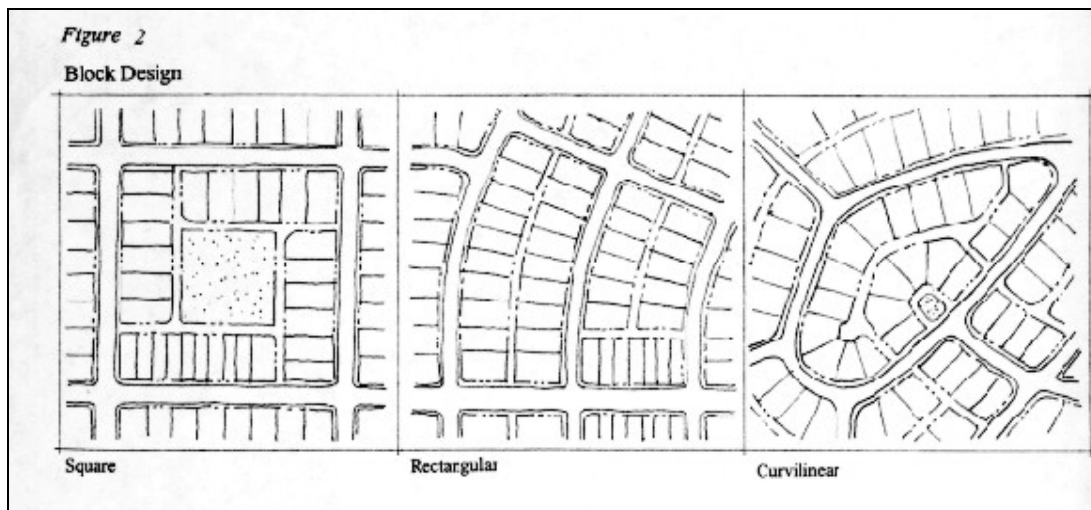
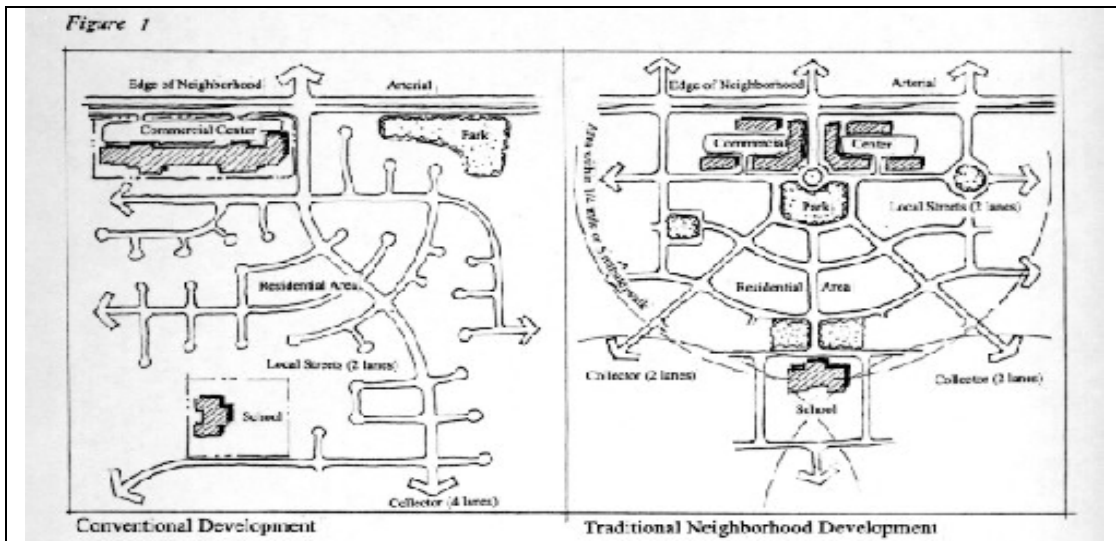
F. **Limitations on uses.** The following limitations apply to this district:

1. The TND must be serviced by central potable-water and waste-water treatment facilities.
2. No special exceptions are to be granted beyond the established pre-determined TND land use program and plan.
3. The TND must not be divided or severed by a vehicular arterial exceeding two lanes.

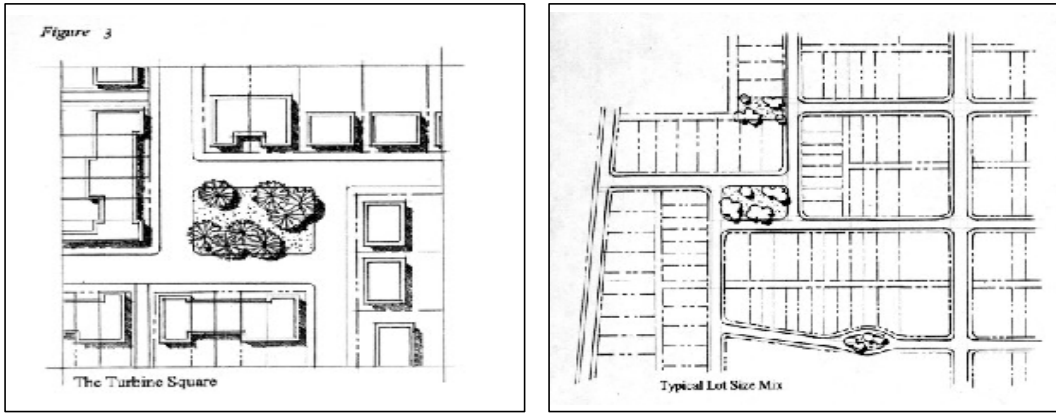
G. **Application procedures and approval process.** See section 12.04.200, Application and review procedures.

H. **Traditional neighborhood development land development regulations.** See section 12.08.128, Traditional neighborhood development.

I. Graphic illustrations to explain certain TND requirements.



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(Ord. No. 05-06-05; Ord. No. 06-07-04, §§ 9, 10; Ord. No. 09-10-03 § 20)

Sections 12.05.261--12.05.279. Reserved.

Section 12.05.280. P public and quasi-public lands district.

- A. **Intent.** The P public and quasi-public lands district implements the public/quasi public facility and institutional lands comprehensive plan land use category. The district allows lands, uses and structures in public ownership, or owned by not for profit organizations used for the purposes described in this section.
- B. **Permitted principal uses and structures are used for:**
1. Public uses, including: recreation, athletic sports, stadiums, elementary, middle, and high schools, college and university campuses, military training and management, flood control, sanitary landfill, potable water and sewer treatment plants, land for sludge application, civic buildings, public utilities, public utility facilities, and government activities.
 2. Churches and church owned land that is used for other than regular worship services such as retreats, camps, parochial schools, and playgrounds.
 3. Lodges and meeting halls of not-for-profit fraternal organizations when directly related to the major purpose of the not-for-profit organization.
 4. Cemeteries that are open to the public.
 5. Hospitals.
 6. Libraries, museums, elementary, middle, and high schools, college & university campuses, and all other similar institutional uses.

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7. Wastewater and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility.

Any uses or changes in uses that are requested by the property owner but are not listed in this section shall be submitted in the application for amendment and presented at public hearing to the P&Z and the BCC.

C. Reserved.

D. Special exceptions. Permissible in this district by the BOA after public hearing and subject to appropriate conditions and safeguards, are:

1. Wireless communications facility (WCF) or transmission tower or tower, including lattice towers, guyed towers, monopole towers, ground-mounted towers and alternative tower structure or other similar wireless communications facilities are special exceptions, pursuant to the requirements of this chapter and the standards contained in sections 12.08.133 and 12.08.135 of this Code.
2. Residence for on-site manager or custodian or similar personnel.
3. Access and on-site parking for on-site manager and/or research personnel.
4. Trailhead facilities and on-site parking.
5. All wastewater treatment and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility.
6. Utility companies, railroads or airport facilities including related administrative headquarters, storage and repair yards ; and power stations and electrical substations.
7. Residential density in church retreats when that density exceeds one unit per acre.
8. When a development is proposed to exceed the maximum intensity (FAR) for non-residential uses pursuant to section 12.05.280.J, or maximum impervious surface ratio pursuant to section 12.05.280.K, or maximum building height pursuant to section 12.05.280. M, below.

E. Limitation on uses. The following limitations on uses in this district shall apply:

1. Wastewater treatment facilities or structures. or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. Landfills and incinerators shall be allowed in this district only on lands owned by the BCC.
3. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW

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public water supply district, and sections 12.03.107 and 12.03.411 special use permit approved by the BCC.

4. Proposed uses and/or changes in uses and signs must be proposed and included in the application and will be submitted at public hearings, to the P&Z and the BCC for approval to ensure compatibility with the overall plan of the County. (Ord. No. 05-06-05, § 61; Ord. No. 05-06-30, § 61)
- F. **Permitted accessory uses and structures** in this district are uses and structures accessory to the permitted principal use, including living quarters accessory to a permitted use.
- G. **Prohibited uses and structures** are any uses not listed either as permitted or as special exceptions.
- H. **Minimum parcel requirements.** 20,000 square feet and a minimum of 80 feet of road frontage for a quasi-public use.
- I. **Development capacity.** Permanent residential uses between one unit/acre and one unit/five acres, plus facilities and improvements necessary for the intended use or activity. The density or development capacity at campgrounds, rental units, or sleeping rooms at church retreats shall be governed by the building envelope established in paragraphs 12.05.280.J, K, L, M, and N below and shall be approved as part of the special exception required in paragraph 12.05.280.D.
- J. **Maximum intensity for non-residential uses. Floor area ratio.**
1. **All uses fronting US 27:** Up to 1.00 FAR.
 2. **All uses not fronting US 27:** Up to .30 FAR.
 3. Any request for FAR greater than allowed in this paragraph is subject to a special exception approved by the BOA with appropriate safeguards and conditions.
- K. **Maximum impervious surface.**
1. **All uses fronting US 27** up to 75 percent maximum impervious surface coverage.
 2. **All uses not fronting US 27** up to 50 percent maximum impervious surface coverage.
 3. Any request for maximum impervious surface greater than allowed in this paragraph is subject to a special exception approved by the BOA with appropriate safeguards and conditions.
- L. **Minimum setback requirements.**
1. **Front:** Residential and mixed residential use--25 feet.
Non-residential use--75 feet.
 2. **Back:** Residential and mixed residential use--50 feet.
Non-residential use--75 feet, off-street parking can be accommodated in rear setback.

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3. **Side:** Residential and mixed residential use--50 feet.
Non-residential use--75 feet.

- M. **Maximum height of structures.** No portion intended for human occupancy shall exceed 50 feet in height. Any request beyond 50 feet is subject to approval by the BOA with appropriate safeguards and conditions. Exceptions as provided in Sections 12.05.302, 12.08.133, and 12.08.135 may apply. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 21)
- N. **Minimum area of structures for human occupancy.** The minimum area of structures for human occupancy in this district shall be 480 square feet for a mobile home, rental units or sleeping rooms at church retreats shall be at least 150 square feet, and otherwise 750 square feet.
- O. **Limitations on signs.** The following limitations on signs shall apply in this district. No signs intended to be read from off the premises, except:
1. Signs as permitted for B-2 with the exception of off-site signs.
 2. No sign within 50 feet of R-1A, R-1, R-2, R-3, M-1-S, M-1, M-2 or EU district.
 3. No ground sign to exceed 25 feet in overall height above ground.
 4. Roof signs not to exceed 25 feet in height above the roof and not to obstruct light or air of adjacent property.
 5. Vertical projecting signs, not to extend over five feet beyond the wall.
 6. Temporary construction signs: Same as for R-3.

All sign uses and types can be increased above the minimums stated above when proposed in the application reviewed by the BCC at public hearing, based on a recommendation by the P&Z. (Ord. No. 06-07-04, § 13) (Res. of 8-18-70, § 5 (sched. P-1); Ord. No. 93-15, § 42; Ord. No. 94-4, § 17 Ord.98-04 § 6, Ord.99-3 § 9; Ord. 0-1 §5; Ord. 00-01-11 § 21; Ord. 03-04-1)(Old Sec. 12-91)(Ord. No. 05-06-05, § 61; Ord. No. 05-06-30, § 61; Ord. No. 06-07-04, § 13; Ord. No. 09-10-03 § 21)

Section 12.05.281. PW public water supply district.

- A. **Intent.** This district is intended to include all potable water facilities in order to: (1) attain consistency with the public water supply land use classification, as required by F.S. Ch. 163; (2) maintain and protect the natural and manmade environment and resources in a manner protective of the water supply; (3) ensure the availability of adequate dependable sources of good quality water for domestic, residential, commercial, and industrial use, as required by F.S. Ch. 163; (4) protect both quantity and quality of groundwater supply and to protect groundwater supplies from potential contamination and depletion; and (5) safeguard the health, safety, and welfare of the citizens of Highlands County.
- B. **Applicability.** This zoning district shall apply to all potable water facilities that must obtain a water use permit from a water management district and have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd.

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- C. **Permitted principal uses.** Only uses functionally related to the water supply system, open space, parks, playgrounds, playing courts, open air shelters, and other similar recreation facilities are allowed.
- D. **Permitted accessory structures.** Only structures accessory to the permitted principal uses are allowed.
- E. **Prohibited uses.** No parking areas, structures, or impervious surfaces, except for those shown as permitted or accessory shall be allowed.
- F. **Minimum lot requirements.** A minimum lot necessary to provide for both the zone of control and zone of exclusion, as required by Division 3 of Article 12 of the Highlands County Code of Ordinances. A smaller lot may be allowed if the use predates the adoption of this chapter or the special use approval allows a smaller lot. (Ord. No. 05-06-05, § 62; Ord. No. 05-06-30, § 62)
- G. **Special use permit** may be granted by the BCC after receiving a recommendation from the P&Z at a public hearing and subject to appropriate conditions and safeguards for a public water facility covered or included by Florida Administrative Code 40D-2 or 40E-2. Proof and specific evidence shall be provided that the following requirements and the standards contained in sections 12.03.107 and 12.03.411 of this Code are satisfied. Potable water facility covered or included by Florida Administrative Code 40D-2 or 40E-2 must satisfy the following standards:
1. Will complete an environmental impact report that certifies that the ground water, lake levels, native habitat, and natural resources under the Highlands County Comprehensive Plan Natural Resource Element will be protected; and
 2. Will comply with water well or treatment facility standards contained in the applicable water use permit issued by the water management district. This compliance shall include reasonable assurances, on both an individual and a cumulative basis, that the use:
 - a. Is reasonable and beneficial to the public and residents of the developments; and
 - b. Is in the public interest; and
 - c. Will not interfere with any existing legal use of water; and
 - d. Is necessary to fulfill a certain reasonable demand; and
 - e. Will not cause quantity or quality changes which adversely impact the water resources, including both surface and ground waters; and
 - f. Will not cause adverse environmental impacts to wetlands, lakes, streams, estuaries, fish and wildlife or other natural resources; and
 - g. Will not cause water levels or rates of flow to deviate from the ranges set forth in Chapter 40D-8; and

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- h. Will utilize the lowest water quality the applicant has the ability to use; and
- i. Will not significantly induce saline water intrusion; and
- j. Will not cause pollution of the aquifer; and
- k. Will not adversely impact offsite land uses existing at the time of the application; and
- l. Will not adversely impact an existing legal withdrawal; and
- m. Will utilize local water resources to the greatest practicable extent; and
- n. Will not cause water to go to waste; and
- o. Will not otherwise be harmful to the water resources within the County; and
- p. Will submit a completed surface and ground water management plan that addresses the requirements listed above.

(Ord. No. 99-18 § 59)(Ord. 03-04-1)(Old Sec. 12-91.1)(Ord. No. 05-06-05, § 62; Ord. No. 05-06-30, § 62)

Section 12.05.282. CM conservation/management lands district.

- A. **Intent.** The conservation/management lands district is intended to apply to all lands in public ownership for the purpose of preserving sensitive vegetative communities and wildlife habitats, watershed and riverine resources, receiving areas for off-site environmental mitigation banking and areas being reclaimed from river realignment and floodplain restoration. This district also accommodates those quasi-public and private uses that are committed to environmental and agricultural research and managed without public participation, but enjoying the benefit of tax exemptions. This district implements the conservation/management lands future land use map designation with three categories in order to differentiate lands dedicated to conservation and lands managed in non-urban uses that could be construed as lands that are not conservation. These three categories are: conservation, research, and managed.
- B. **Permitted principal uses and structures.**
 - 1. **Conservation category includes:**
 - a. Conservation and recreation lands.
 - b. Water management district lands.
 - c. State parks and monuments.
 - d. Open space and conservation easements and rights-of-way.
 - e. State natural wildlife and plant preserves.

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- f. Delineated watersheds and wetland systems.
 - g. Off-site environmental mitigation banks.
 - h. Environmental interpretive and educational facilities.
 - i. County natural wildlife and plant preserves.
 - j. River and creek green ways and trails.
 - k. Recreational green way corridors.
 - l. Trail head facilities, and campgrounds owned and managed by a public entity such as a federal, state, water management district, County, city, or special improvement district.
 - m. Other similar public, quasi public, or private lands.
 - n. Residence for on-site manager or custodian.
 - o. Residence for research personnel.
 - p. Access and on-site parking for on-site manager and/or research personnel.
2. **Research category includes:**
- a. Environmental research and experimentation facilities.
 - b. Agricultural research and experimentation facilities.
 - c. Research arboretum.
 - d. Environmental interpretive and educational facilities.
 - e. Other similar public, quasi public, or private lands.
3. **Managed category includes:**
- a. Federal military reservation and open space management.
 - b. Public lands leased for agricultural use.
 - c. Museum for historic and contemporary agricultural practices.
 - d. Indigenous peoples reservation.
 - e. Other similar public, quasi public, or private lands.

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4. Any uses or changes in uses that are requested by the property owner but are not listed in this section shall be submitted in the application for amendment and presented at public hearing to the P&Z and the BCC.
5. Wastewater and water treatment facilities serving a single development when the water treatment facility is not included in the definition of a potable water facility. (Ord. No. 05-06-05, § 63; Ord. No. 05-06-30, § 63)

C. **Limitation on uses.** The following limitations on uses in this district shall apply:

1. Wastewater treatment facilities or structures or water treatment facilities or structures shall conform to the standards contained in section 12.08.131.
2. All potable water facilities that have an annual average withdrawal from any source or combined sources greater than or equal to 100,000 gpd, shall be located within the public water supply zoning district and the public water supply comprehensive plan future land use map designation and shall obtain a special use permit satisfying the standards contained in section 12.05.281, PW public water supply district, and sections 12.03.107 and 12.03.411 Special use permit approved by the BCC. (Ord. No. 05-06-05, § 64; Ord. No. 05-06-30, § 64)

D. **Permitted accessory uses and structures.** Accessory structures are permitted.

E. **Prohibited uses and structures.**

1. Any uses not listed either as permitted or deem necessary by the BCC or as special exceptions.

F. **Special exceptions.** Permissible in this district, by the BOA, after public hearing and subject to appropriate conditions and safeguards are:

1. All wastewater treatment and water treatment facilities serving more than one development when the water treatment facility is not included in the definition of a potable water facility. (Ord. No. 05-06-05, § 65; Ord. No. 05-06-30, § 65)

G. **Minimum parcel requirements.** None.

H. **Maximum development capacity, maximum impervious surface, and floor area ratio.**

1. **Development capacity:** One unit/80 acres, plus facilities and improvements necessary for the intended conservation use or activity, excluding campgrounds owned and managed by a public entity such as a federal, state, water management district, County, city, or special improvement district or one unit on a lot of record or vested lot.
2. **Floor area ratio:** Up to 0.15 FAR.
3. **Maximum impervious surface** of all buildings shall not exceed one percent for every five acres and portion thereof but limited to that which is necessary to support the intended conservation or

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management use or activity, but no greater than five percent. (Ord. No. 05-06-05, § 66; Ord. No. 05-06-30, § 66)

- I. **Minimum yard requirements.** The minimum depth of front and rear yards and width of side yards in this district shall be as follows:
1. **Front:** 50 feet.
 2. **Side:** 25 feet.
 3. **Rear:** 50 feet.
 4. **Corner, side:** 50 feet.
- J. **Maximum height of structures.** No portion intended for human occupancy shall exceed 35 feet in height, except as provided in Section 12.05.302. See definition of Height of buildings in Section 12.02.104. (Ord. No. 09-10-03 § 22)
- K. **Minimum area of structures.** The minimum area of structures for human occupancy in this district shall be 750 square feet.
- L. **Limitations on signs.** The following limitations shall apply in this district:
1. One non-illuminated wall or ground sign, not to exceed 12 square feet in area, identifying the parcel or facility;
 2. One non-illuminated directional sign, not to exceed six square feet in area;
 3. One non-illuminated wall or ground sign, not to exceed two square feet in area, identifying each principal structure.
 4. Trespassing or caution sign, none to exceed four square feet in area.
 5. Where use of land is authorized pursuant to special exception, the BOA may allow additional signs of such number and location, but consistent with the above cited sizes, as it may find appropriate and consistent with this chapter.
 6. All other sign uses and types are prohibited except by authorization of the BCC.

(Ord. No. 98-04 § 8; Ord. No. 99-18 § § 21, 40, 58)(Ord. 03-04-1)(Old Sec. 12-101)(Ord. No. 05-06-05, § 63--66; Ord. No. 05-06-30, § 63--66; Ord. No. 09-10-03 § 22)

Section 12.05.283. A-1 airport district.

- A. **Intent.** The A-1, airport district, is designed to accommodate airport uses which involve certain influences and hazards, but which are essential for the economic viability of the area. This district is designed to protect adjacent residential areas while at the same time ensuring adequate areas for airport and economic development activities. This district is designed to provide adequate space in appropriate

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locations for uses that serve economic development and the needs of the motoring and aviation related public. The A-1, airport district, should serve the major transportation interchanges of vehicle, rail and air transportation.

B. Permitted principal uses and structures. In the A-1, airport district, the following uses and their accessory uses are permitted, unless prohibited in subsection E. below:

1. At any location within the district that is not within 500 feet of a residentially zoned property or recreation or drainage facilities that are a part of that residential development:
 - a. Any use permitted in the I-2 industrial district;
 - b. Any use permitted in the B-3 business district;
 - c. Any use permitted in the BC-2 business campus, research, and light manufacturing park district;
 - d. Any use permitted in the CG-1 campground district;
 - e. Airports and aviation related uses;
 - f. Automobile raceways;
 - g. Cultural and recreational services;
 - h. Transient habitation; hotels and motels;
 - i. Motor vehicle rentals;
 - j. Food and beverage services;
 - k. Food service; takeout; and
 - l. Public transport, communication, and utility services.
2. At any location:
 - a. Any use permitted in the O office district;
 - b. Any use permitted in the B-1 neighborhood business district;
 - c. Government administrative services;
 - d. Automotive parking; and
 - e. Mixed use transit residential development, otherwise known as hangar homes.

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- C. **Permitted uses as special exceptions.** Reserved.
- D. **Signs.** No signs intended to be read from off the premises, except:
1. Signs as permitted in B-2
 2. Temporary construction sign: Same as for R-3.
- E. **Prohibited uses.**
1. Uses not specifically permitted.
 2. Sexually oriented businesses.
 3. Rifle range.
 4. Animal slaughterhouse or abattoir; asphalt manufacture or refining; paving plant; corrosive acid manufacture including hydrochloric, nitric, sulphurous and sulfuric acids; bone distillation; blast furnace; creosote manufacture or treatment; coke oven; distillation of coal tar, petroleum, refuse, grain of wood; drilling, production or refining of petroleum or inflammable liquids; fat rendering; fertilizer manufacture, except the cold compounding of non-odorous materials foundry; gunpowder, manufacture or storage of fireworks or other explosives, except as incidental to a permitted use; incineration, reduction or storage of garbage, offal, dead animals (not including the Highlands County Animal Control Department), refuse, rancid fats; glue size or gelatin manufacture, where the processes used include the refining or recovering of products from fish, animal refuse or offal (not including the tanning of animal hides); house wrecking yards, used building material yards; junkyards, automobile wrecking yards; salvage yard; paper and pulp mills; pyroxylin and pyroxylin product manufacture; rubber manufacture from raw materials; smelting or refining of metals ores; steel manufacture by Bessemer, open hearth or other process; steel mills, rolling mills, blooming mills; stock yards or feeding pens; tallow, grease or lard manufacture or refining from animal fat; extraction of animal, vegetable or fish fat and oils; poisons, poison gases; acids, batteries.
 5. Landfill.
 6. Store, recycle, or mulch, soil, sand, muck and natural vegetative material.
 7. Correctional or penal institution.
- F. **Buffer.** Where a use is established in a portion of an A-1 zoned district, which abuts property that is zoned residential, the airport or other developer of said use shall provide a transitional protective yard Type A, pursuant to the requirements of Article 11 of Chapter 12 of the land development regulations.
- G. **Height limits.** All structures, including towers, are not to exceed the height requirements established by the FAA for land side improvements. All airspace management and approach procedures are to take

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precedence in setting height limitations on all structures. When adjacent to residential uses, towers are not to be located any closer than 500 feet.

(Ord. No. 05-06-05)

Sections 12.05.284--12.05.289. Reserved.

Section 12.05.290. PD planned development district.

- A. **Purpose and intent of the district.** The PD district is designed to allow an applicant to submit a proposal for consideration, and to allow the BCC to approve any proposal which it determines to be in the best interest of the public health, safety, and welfare, along with any conditions or requirements or limitations thereon which the board deems advisable. The PD district is intended to:
1. Promote more efficient and economic uses of land;
 2. Provide opportunities for design innovations by individual planned developments which are not provided for or allowed in the underlying zoning districts established by this chapter;
 3. Promote home ownership opportunities for all residents of the community;
 4. Encourage flexibility in design and permit planned integration of multiple uses and structures;
 5. Encourage uses of land which reduce transportation impacts;
 6. Provide for more usable and suitably located recreational facilities, open spaces and scenic areas, either commonly owned or publicly owned, than would otherwise be provided under conventional land development procedures;
 7. Lower development and building costs by permitting smaller lots, networks of utilities, and streets and the use of more economical building types and shared facilities; and
 8. Accomplish more desirable living and working environments than would be possible through the strict application of the minimum requirements of the County's other zoning and subdivision regulations.
- B. **Voluntary procedure.** Rezones to the PD district shall be an entirely voluntary procedure to be pursued only at the option of the applicant, and the County shall not itself initiate such rezoning on privately owned lands.
- C. **Establishment of planned development districts.** Planned development districts can occur in all zoning districts. Planned development districts will be established from designated existing zoning districts by amendment of the official zoning map.
- D. **Effect of planned development approval.** When approved pursuant to the provisions of this Code, the conceptual development plan and other documents as are adopted by resolution shall constitute an amendment to these regulations. Development within a planned development shall occur in conformity with the approved conceptual development plan. (Ord. No. 05-06-33 § 8)

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- E. **Application of other ordinances.** All building codes, housing codes, and other land use regulations of the County are applicable to the PD district. Special exceptions and zoning variances pursuant to Chapter 12 are not allowed.
- F. **Application requirements.** The completeness of an application shall be determined by the development services director pursuant to the requested data and analysis cited in the options below.
- G. **PD development plan.** Any petition for planned development district zoning shall be accompanied by a professionally prepared master development plan of the development that will convey the general extent and character of the proposed improvements and which shall comply with one of the three following options:
1. **Information required in a PD development plan.** A PD development plan, drawn to acceptable scale, which shall include:
 - a. The title of the project and name of developer; and
 - b. A general location map; and
 - c. A site as-built map indicating the boundaries of the subject property, all existing streets, buildings, water courses, the existing topography at contour intervals adequate to show drainage, existing land uses, and other important physical features within the proposed project; and
 - d. The PD site development plan should illustrate the proposed use of all land within the project boundaries, including all buildings and building sites, the location and function of all areas proposed to be dedicated or reserved for community or public use, the proposed public and private circulation system, including vehicular and pedestrian if applicable, as well as, primary access points to the existing street network, and, if applicable, illustrate anticipated development phasing; and
 - e. The anticipated demand and impacts from the anticipated project population or an estimate of consumer and/or employee and/or residential dwelling unit impact on all proposed drainage, potable water, sanitary wastewater, and other utility service systems, solid waste generation, and parks and recreation based on the levels of service (LOS) established by the comprehensive plan; and
 - f. Location of xeric uplands, wetlands, and cutthroat seeps; and a list of permit applications for state or federal environmental reviews; and
 - g. A conceptual development program statement that includes: for residential development, the anticipated numbers of dwelling units, by type, the area of all individual uses, the potential population estimate at build-out; and/or for non-residential development, the gross floor area, the floor area ratio (FAR) or building mass on the plan.

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- h. Traffic analysis: A traffic impact analysis study prepared pursuant to Article 13 of this Code.
 - i. Affidavit of ownership: An affidavit documenting ownership, including written legal description of the subject property, together with names and addresses of all owners of record.
 - j. Other information: Optional graphic material may be submitted to illustrate the proposed residential product through architectural elevations and perspective sketches for conveying and clarifying the nature of the proposed development. The same will be accepted for non-residential developments.
2. **Option # 1 development:** All information required in section 12.05.290.G.1 shall be provided for an Option # 1 development.
3. **Option # 2 small scale PD development:** All small scale PDs shall have less than ten acres, commercial development shall meet the criteria for commercial small scale comprehensive plan amendments, and residential development shall have less than 12 units per acre. All applications within this district shall include the same information required in Option # 1 except sections 12.05.290.G.1.c and 12.05.290.G.1.e. The County engineer and the development services director shall determine if a traffic impact analysis identical to the requirements of small scale comprehensive plan amendments is required or if a development is exempt.
4. **Option # 3 De Minimis PD development,** as defined by FAC 9J - 5 (when commercial development is less than 2,000 square feet) or previously approved flexible unit developments (FUDs): All such applications including those for redevelopment or an expansion of existing development within this district shall include the same information required in Option # 2. A traffic analysis, pursuant to section 12.05.290.G.1.h. (traffic analysis), is waived.
5. **General requirements:**
- a. **Permitted uses:** Any use permitted in the underlying zoning district may be permitted. The BCC may delete specific uses permitted in the underlying district. Any use not expressly permitted in the underlying district may be permitted with the approval of the BCC.
 - b. **Other development standards:** All other development standards will be established by the underlying district. However, the BCC, may permit modification of any specific requirement of the underlying district.
 - c. **Phasing:** When provisions for phasing are included in the development plan, each phase of the development must be so planned and so related to previous development, surrounding properties, and the available public facilities and services that a failure to proceed with subsequent phases of development will have no adverse impact on the completed phase(s) or surrounding properties.

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- d. **Other conditions:** The BCC may establish, in addition to concurrency requirements and the time limits set by relevant development orders cited in the land development regulations, reasonable conditions, including periods of time for completing the project or phases thereof including any dedicated public facilities which are a part of the development.
6. **Status of previously approved FUDs or PDs:** Any active or completed flexible unit development or planned development project previously approved shall continue to be governed by the approved FUD or PD plan and any agreements, terms and conditions to which the approval may be subject, as long as the project continues to be actively under development.
7. **Amendments to approved planned development plan:** Whenever any application is made to substantially modify the approved PD plan or to undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the PD district. Major amendments to an existing planned development must be approved by the BCC. An individual or cumulative increase in density or intensity of less than one percent does not require an amendment. Minor amendments to an existing planned development may be approved by the development services director. Minor changes include the following:
 - a. An individual or cumulative increase of between one and five percent in the density or intensity in the approved development plan. (An individual or cumulative increase of density or intensity above five percent requires an amendment)
 - b. Internal realignment of rights-of-way, other than a relocation of access points to the PD itself, where there is no net reduction of the size of conservation/preservation areas or required easements;
 - c. Relocation of building envelopes where there is no encroachment upon required conservation or preservation areas and no reduction in the setbacks between the buildings and perimeter boundary lines;
 - d. Relocation of swimming pools, clubhouses, or other recreation or other common facilities when such relocation will have no net impact on adjacent properties or land uses; and
 - e. Relocation, reduction, or reconfiguration of lakes, ponds, or other water facilities subject to the submittal and approval of revised water management plans.
8. **Review and approval process:** Except as provided in subsection 4, all amendments, changes in uses, conditions or development standards and any other change in an approved PD will be submitted at public hearings, to the P&Z for recommendation and to the BCC for approval. (Ord. No. 05-06-05 § 67; Ord. No. 05-06-30 § 67)

(Ord. No. 96-05, § 5; Ord. No. 96-13, §§ 1, 2; Ord. 99-23 §§4, 5)(Ord. 03-04-1)(Old Sec. 12-102) (Ord. No. 05-06-05 § 67; Ord. No. 05-06-30 § 67; Ord. No. 05-06-33 § 8)

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Section 12.05.291. Flexible development (FUD) district.

- A. **Flexible unit developments.** (FUD) can be established from a designated existing zoning district by amendment of the official zoning map. FUDs can include any type development.
- B. **Voluntary procedure.** Rezones to the FUD districts shall be an entirely voluntary procedure to be pursued only at the option of the applicant, and the County shall not itself initiate such rezoning on privately owned lands.
- C. **Effect of FUD approval.** When approved pursuant to the provisions of this Code, the FUD development plan and other documents as are adopted by resolution shall constitute an amendment to these Regulations. Development within a FUD shall occur in conformity with the approved FUD development plan. (Ord. No. 05-06-33 § 9)
- D. **Application requirements.** The completeness of an application shall be determined by the development services director pursuant to the requested data and analysis cited in the options below. All petitions for FUD district zoning shall be accompanied by a FUD development plan which shall include the title of the project, name of developer, and a general location map. The plan shall convey the general extent and character of the proposed improvements, drawn to acceptable scale in order to illustrate the proposed use of all land within the project boundaries, including all buildings and building sites, the location and function of all areas proposed to be dedicated or reserved for community or public use, the proposed public and private circulation system, including vehicular and pedestrian if applicable, as well as, primary access points to the existing street network, and, if applicable, illustrate anticipated development phasing.
- E. **General requirements.**
1. **Permitted uses.** Any use permitted in the underlying zoning district may be permitted. The BCC may delete specific uses permitted in the underlying district.
 2. **Development standards.** All other development standards will be established by the underlying district. Density or intensity, lot sizes and setback lines are to be established by the BCC on each individual layout submitted for approval. The BCC may also establish other reasonable conditions, including but not limited to provisions for phasing, time limits set by relevant development orders cited in the land development regulations, time for completing the project or phases, completion of public facilities which are a part of the development and other conditions that respond to the site development issues contained on the FUD development plan.
- F. **Status of previously approved FUDs.** Any active or completed FUD project previously approved shall continue to be governed by the approved FUD plan and any agreements, terms and conditions to which the approval may be subject, as long as the project continues to be actively under development.
- G. **Amendments to approved FUD plan.** Whenever any application is made to substantially modify the approved FUD plan or to undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the FUD district. Major amendments to an existing FUD must be approved by the BCC. An individual or cumulative increase in density or intensity of less

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than one percent does not require an amendment. Minor amendments to an existing FUD may be approved by the development services director. Minor changes include the following:

1. An individual or cumulative increase of between one and five percent the density or intensity in the approved development plan (An individual or cumulative increase of density or intensity above five percent requires an amendment);
2. Internal realignment of rights-of-way, other than a relocation of access points to the FUD itself, where there is no net reduction of the size of conservation/preservation areas or required easements;
3. Relocation of building envelopes where there is no encroachment upon required conservation or preservation areas and no reduction in the setbacks between the buildings and perimeter boundary lines;
4. Relocation of swimming pools, clubhouses, or other recreation or other common facilities when such relocation will have no net impact on adjacent properties or land uses; and,
5. Relocation, reduction, or reconfiguration of lakes, ponds, or other water facilities subject to the submittal and approval of revised water management plans.

H. Review and approval process. Except as provided in section 12.291.I, all amendments, changes in uses, conditions or development standards and any other change in an approved FUD will be submitted at public hearings, to the P&Z for recommendation and to the BCC for approval. (Ord No. 05-06-05 § 68; Ord. No. 05-06-30 § 68)

(Res. of 8-18-70, § 15; Ord. No. 93-15, § 69; Ord. No. 94-4, § 29) (Ord. 03-04-1)(Old Sec. 12-270)(Ord. 05-06-05 § 68; Ord. 05-06-30 § 68; Ord No. 05-06-33 § 9)

Section 12.05.292. Conditional use districts.

Conditional use districts may be regulated within any of the broader districts by appropriate identification of the specific use; provided, however, such use shall be the sole permitted use, and said use shall run with the title to the land until zoned otherwise by the BCC.

(Ord. No. 82-9; Ord. No. 93-15, § 53) (Ord. 03-04-1)(Old Sec. 12-99)(Ord. No. 05-06-05)

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DIVISION 3.

SUPPLEMENTARY DISTRICT REGULATIONS

Section 12.05.300. Single-family uses in the AU district on lots which are one acre or less in size and accessory uses and detached accessory structures in residential districts.

A. All customary accessory uses and detached buildings shall:

1. Not be located in any front yard; Lake front property has the option of declaring the lake side the front yard. However, if the lake side is declared the front, accessory structures shall meet the minimum front yard setback required for the district in which it is located.
2. Be located at least seven and one-half feet from any lot line and at least 15 feet from any side street line and 25 feet from any front street line;
3. Not exceed the height of the principal building on the lot and in no event exceed two stories or 24 feet in height;
4. Not occupy more than 35 percent of any rear and side yard area.

B. A private garage not over one story in height may be located not less than seven and one-half feet from a rear or inside lot line, or two stories in height if guest quarters are included.

C. A pool enclosure consisting of frame with screen panels may be located not less than seven and one-half feet from a rear or inside lot line.

(Res. of 8-18-70, § 7(1); Ord. No. 93-15, § 54; Ord. No. 95-28, § 13)(Ord. 03-04-1)(Old Sec. 12-106)(Ord. No. 05-06-05)

Section 12.05.301. Uses and structures used for accessory purposes in nonresidential districts.

All uses and structures used for accessory purposes in nonresidential districts and which are not permissible as principal uses or structures shall:

- A. Be located on the half or quarter of the lot farthest from any street or streets on which the lot abuts.
- B. Not exceed the height of the principal building on the lot provided that this limitation shall not apply in an I-2 district.
- C. Not occupy more than 35 percent of a required rear yard area.

(Res. of 8-18-70, § 7(2))(Ord. 03-04-1)(Old Sec. 12-107)(Ord. No. 05-06-05)

Section 12.05.302. Exclusions from height limit.

Parapet walls may extend not more than five feet above the allowable building height. The following may exceed the height limits by not more than 25 percent:

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A. Penthouses, scenery lots, towers (other than towers which are wireless communication facilities), cupolas, steeples and domes not exceeding in gross area at maximum horizontal section 30 percent of roof area.

B. Flagpoles, airplane beacons, chimneys, stacks, tanks and roof structures.

(Res. of 8-18-70, § 7(3))(Ord. 00-01-42 §13)(Ord. 03-04-1)(Old Sec. 12-108)(Ord. No. 05-06-05)

Section 12.05.303. Use of residentially zoned property for access.

No residentially zoned land shall be used for driveway, walkway or access purposes to any land that is non-residentially zoned or to any land used for any purpose not permitted in residential districts.

(Res. of 8-18-70, § 7(4))(Ord. 03-04-1)(Old Sec. 12-109)(Ord. No. 05-06-05)

Section 12.05.304. Grade of residential buildings.

The minimum floor elevation above finish grade of residential buildings: eight inches minimum shall be required for concrete block, above the finish grade and 12 inches minimum shall be required above finish grade for frame construction, except that where topographical conditions are such that in the opinion of the building official, compliance would be impracticable or would cause grade level conditions detrimental to adjacent or nearby property, the building official may modify the application of this requirement.

(Res. of 8-18-70, § 7(5))(Ord. 03-04-1) (Old Sec. 12-110) (Ord. No. 05-06-05)

Section 12.05.305. Reserved.

Section 12.05.306. Fences, walls and hedges.

Notwithstanding other provisions of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard in residential districts, provided that, except as provided no fence or wall along the sides or front edge of any required front yard shall exceed a height of four feet except for a chain link fence of five feet in height, or a decorative fence of five feet in height with air space equal to or greater than the width of the vertical pickets, and provided further that no fence, wall or hedge in residential areas shall exceed a height of six feet. Where a fence is placed adjacent to a non-residentially zoned property, the limit along the lot line dividing the residentially and non-residentially zoned property may be up to eight feet in height. All fencing must be located entirely within the property of the applicant. In the event there is a conflict, the height requirements in article 11 of this chapter shall prevail.

(Resolutions of 8-18-70, § 7(7); Ord. No. 93-15, § 55; Ord. No. 94-4, § 21)(Ord. No. 03-04-1) (Old Section12-112) (Ord. No. 05-06-05; Ord. No. 05-06-33, § 10; Ord. No. 07-08-32, § 14)

Section 12.05.307. Base building lines established.

Base building lines are hereby established for all districts whereby no building or structure shall be constructed or erected closer than 15 feet from the street or road right-of-way line. If a future right-of-way has been established and recorded, the recorded and proposed right-of-way shall be used for establishment of setbacks and base building lines.

(Res. of 8-18-70, § 7(8))(Ord. 03-04-1) (Old Sec. 12-113) (Ord. No. 05-06-05)

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Section 12.05.308. Sewage disposal.

Under all zoning classifications in all districts for all structures where a sanitary sewer exists or is later installed within a reasonable distance, a connection thereto shall be required. Where no sanitary sewer exists and an individual sewage disposal system is required, it shall conform with the standards and requirements of the County health department, and building permits shall not be issued for those sites upon which the proposed method of sanitary sewage disposal is not approved by the County health department. Accompanying the building permit application, there shall be a scale drawing of the building and plot plan showing clearly the proposed sanitary disposal system.

(Res. of 8-18-70, § 7(9))(Ord. 03-04-1) (Old Sec. 12-114) (Ord. No. 05-06-05)

Section 12.05.309. Reserved.

Section 12.05.310. Boats, boathouses and docks.

- A. No boat or vessel shall be used for sleeping or living purposes or otherwise as a place of residence on any body of water in the County.
- B. In residential districts, no boathouse shall be erected or altered to an overall height exceeding 18 feet measured above mean lake level. Such boathouse shall not be erected within 15 feet of any side lot line. Buildings accessory to a boathouse shall be attached thereto. Boathouses, including structures accessory thereto, shall not exceed 36 feet in width, measured on a line parallel to the waterway line, or exceed 24 feet in depth, measured at right angles to the waterway line on canals. Lakes may have the option of reversing the measurements. No boathouse shall project beyond waterway line or established bulkhead line more than 33 percent of the width of the waterway or as approved by the state.
- C. Dockage space and facilities for mooring pleasure boats and noncommercial craft are permitted in any residential district on any waterway as an accessory use to residential occupancy of the land or as an accessory use to residential occupancy of other land having the same owner(s) which is located within 150 feet of the property from which the dockage space or mooring facilities is or are constructed measured by a straight line distance between the closest property corner or property line of the property from which the dockage space or mooring facilities is or are constructed to closest property corner or property line of said residentially occupied land.
- D. A building permit to alter or erect any boathouse under this section shall not be issued unless and until evidence has been presented showing that the proposed boathouse or alteration has been cleared with and approved by the appropriate state and federal authorities, or until a showing has been made that such approval or approvals are not required by such authorities.
- E. No dock shall project more than five feet beyond the waterway line or established bulkhead line into any waterway 100 feet or less in width. No dock shall project beyond the mean low water line more than ten percent of the width of the waterway when the waterway is 100 feet or more in width, but no such dock shall extend beyond 200 feet. The 200 feet limitation is subject to the granting of a variance by the BOA and the State.

(Res. of 8-18-70, § 7(11), Ord. 99-23 § 1)(Ord. No. 01-02-5 § 4)(Ord. 03-04-1)(Old Sec. 12-116)(Ord. No. 05-06-05)

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Section 12.05.311. Tents.

No tent shall be erected, used or maintained for living quarters, except in campgrounds and recreational areas properly certified by the state health and rehabilitative services for such use.

(Res. of 8-18-70, § 7(12))(Ord. 03-04-1) (Old Sec. 12-117) (Ord. No. 05-06-05)

Section 12.05.312. Use of abutting similarly classified incorporated and unincorporated areas.

Land uses permitted in the regulations for zoning districts in incorporated areas, when abutting a common boundary with an area of similar zoning classification in the unincorporated area of the County, will be permitted in such area by special exception, subject to the provisions of this Code.

(Res. of 8-18-70, § 7(14); Ord. No. 94-4, § 22)(Ord. 03-04-1) (Old Sec. 12-119) (Ord. No. 05-06-05)

Section 12.05.313. Utility trailers areas.

Utility trailers, except those with a gross unloaded weight of 500 pounds or less and licensed with V tags under state law or eligible for such licensing, may not be parked or located on any property in the R-1A district, except where such utility trailer is parked or located in a building completely enclosed by roof and walls.

(Res. of 8-18-70, § 7(15))(Ord. 03-04-1) (Old Sec. 12-120) (Ord. No. 05-06-05)

Section 12.05.314. Storage or display of used or secondhand merchandise.

A. Whenever storage or display of used or secondhand merchandise, except motor vehicles, farm machinery, boats, mobile homes and travel trailers in running condition, is located outside of a building, there shall be provided and maintained in good condition a continuous fence at least six feet high around the entire display or storage area. Such fence shall be of similar composition, construction and color throughout and shall completely screen the merchandise stored in this area. Plans for such fence shall be submitted to the P&Z, who shall determine whether or not the proposed fence will meet the requirements of this chapter. No building permit shall be issued for the construction of such fence until the approval of the P&Z has been secured. Such fence shall be maintained in good order, shall not be allowed to deteriorate and no signs shall be permitted thereon.

B. In the case of storage or display areas for used or secondhand merchandise which existed on January 1, 1971, the owner, lessee or operator thereof shall within 90 days after such date construct a fence around the storage or display area as above provided.

(Res. of 8-18-70, § 7(16))(Ord. 03-04-1) (Old Sec. 12-121) (Ord. No. 05-06-05)

Section 12.05.315. Temporary use permits.

Temporary use permits may be issued at the discretion of the zoning supervisor for a specified length of time, not to exceed one year, subject to appropriate conditions and safeguards. Such use permits may be renewed for a period not to exceed one year.

(Res. of 8-18-70, § 7(18))(Ord. 03-04-1) (Old Sec. 12-123) (Ord. No. 05-06-05)

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Section 12.05.316. Keeping and maintaining animals including exotic and wild animals.

- A. Except as provided by section 12.05.201 of this chapter, it shall be unlawful for any person to keep or maintain any hoofed animals, fowl or livestock regardless of number, or permit them to be on any lot or premises within the limits of Highlands County, Florida, unless it is zoned for agricultural purposes.
- B. It shall be unlawful for any person to keep or maintain any of the following animals regardless of number on any lot or premises within the limits of Highlands County, Florida, unless it is zoned for agricultural purposes in the AU agricultural district or is in the B-3 business district or the B-4 business district, all necessary state and federal permits are obtained, a special exception is approved pursuant to the standards and requirements of section 12.03.205.C., and the standards of subsections C., D., and E. of this section are satisfied:
1. Carnivores (order Carnivora) other than domestic dogs (*Canis familiaris*) and domestic cats (*Felis catus*).
 2. Poisonous arachnids.
 3. Poisonous reptiles.
 4. Crocodylians exceeding 36 inches in length.
 5. Nonpoisonous snakes exceeding 96 inches in length.
 6. Except as exempted in subsection F. of this section, any other poisonous or venomous Class I or Class II wildlife so classified by the Florida Fish and Wildlife Conservation Commission (FFWCC), which require permits for their possession or exhibition as specified in F.S. Ch. 372.
- C. The application for the special exception required by subsection B. of this section shall specify the number and type of animals proposed on the property and adequacy of the security measures designed for the protection of neighbors.
- D. The property upon which one or more animals is located must be at least five acres in area for the animals listed above in subsection B. of this section.
- E. A facility holding one or more animals listed in subsection B. of this section shall be set back at least 200 feet from any adjacent property line.
- F. This section shall not apply to:
1. Licensed schools engaged in vocational agricultural instruction or businesses licensed for the care of animals.
 2. Class I wildlife, as classified by the Florida Fish and Wildlife Conservation Commission, used for food and associated agricultural uses, e.g. ostriches;

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3. Animals which are domesticated and have the appropriate State of Florida permits;
4. Temporary zoological parks, performing animal exhibitions, circuses which utilize wild animals in their performances or exhibitions and are permitted and regulated by the State of Florida or another section of the Highlands County Code of Ordinances;
5. Any animal rehabilitation center licensed by the State of Florida used primarily for the treatment and temporary housing of sick, injured or orphaned animals and the maintenance of permanently disabled animals, which is located on at least five acres and charges no fees.

(Ord. No. 91-11, § 3; Ord. No. 93-15, § 57; Ord. 00-01-11 §31)(Ord. 03-04-1) (Old Sec. 12-124) (Ord. No. 05-06-05)

Section 12.05.317. Unity of title agreement.

In order to meet minimum area requirements and in other instances when it is deemed necessary for compliance with zoning regulations for the owner of adjacent lots or parcels to execute an agreement whereby such lots or parcels shall be considered an undivided parcel for zoning purposes, a "unity of title agreement" shall be required to be executed by the owner and recorded in the public records of Highlands County. This agreement shall be considered to be a restriction running with the land and shall bind the heirs, successors and assigns of the owner.

(Ord. No. 93-15, § 58)(Ord. 03-04-1) (Old Sec. 12-125) (Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

DIVISION 4.

YARDS

Section 12.05.400. Intent.

Yard requirements stated in the schedule of district regulations of this Code and in this article are designed to ensure adequate light, air, ventilation, safety and privacy.

(Res. of 8-18-70, § 10)(Ord. 03-04-1) (Old Sec. 12-177) (Ord. No. 05-06-05)

Section 12.05.401. Encroachments into yards.

Every part of a required yard shall be open and unobstructed from the ground to the sky except as provided in this section or otherwise permitted by this chapter. The following items may project into a required yard to the extent noted in those districts where such maximum requirements, as are set out in the schedule of district regulations in this Code, are met:

- A. Sills and belt courses, 12 inches.
- B. Cornices, eaves, baywindows, and gutters, three feet, provided that where yard is less than five feet in width, projections shall not exceed one-half of the yard width.
- C. Chimneys, fireplaces or pilasters, two feet.
- D. Movable awnings over doors and windows may not project closer than one foot to any lot line.
- E. Unroofed and unenclosed fire escapes, stairways and balconies of a multiple family dwelling, hotel or motel, five feet into rear yard, three feet eight inches into side yard.
- F. Meter rooms not over seven feet in height, five feet into rear yard.
- G. Unenclosed porches or terraces not over three and one-half feet above ground except for railings and roof, five feet into front yard; ten feet into rear yard; three feet into side yard. No such structure having a roof shall extend closer than two feet to any lot line. The measurement of the setback is from the eave or edge of roof. (Ord. No. 07-08-32 § 15)
- H. Hoods, canopies and marquees, three feet but may not extend closer than one foot to any lot line.
- I. Fences, walls and hedges are permitted as specified in section 12.05.306 this Code.
- J. Accessory structures may be located as specified in section 12.05.300 this Code.
- K. Air conditioning unit, generator, or any similar type use may not be closer than five feet to the side yard lot line. (Ord. No. 07-08-32 § 16)

(Res. of 8-18-70, § 10(1))(Ord. 03-04-1) (Old Sec. 12-178) (Ord. No. 05-06-05; Ord. No. 06-07-04, § 15; Ord. No. 07-08-32, §§ 15, 16)

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Section 12.05.402. Provision of yard on district boundary lines where a residential district adjoins a business or industrial district.

- A. Since yard requirements are not set for business or industrial districts, where such a district is separated by a street from a residential district, any such lot in such business or industrial district adjacent to the separating street shall be provided with a yard at least 20 feet in depth along such separating street.
- B. Where a business or industrial district directly abuts a residential district without any separator, such as a street, alley, canal or other open space between them, then the lots in such business or industrial districts shall be required to provide yards adjacent to the residential districts of depth as noted:
 - 1. **B-1, B-2, O**, 20 feet.
 - 2. **B-3, B-4, BC-1, BC-2, I-1, I-2**, 25 feet.
- C. Any yard required by this section may be used for walkways, driveways or landscaping but not for any other use.

(Res. of 8-18-70, § 10(2); Ord. No. 94-4, § 24)(Ord. 03-04-1) (Old Sec. 12-179) (Ord. No. 05-06-05)

Section 12.05.403. Provision of yards for residential uses in nonresidential districts.

Where a lot or a portion of a lot in a nonresidential district is utilized for a permitted residential use, yards shall be required as follows:

- A. Residential use only principal use on lot, front, side and rear yards for particular residential use involved as specified for lots in R-3 districts.
- B. Residential use on first or ground floor along with a principal nonresidential use on same floor, rear yard and side yards extending to rear yard for portion of lot occupied by residential use.
- C. Residential use located above principal nonresidential use, rear yard and side yards, provided side yards may begin at level of lowest floor used for residential purposes and a side yard is not required on street side of lot.
- D. Lots used for hotels and motels are not required to provide any more or greater yards than would be required for a nonresidential use on the particular lot involved.

(Res. of 8-18-70, § 10(3))(Ord. 03-04-1) (Old Sec. 12-180) (Ord. No. 05-06-05)

Section 12.05.404. Provision of yards for lots without buildings.

Lots utilized for a permitted use without buildings shall have the side yards and front yards required for such lot, unless otherwise stipulated by this chapter. Side yards are not required on lots used for private garden purposes where there are no buildings or structures, nor are side yards required for public recreation areas.

(Res. of 8-18-70, § 10(4))(Ord. 03-04-1) (Old Sec. 12-181) (Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

Section 12.05.405. Provision of yards for group housing.

Where two or more separate buildings for dwelling purposes are erected on the same lot, minimum front, rear and side yards shall be provided as required. The spacing, arrangement and distance between buildings on the lot shall be subject to the approval of the P&Z to assure adequate light, air, safety, ventilation and privacy.

(Res. of 8-18-70, § 10(5))(Ord. 03-04-1) (Old Sec. 12-182)(Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

ARTICLE 6.

NONCONFORMING LOTS, USES OF LAND, STRUCTURES, AND USES OF STRUCTURES AND PREMISES

Section 12.06.100. Intent.

Within Highlands County there exist lots, structures and uses of land which were lawful before the resolution from which this Code is derived was passed or amended, but which would be prohibited under the terms of this Code or future amendment. It is the intent of this Code to permit these non conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Code to be incompatible with permitted uses in the districts involved. It is further the intent of this Code that non conformities shall not be enlarged upon, expanded or extended, or to be used as justification for adding other structures or uses prohibited elsewhere in the same district.

(Res. of 8-18-70, § 8(1)(Ord. 03-04-1) (Old Sec. 12-135) (Ord. No. 05-06-05)

Section 12.06.101. Buildings under construction.

To avoid undue hardship nothing in this Code shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to January 1, 1971, and upon which actual building construction has been diligently carried on as evidenced by the placing of construction materials in permanent position and fastened in a permanent manner and demolition, elimination and removal of an existing structure in preparation for or in connection with such construction.

(Res. of 8-18-70§ 8(2))(Ord. 03-04-1)(Old Sec. 12-136) (Ord. No. 05-06-05)

Section 12.06.102. Nonconforming lots of record; replatting of lots.

- A. In any district in which dwellings are permitted, notwithstanding limitations imposed by other provisions of this Code, residential dwellings and customary accessory buildings may be erected on any single lot of record previously recorded as of January 1, 1971. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot, shall conform to the regulations for the district in which such lot is located.
- B. No parcel of land of less than the required minimum width, street frontage and area requirements for the district in which it is located may be subdivided from a larger parcel of land for the purpose of building or development as a separate lot.
- C. A building permit for a dwelling shall not be issued unless the lot abuts at least 30 feet on a street, and only one single-family dwelling may be constructed on such frontage.
- D. To the extent development shall not be inconsistent with the Highlands County Comprehensive Plan, in the B-1, B-2, B-3, I-1 and I-2 zoning districts, notwithstanding limitations imposed by other provisions of this chapter, structures may be erected on any single lot of record previously recorded as of October 17, 1989, which fails to meet the requirements for area or width, or both, that are generally applicable after that date in the district, provided that yard dimensions and all other requirements not involving area

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or width, or both, of the lot, shall conform to the regulations applicable to the district in which such lot is located.

(Res. of 8-18-70, § 8(3); Ord. No. 93-15, § 59)(Ord. 03-04-1) (Old Sec. 12-137) (Ord. No. 05-06-05)

Section 12.06.103. Nonconforming uses of land and elimination of such uses.

Where, as of January 1, 1971, lawful use of land exists that is no longer permissible under the terms of this Code as enacted or amended, and nonconforming uses created by the consistency rezones of the Highlands County Comprehensive Land Use Plan, adopted January 16, 1991, such use may be continued, so long it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied on such date.
- B. No such nonconforming use shall be moved in whole or in part or extended to include any other portion of the lot or parcel occupied by such use as of such date; except to reduce a nonconforming characteristic of such developed lot.
- C. Accessory structures and uses incidental to the care and maintenance of nonconforming uses created by consistency rezones of the comprehensive plan adopted January 16, 1991, may be established or enlarged upon approval of a special exception by the BOA.
- D. If any such nonconforming use of land ceases for any reason for a period of more than 60 consecutive days, except where such use has been suspended by act of God, any subsequent use of the land shall conform to the regulations specified by this Code for the district in which it is located, except for agricultural type and seasonal type uses. If use of land for such purposes ceases for two consecutive years, then all further use of such land shall be conforming.
- E. The nonconforming use of land which is accessory or incidental to the nonconforming use of a building or structure shall be discontinued on the same date the nonconforming use of the building or structure is discontinued.

(Res. of 8-18-70, § 8(4); Ord. No. 96-05, § 1)(Ord. 03-04-1) (Old Sec. 12-138) (Ord. No. 05-06-05)

Section 12.06.104. Nonconforming structures; amortization of structures designed for certain uses.

Where a lawful structure exists as of January 1, 1971, that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No structure may be enlarged or altered in a way which increases its nonconformity.
- B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of damage or destruction, it shall not be reconstructed except in conformity with the provisions of this Code. The use of any such reconstructed building shall thereafter conform to the provisions of this Code.

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- C. Should any structure be moved for any reason from one lot or premises for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. In all residential districts any building or structure, all or substantially all of which is designed, arranged or intended for a use permitted only in a business or industrial district, shall either be removed or it shall be altered or converted to a building or structure designed for a use permitted in the district within which it is located within six months after the termination of the periods of time set out in this Code. These periods are declared to be the reasonable amortization of the normal, useful life of each class of building and type of construction above the foundations, the type of construction being as defined and specified and in the building code of the County:
1. **Type I**, fire-resistive construction, 30 years.
 2. **Type II**, heavy timber construction, 25 years.
 3. **Type III**, ordinary masonry construction, 20 years.
 4. **Type IV**, metal frame construction, 12 years.
 5. **Type V**, wood frame construction, seven years.

(Res. of 8-18-70, § 8(5))(Ord. 03-04-1) (Old Sec. 12-139) (Ord. No. 05-06-05)

Section 12.06.105. Nonconforming uses of structures.

If a lawful use of a structure or of a structure and premises in combination, existed on August 18, 1970, that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- B. No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.
- C. Any nonconforming use may be extended through any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the resolution from which this Code is derived, but no such use shall be extended to occupy any land outside such building.
- D. Any nonconforming use of a structure or structure and premises in a nonresidential district may be changed to another nonconforming use in such district provided that the zoning supervisor makes a written determination that the proposed use is more appropriate to the district than the existing nonconforming use. Any person aggrieved by the decision of the zoning supervisor may file an appeal with the BOA within ten calendar days of the zoning supervisor decision.

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- E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for at least six consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located, except for seasonal types of uses. If use of a nonconforming seasonal type structure cease for two consecutive years, then all further use shall be conforming.
- F. There may be change in tenancy, ownership or management of a nonconforming use, provided there is no change in the nature or character of the nonconforming use, except as may be provided by this Code.
- G. In residential districts, any change of a nonconforming use in a conforming building shall be only to a conforming use.

(Res. of 8-18-70, § 8(6))(Ord. 03-04-1) (Old Sec. 12-140) (Ord. No. 05-06-05)

Section 12.06.106. Repairs and maintenance.

- A. On any building devoted in whole or in part to any nonconforming use, repairs and maintenance may be done provided that the cubic content of the building as it existed as of January 1, 1971, shall not be increased.
- B. Nothing in this Code shall be deemed to prevent repairs required to restore to a safe condition any building or part thereof declared to be unsafe by the housing official and/or building official.

(Res. of 8-18-70, § 8(7))(Ord. 03-04-1) (Old Sec. 12-141) (Ord. No. 05-06-05)

Section 12.06.107. Unlawful or casual use not grounds for nonconforming status.

Nothing in this Code shall be deemed an authorization for continuation of a use of a structure, or a structure and premises in violation of any other resolution of the County in effect on January 1, 1971, or on the date of an amendment of this Code. Casual, temporary or illegal use of a structure, land or structure and land shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

(Res. of 8-18-70, § 8(8))(Ord. 03-04-1) (Old Sec. 12-142) (Ord. No. 05-06-05)

Section 12.06.108. Uses under exception provisions not nonconforming uses.

Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(Res. of 8-18-70, § 8(9); Ord. No. 96-05, § 2)(Ord. 03-04-1) (Old Sec. 12-143) (Ord. No. 05-06-05)

Section 12.06.109. Non-conformities caused by amendments.

Unless otherwise expressly provided, lots, structures and uses of land and structures which were lawful before any amendment to this Code which are prohibited by or otherwise made nonconforming by reason of that amendment may continue, until they are removed, according to the provisions of this article substituting for the date January 1, 1971, the date of adoption of the ordinance adopting that amendment.

(Ord. No. 93-15, § 60)(Ord. 03-04-1) (Old Sec. 12-144) (Ord. No. 05-06-05)

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ARTICLE 7.

SIGNS

Section 12.07.100. Intent.

It is the intent of the BCC to regulate for the purpose stated herein the number, size, location and character of all signs which may be permitted as a main or accessory use.

(Res. of 8-18-70, § 9)(Ord. 03-04-1) (Old Sec. 12-156) (Ord. No. 05-06-05)

Section 12.07.101. Off-site signs.

Permitted Zoning Districts: Off-site signs of any type or size are prohibited as a main or accessory use in residential districts and within 200 feet of Sebring Parkway except as specifically authorized for the particular district by the text of this chapter and the schedule of district Regulations set out in article V, division 2, of this chapter. Subject to the provisions of this section and the schedule of district Regulations, off-site signs may be permitted in the AU, B-1, B-2, B-3, B-4, I-1 and 1-2.

(Res. of 8-18-70, § 9(1); Ord. No. 93-15, § 61)(Ord. 03-04-1) (Old Sec. 12-157) (Ord. No. 05-06-05)

Section 12.07.102. Off-site sign regulations.

The following general regulations shall apply to those districts where off-site signs are permitted. Where, in any district, the limitations are more restrictive than those stated below, the more restrictive limitations shall apply:

- A. No off-site sign shall:
 - 1. Exceed 50 feet in length or 500 square feet in area.
 - 2. Be located or placed nearer than 200 feet measured along a common right-of-way line to any public or institutional use.
 - 3. Be so located as to encroach on any public way, sidewalk or street or be located in any required yard or setback area or be so located that any part of such sign extends nearer to a street line than any building on contiguous property where such building is located within 100 feet of such sign.
 - 4. Be located closer than 30 feet to the intersection of any two street lines or nearer than 50 feet to any residential zone measured along a common right-of-way.
- B. The top of any off-site sign shall not be higher than 25 feet above the grade of either the lot or the nearest street right-of-way, whichever may be higher, and in no case are double-decker signs permitted.

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C. No off-site sign shall be nearer to another than 500 feet in an AU district, or nearer to another than 300 feet in any other district where off-site signs are allowed, along the same side of a common right-of-way, except that:

1. Two or more off-site signs may be grouped back to back or in a single V having an included angle not greater than 30 degrees at a single location.
2. The aggregate area of such signs at a single location facing generally in either direction shall not exceed 500 square feet and any such grouping of signs shall not exceed 50 feet in length.
3. These limitations on spacing shall not apply to wall signs each of which is not over 32 square feet in area.

(Res. of 8-18-70, § 9(2))(Ord. 03-04-1) (Old Sec. 12-158) (Ord. No. 05-06-05)

Section 12.07.103. Snipe signs.

Snipe signs of all types are prohibited in all zoning districts.

(Res. of 8-18-70, § 9(3))(Ord. 03-04-1) (Old Sec. 12-159) (Ord. No. 05-06-05)

Section 12.07.104. Political signs.

No political signs, advertisements, handbills, snipe signs or billboards shall be placed on property owned or used by the County or by any other governmental agencies or units in the unincorporated area of the County.

(Res. of 8-18-70, § 9(4))(Ord. 03-04-1) (Old Sec. 12-160) (Ord. No. 05-06-05)

Section 12.07.105. Obscene, indecent, lewd or immoral signs prohibited.

No obscene, lewd, indecent, immoral, lascivious or libidinous sign shall be erected or located for whatsoever purpose within the unincorporated areas of the County.

(Res. of 8-18-70, § 9(5))(Ord. 03-04-1) (Old Sec. 12-161) (Ord. No. 05-06-05)

Section 12.07.106. Strip lighting.

A. Strip lighting used solely to outline a structure, except sign structure, or any part thereof, shall be considered to be and shall be regulated as a form of sign. Strip lighting is subject to regulation by the following provisions of this section and shall not be construed to be subject to other limitations of this article for area, size, character or number of signs. Strip lighting is prohibited in certain districts as provided in the schedule of district regulations in this Code:

1. In R-3, B-1 and B-2 districts, strip lighting is limited. (1) to a total footage equivalent to the length (or width) of the building along the street frontage, including any offset thereof; (2) size of tubing may not exceed 15 millimeters; and (3) transformers for strip lighting may not exceed 30 milliamperes.
2. In B-3, B-4, I-1 and 1-2 districts, size of tubing and transformer is not limited, but strip lighting is limited to total footage equivalent to twice the length (or width) of the building along the street frontage, including offsets thereof.

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B. Neon strip lighting and/or streamer lights are prohibited above the roof level of any building, except as part of a permitted roof sign.

(Res. of 8-18-70, § 9(6); Ord. No. 94-4, § 23)(Ord. 03-04-1) (Old Sec. 12-162) (Ord. No. 05-06-05)

Section 12.07.107. Illumination of signs.

All permitted signs may be illuminated neon-type signs are prohibited in certain districts as shown in the schedule of district regulations set out in this Code.

(Ord. 03-04-1) (Old Sec. 12-162)(Ord. 03-04-1) (Old Sec. 12-163) (Ord. No. 05-06-05)

Section 12.07.108. Bus benches.

Benches or shelters containing advertising and located on private property shall comply with all zoning Regulations applicable to signs.

(Res. of 8-18-70, § 9(8))(Ord. 03-04-1) (Old Sec. 12-164) (Ord. No. 05-06-05)

Section 12.07.109. Nonconforming advertising signs.

All nonconforming advertising signs, except as otherwise provided, shall be removed or shall be altered so as to conform with the provisions of this Code within two years of January 1, 1971.

(Res. of 8-18-70, § 9(9))(Ord. 03-04-1) (Old Sec. 12-165) (Ord. No. 05-06-05)

Section 12.07.110. Sign regulations contained in the respective zoning districts.

Sign regulations are contained in the respective zoning districts regulations pursuant to Division 2 of Article 5 of this chapter.

Section of this Chapter Zoning District

- 12.05.201 Estate District**
- 12.05.210 R-1A Residential District**
- 12.05.211 R-1 Residential District**
- 12.05.212 R-2 Two-Family Dwelling District**
- 12.05.213 R-3 Multiple-Family Dwelling including Motel and Hotel District**
- 12.05.214 R-3 NC Non-Commercial Multiple-Family Dwelling**
- 12.05.220 M-1 Mobile Home Subdivision District**
- 12.05.221 M-1-S Mobile Home and Residential Subdivision District**
- 12.05.222 M-2 Mobile Home Park District**
- 12.05.223 RV Park (FUD)**
- 12.05.224 CG-1 Campground District**
- 12.05.225 CG-2 Campground District**
- 12.05.226 CG-3 Campground District**
- 12.05.240 B-1 Neighborhood Business District**
- 12.05.241 B-2 Limited Business District**
- 12.05.242 B-3 Business District**
- 12.05.243 B-4 Business District**
- 12.05.244 O Office District**
- 12.05.245 BC-1 Business Campus, Research, and Light Manufacturing Park District**

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- 12.05.246 BC-2 Business Campus, Research, and Light Manufacturing Park District**
- 12.05.251 I-1 Industrial District**
- 12.05.252 I-2 Industrial District**
- 12.05.281 PW Public Water Supply District**
- 12.05.282 CM Conservation/Management Land District**
- 12.05.290 PD Planned Development District**
- 12.05.291 Flexible Residential Development (FUD) District**
- 12.05.292 Conditional Use Districts**

(Ord. 03-04-1) (Ord. No. 05-06-05)

ARTICLE 8.

SPECIAL LAND USES

Section 12.08.101. Alcoholic beverage establishments.

- A. **Applicability.** Allowed only in B-2, B-3, B-4, I-1, BC-1, BC-2 and any district where it is considered an ancillary use customarily incidental and subordinate to a permitted use.
- B. **Additional application requirements.** A map showing the building, all entrances and exits, and the distance separation requirements as pursuant to the requirements of this section.
- C. **Additional standards for approval.**
 - 1. Other requirements or limitations herein for the sale of liquor, beer or wine for consumption on or off the premises, package liquor stores, cocktail bars, saloons and nightclubs (hereinafter called establishments) are additional requirements and limitations to any other requirements established by the BCC:
 - a. These establishments shall be located at least 1,500 feet from any public, private or parochial school or church. The required 1,500-foot minimum is to be measured by a straight line distance between the front or main entrance of the establishment and the closest property corner or property line of any school or church.
 - b. These establishments shall be located at least 500 feet from any other establishment selling alcoholic beverages. The required 500 feet shall be measured in a straight line from the nearest point of one establishment to the nearest point of another.
 - c. The requirements of this section shall not apply to establishments selling alcoholic beverages for consumption on or off the premises which conform to the following:
 - (1) Where sale of alcoholic beverages is incidental to the service of food prepared for consumption on the premises and there is at least 2,000 square feet of customer space and at least 125 seats at tables or booths for customers; or the sale of alcoholic beverages is incidental to a hotel operation having more than 50 guestrooms and the entrance to the establishment serving alcohol is within the hotel with no outside direct entrance; provided that there shall be no show window, display, sign or other indication of the establishment's location or existence from the exterior of the building other than a sign not greater than 12 square feet.
 - (2) Where sale of alcoholic beverages is incidental to the service of food cooked on the premises of a full-service restaurant that has at least 500 square feet of customer space and at least 50 seats at tables or booths for customers, and no bar; provided that there shall be no show window, display, sign or other indication of the establishment's location or existence visible from the exterior of the building

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other than a restaurant sign; and further provided that no bar, cocktail, beer, wine, liquor or similar sign shall be visible from the exterior of the building.

- (3) For purposes of this section, the term "full-service restaurant" means an establishment, within a building, having a menu and full course meals prepared, served and consumed on the premises.
 - d. The requirements of subsections C.1.a. and b. shall not apply to grocery stores, drugstores or convenience stores selling liquor, beer or wine for off-premises consumption. These establishments, when located within the distance requirements of subsection 1. of this section, shall have no beer, wine or liquor signs visible from the exterior of the building.
 - e. The requirements of subsections C.1.a. and b. of this section shall not apply to private clubs where members and guests are served and there are no indications on the exterior of the building that alcoholic beverages are served therein.
 - f. Nightclubs are subject to the separation requirements of subsection C.1.a. of this section but not to subsection C.1.b. of this section if the nightclub meets the provisions of subsection C.1.c. of this section.
2. Where an establishment is located and begins operation in conformity with this section and with this chapter, the subsequent locating of a school or church within 1,500 feet of such existing establishment shall not be constructed to put such establishment in violation of this chapter.

(Res. of 8-18-70, § 12; Ord. No. 93-15, § 63; Ord. No. 94-4, § 27; Ord. 99-23 § 2)(Ord. 03-04-1) (Old Sec. 12-221) (Ord. No. 05-06-05)

Section 12.08.102 Ethanol or Biofuel Production.

- A. **Definition:** The conversion of biomass (material derived from recently living organisms) energy to liquid fuels.
- B. **Applicability:** Allowed in Sec. 12.05.200, AU Agriculture district, pursuant to Sec. 12.03.411 Special Use Permit approved by the BCC.
- C. **Contingent application approval:** The Board of County commissioners may grant approval of a Special Use Permit application for ethanol or biofuel production contingent upon all listed standards and requirements being satisfied or completed either at time of application for Special Use Permit or if designated by the applicant and approved by the BCC, as part of the approval process for the site plan.
- D. **Completeness of Application:** All information required shall be submitted with the application. An affidavit shall be submitted stating that compliance with all requirements shall be in place prior to the approval of the final site plan. Completeness of the application shall be determined within ten days and shall include certification by the Emergency Operations Center Director and Fire Marshall that the application is complete.

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- E. Additional application requirements and standards for approval:** The following requirements in addition to or supplementing any other applicable requirements of this chapter, may apply to the location, design, construction, operation and maintenance of Ethanol or Biofuel production.
1. **A site plan of sufficient detail**, as pursuant to an application form approved by the Board of County Commissioners.
 2. **Air Quality:** Certificate of Compliance or Letter of Approval as a result of an application under the Clean Air Act and a Air Quality Permit issued by FDEP either at time of application for Special Use Permit or as part of the approval process for the site plan.
 3. **Noise:** The petitioner shall provide a letter from a Florida Registered Professional Engineer indicating that based on the proposed design the factory is not or will not be expected to violate the Highlands County Noise Control Ordinance either at time of application for Special Use Permit or as part of the approval process for the site plan.
 4. **Water Use Permit:** The petitioner shall provide approved Water Management Permits that include potential impacts of any proposed biofuel production facility on the Aquifer, or other groundwater source if applicable.
 5. **Lighting:** The petitioner shall provide a letter from a Florida Registered Professional Engineer indicating that, based on the proposed lighting design the operation does not create or allow lights onto neighboring properties pursuant to the adopted standard contained in this section. Outdoor lighting fixtures shall not be allowed to shine or glare onto adjacent properties. All illumination from lights/fixtures shall be directed towards the ground and shielded to ensure that illumination does not radiate upon other properties unless other adjacent properties are developed together and adopted as a single plan.
 6. **Traffic Impact:** An approved traffic study, pursuant to the standards of the Highlands County Land Development Regulations.
 7. **Restriction of wet mill process:** If corn grain and other grains shall serve as the primary feedstock, then only ethanol production facilities utilizing the dry mill process shall be permitted.
 8. **Odors:** If corn grain and other grains shall serve as the primary feedstock, then fuel ethanol plants shall be required to install thermal oxidizers or other similar technology to remove the volatile organic compounds (VOCs) to reduce odors. If other feedstocks shall serve as the primary feedstock, then fuel ethanol plants shall be required to install Best Available Control Technology (BACT) to minimize air emissions in order to reduce odors. The petitioner shall provide a letter from a Florida Registered Professional Engineer at time of application for Special Use Permit indicating that based on the proposed facility design the operation is not expected to create an objectionable odor at all lot lines for neighboring properties.
 9. **Natural Resources:** The petitioner is required to provide an approved Environmental Clearance Report (ECR) pursuant to Chapter 12, Article 12, Division 6 of the Highland County Code of

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Ordinances, either at time of application for Special Use Permit or as part of the approval process for the site plan.

10. **Vibration:** The petitioner shall provide a letter from a Florida Registered Professional Engineer indicating that based on the proposed facility design that the operation of the biofuel facility is not expected to create vibration as measured at the lot lines of adjacent properties. The standard for vibration shall not be applicable if the property surrounding the plant and plant facilities for a distance of 2,640 feet is owned or under the control of the applicant.
11. **Fire Safety Plan:** The petitioner shall provide a Certificate of Compliance or Letter of Approval as a result of development of a Fire Safety Plan that shall be developed as defined by the Occupational and Safety Health Administration, the Environmental Protection Agency, the Department of Transportation, the National Fire Safety Code, and appropriate State and Local regulation requirements. If special fire hazards are found to exist in conjunction with the construction or operation of such a use, then the applicant shall provide those resources or facilities on site to combat such special fire hazards and shall make provisions to keep those resources or facilities in satisfactory maintenance. The applicant shall ensure that all fire safety provisions are satisfied and met for the life of the project. A Letter of Approval shall be provided by the Highlands County Fire Marshall that confirms that this requirement has been met. Annual inspections shall be allowed by the County's Emergency Operations Director.
12. **Smoke Easement:** Have a deed restriction or covenant running with the land that will be in favor of the County and surrounding land owners that is recorded which consents to controlled burns on surrounding properties.
13. **Impervious surface:** Any production facility located on a parcel greater than 75 acres in size which is surrounded by crop production land providing feed stock for the production facility may exceed the impervious surface ratio otherwise required by subsection 12.05.200.H. (Ord. No. 08-09-64 § 5)

(Ord. No. 07-08-31 § 5) (Ord. No. 08-09-64 § 5)

Section 12.08.103. Bingo games.

- A. **Definition.** Bingo games shall be defined as provided in F.S. § 849.0931, as from time to time amended. All other definitions are pursuant to Article III of Chapter 4 of this Code.
- B. **Applicability.** Allowed only in B-3, B-4, I-1, BC-1, BC-2 and any district where it is considered an ancillary use customarily incidental and subordinate to a permitted use.
- C. **Application requirements.** All application requirements are pursuant to Article III of Chapter 4 of this Code. Completeness of the application will be determined by the County administrator.
- D. **Additional standards for approval.** Additional standards are pursuant to Article III of Chapter 4 of this Code.

(Ord. 03-04-1)(Old Article III Sec. 4-50 thru 4-59) (Ord. No. 05-06-05)

Section 12.08.104. Reserved.

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Section 12.08.105. Camping grounds.

- A. **Applicability.** Section 12.05.224 CG-1 campground district, 12.05.225 CG-2 campground district, and 12.05.226 CG-3 campground district.
- B. **Application requirements.** An applicant shall provide a site plan approved by the state department of health and rehabilitative services when applying to the BOA for special exception.
- C. **Additional standards for approval.**
1. **Minimum size; maximum density.** The site proposed for a camping ground shall contain not less than five acres and not more than 15 campsites per acre shall be permitted.
 2. **Roads.** All weather roads (shell, marl, rock or hard surface) shall be provided and maintained. Two-way roads shall have a minimum travel width of 18 feet and one-way roads 12 feet. Adequate radius shall be provided at all intersections.
 3. **Buffer zone.** A landscaped vegetative buffer zone 20 feet in width shall be provided where a camping ground adjoins other lot lines, not zoned for campgrounds, the nature of which shall be determined by the P&Z
 4. **Permanent structures prohibited.** No structures of a permanent nature shall be erected on any campsite or RV site.
 5. **Tank-emptying facilities.** Facilities for emptying waste tanks of self-contained trailers shall be provided at all camping grounds.
 6. **State regulations.** All camping grounds shall meet the requirements of Chapter 170C-4 or 6 and Chapter 170C-32 of the state sanitary code and such other Regulations as may be adopted by the Highlands County State Department of Health pertaining to camping grounds and sanitary facilities.

(Res. of 8-18-70, § 14 (1-7); Ord. No. 94-4, § 28) (Ord. 03-04-1) (Old Article XI, Sec.'s 12-251,12-252, 12-253, 12-254,12-255,12-256,12-257) (Ord. No. 05-06-05)

Section 12.08.106. Carnivals and exhibitions.

- A. **Definitions.** All definitions are pursuant to section 4-16 of Article II of Chapter 4 of this Code.
- B. **Applicability.** Allowed only in B-3, B-4, I-1, BC-1, BC-2 and any district where it is considered an ancillary use customarily incidental and subordinate to a permitted use.
- C. **Additional application requirements.** All application requirements are pursuant to Article II of Chapter 4 of this Code. Completeness of the application will be determined by the County administrator.

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D. **Additional standards for approval.** Application standards are pursuant to Article II of Chapter 4 of this Code.

(Ord. 03-04-1)(Old Article II Sec. 4-16 thru 4-37) (Ord. No. 05-06-05, § 69; Ord. No. 05-06-30, § 69)

Section 12.08.107. Dwellings. single-family, manufactured home and duplex building permit requirements.

The application process for single-family, duplex and manufactured home construction is similar to that for other structures, but is not as lengthy. It is Highlands County's BCC's intention to make the process as simple as possible and still comply with the requirements of the County's adopted comprehensive plan.

A. **Definitions.** See Article 2, Definitions.

B. **Applicability.** Allowed in all residential districts and any district where single-family, manufactured homes and duplexes are a permitted use or an accessory use.

C. **Additional application requirements.** Application for a single-family, duplex or manufactured home development order is made to the building official and entails submittal of the following, as applicable:

1. Application for a final development order;
2. Evidence that:
 - a. Property is a platted lot within a recorded subdivision; or
 - b. Property meets one of the exemption criteria of this chapter; or
 - c. Property is a lot of record pursuant to the criteria contained in this chapter;
 - d. Proof of vesting pursuant to Division 3 of Chapter 13;
3. Evidence of positive vesting determination from the planning supervisor, the County's vesting appeal hearing officer, or a court of law;
4. Application for a building permit;
5. Evidence of correct zoning classification from the zoning supervisor;
6. Evidence from the tax collector of having purchased a license tag, or having declared a manufactured home as real property;
7. A septic tank permit or proof of acceptance for connection to a central wastewater system;
8. Payment of all required fees;

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9. A boundary survey, prepared in accordance with the minimum technical standards for land surveying as defined by Chapter 61G17, Florida Administrative Code, together with the following information:
 - a. A legal description of the subject property which is consistent with the description found on the instrument of title;
 - b. All recorded public and private easements and rights-of-way, within and adjacent to the parcel, labeled as to type;
 - c. Total area of the property in square feet and acres;
 - d. Signature and seal of a Florida professional surveyor and mapper; in accordance with F.S. Ch. 472;
 - e. FIRM flood hazard zone and base flood elevation referenced to NAVD 1988, or as required by the County engineer, if applicable; and
 - f. Location and dimensions of all structures, the required setbacks on the parcel, proposed lowest floor elevation, and lowest floors of adjacent residences;
10. Environmental clearance; and
11. The residential driveway permit includes construction of a residential driveway and grading of the lot. The lot shall be graded in such a manner as to prevent flooding of or from adjacent properties. Vegetated swales or discharge into an approved stormwater management system may be used to satisfy retention or detention requirements, provided that state water quality standards are met prior to discharge. The residential driveway permit application form and any attached sheets shall be submitted to the County engineer in triplicate along with all other required items including the permit fee as established by the BCC. An incomplete application may delay issuance of the building permit. Within 15 working days of submission of a complete application, the application shall be approved, approved with conditions, or denied by the County engineer. The applicant or contractor should not initiate any construction until the driveway permit is received from the County engineer. For assistance in preparing the application and drawings, the applicant should refer to *Highlands County Technical Standards Manual*, current edition.

(Ord. No. 05-06-05, § 70; Ord. No. 05-06-30, § 70)

Section 12.08.108. Flea market, open.

- A. **Definitions.** All definitions are pursuant to Article II of this chapter.
- B. **Applicability.** Permitted in B-3, B-4 and I-1.
- C. **Additional application requirements.** All application requirements are pursuant to Article III of this chapter.

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D. **Additional standards for approval.** Standards for approval are pursuant to Article III of this chapter shall be subject to the following conditions:

1. The maximum number of vendors on the property shall be specified and shown on a sketch plan submitted with the application. The sketch plan shall be detailed enough to show compliance with all the possible conditions included in this part.
2. The use shall not be operated within 200 feet of any residential dwelling located on a located residentially zoned property. If the use is operated within 300 feet of any residential dwelling unit on residentially zoned property, the applicant shall provide at a minimum a Type B Transitional buffer strip along the sides of the property adjacent to residential. This buffer may be greater at the discretion of the BOA.
3. The hours and days of operation shall be requested in the publication for the special exception and shall be established by the BOA at the public hearing.
4. Required off-street parking is two parking spaces per 120 square feet of gross floor area or fraction thereof of the total area of the rental spaces located on the property, as shown on the sketch plan submitted with the application. All parking must be accommodated by off-street parking to ensure safe and convenient pedestrian and vehicular circulation. Required parking must be shown on the sketch plan. Parking of vehicles on any street or highway right-of-way is prohibited and shall be cause for revocation of the special exception.
5. Goods, materials or products shall not be stored out of doors on the site when the flea market is not in operation, provided, however, that this restriction shall not apply to overnight storage between consecutive days of operation.
6. Access to the site shall be via a driveway(s) constructed in accordance with all applicable standards and approved by the County engineer.
7. All trash and debris shall be appropriately collected and disposed of during and after each day of operation.
8. Sanitary facilities shall be provided on site and in accordance with all applicable standards determined by the County health department.
9. The operator and all vendors shall comply with all applicable state and local business license procedures and requirements.
10. Fire and emergency vehicle access lanes shall be shown on the sketch plan submitted with the application, shall provide access to all rental spaces and other public areas, and shall become one of the conditions for approval of the special exception, based on approval by both the County engineer and County fire marshal that those access lanes meet the required standards contained in the *Highlands County Land Development Regulations* and other applicable regulations. Fire and emergency vehicle access lanes shall remain unobstructed and open at all times of operation.

(Res. of 8-18-79, § 7(17); Ord. No. 89-9; Ord. No. 89-14; Ord. No. 89-25; Ord. No. 93-15, § 56; Ord. No. 00-01-17)(Ord. 03-04-1) (Old Sec. 12-122) (Ord. No. 05-06-05)

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Section 12.08.109. Home occupations.

- A. **Applicability.** Allowed in all zoning districts.
- B. **Additional standards for approval.** In any zoning district wherein a home occupation is permitted as an accessory use to the primary residential dwelling such accessory uses shall be subject to the following regulations:
1. No person other than members of the family residing on the premises may be engaged in such occupations. No other persons may park, pick up, leave, report to and/or from the premises in a vehicle engaged in such occupation.
 2. The use of the dwelling unit or mobile home for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 100 square feet or 25 percent of the gross floor area in excess of the minimum floor area required in that zoning district, whichever is greater, shall be used in the conduct of the home occupation.
 3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. A nameplate, not exceeding one square foot in area, nonilluminated and mounted flat against the wall of the principal building, or one sign two square feet in size in the front yard, no more than three feet above ground level may be permitted to identify the home occupation.
 4. No home occupation shall be conducted in any garage, carport, yard or accessory building.
 5. Only sales incidental to the home occupation will be permitted.
 6. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off the street and in other than a required front yard.
 7. No equipment, process or use shall be conducted in such home occupation which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the residential unit, if conducted in other than single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers or electronic equipment off the premises or causes fluctuations in line voltage off the premises.
 8. Garage or yard sales of tangible personal property shall not exceed two in number during any calendar year in residential zoning districts, provided that:
 - a. Such tangible personal property shall be sold only on the premises of a residential dwelling unit by the owner or lessee of such dwelling unit.

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- b. Such owner or lessee must be the legal owner or acting in concert with another owner or owners of such tangible personal property at the time of the sale.
- c. No new merchandise (i.e., merchandise acquired for the purpose of resale) shall be sold at such sale.
- d. Such sale shall be confined to the garage, patio, driveway, yard or residence on the premises.
- e. The duration of each such sale shall not exceed three consecutive calendar days.
- f. Such sales conducted by private nonprofit organizations shall be exempt from the provisions of this section.
- g. No such garage or yard sale shall be held without the owner or occupant of the premises having first obtained a permit therefor. Such permit shall be obtained by applying to the Highlands County Office of the Tax Collector, who shall issue such permit upon payment of the fee established from time to time by resolution of the BCC, Such permit shall specify the address and date of such garage or yard sale

(Ord. No. 05-06-05, § 71; Ord. No. 05-06-30, § 71)

Section 12.08.110. Reserved.

Section 12.08.111. Special accessory uses associated with hotels, apartment hotels, motels and multiple-family dwellings as special accessory uses.

- A. **Applicability.** Allowed in R-3, R-3NC, B-2, B-3, BC-1, BC-2, PD, FUD
- B. **Additional standards for approval.** In any zoning districts where hotels, apartment hotels, motels and multiple-family dwellings are permitted, the special accessory uses permitted with such activities are subject to the following requirements:
 - 1. Access to such accessory uses to be limited to the interior of the building. No direct public access from the exterior of the building shall be permitted. Exit doors as required by building codes shall be provided.
 - 2. No signs or advertising matter relating to such special accessory uses on the exterior or interior of the building visible from any street, water body or adjacent property, except as permitted by this chapter.
 - 3. No show windows or displays relating to such special accessory uses on the exterior of the building or visible from any street, water body or adjacent property.
 - 4. Space occupied by such special accessory uses to be on interior of building and no evidence or indication of the existence of such special accessory uses visible on or from exterior of building.

(Res. of 8-18-70, § 7(13))(Ord. 03-04-1) (Old Sec. 12-118) (Ord. No. 05-06-05)

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Section 12.08.112. Reserved.

Section 12.08.113. Junkyards, automotive salvage yards, and salvage yards.

- A. **Applicability.** Applies to all junkyards established after January 1, 1971. Existing junkyards are exempt from these regulations. New junkyards or junkyards that expand are permitted as a special exception in the I-2 industrial district. Certain uses such as automotive salvage yard and junkyard operations, requiring the storage of inoperable equipment or vehicles for prolonged periods of time, could contribute detrimentally to the health, safety, welfare and aesthetic standards of the community. To preclude this from occurring, the purpose of this section is to establish land use standards unique to the development of new and the alteration or reuse of existing automotive salvage yards and junkyards. These standards are to assure that salvage yards and junkyards, although functionally and aesthetically incompatible with many adjacent uses, minimize visual disturbance, noise generation and environmental pollution.
- B. **Additional application requirements.** An applicant shall provide a site plan prior to submittal to the BOA.
- C. **Additional standards for approval.** Junkyards established after January 1, 1971, shall meet the provisions of this section and all other applicable provisions of this chapter:
1. **Minimum lot size.** The minimum area of land to be so used shall not be less than four acres.
 2. **Setbacks:**
 - a. **Adjacent to residential.** No automobile or vehicle not in running order or any other junk or scrap of whatsoever character shall at any time be located for storage, dismantling or any other purpose within 75 feet of any boundary of any residential district; within 50 feet of the front street line; within 30 feet of any side street line; or within 30 feet of any other property line of the lot to be so used.
 - b. **Adjacent to industrial land use with I-1 or I-2 Industrial district:**
Front: 20 feet.
Side: 0 feet.
Rear: 20 feet.
 - c. **Adjacent to commercial use B-1 through B-4:**
Front: 20 feet.
Side: 40 feet.
Rear: 40 feet.
 - d. **Adjacent to public street:**
Front: 20 feet.
Side: 20 feet.
Rear: 20 feet.

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3. **Screening.** A screen shall be provided around the entire perimeter of the salvage yard or junkyard that will completely obscure the contents within from the abutting or adjacent properties and public rights-of-way. The screening shall be effected by one of the following methods:
 - a. **Solid wall or fence.** When a solid wall or fence is selected as a screen, it shall be a minimum of eight feet in height, constructed of substantial materials such as masonry units, pressure treated woods or composition non-organic materials simulating masonry, concrete or wood materials. The wall or fence shall be constructed without openings except for the entrance/exit. The gate to the entrance/exit shall also be without openings and equipped to be locked at times the yard is not in operation. If painted, the wall or fence colors shall be within the earth tone palette. Plans for such a wall or fence shall be submitted to the BOA, who shall determine if the proposed wall or fence is in compliance with this section.
 - b. **Vegetative.** When vegetation is selected as material for a screen, a continuous border 20 feet wide shall be set outside a security fence (chain-link, six feet in height, with an additional three-strand barbed wire top inclined inward), with non-coniferous evergreen trees consisting of two rows, with trees spaced not more than ten feet apart on centers, staggered alternately, with one row of evergreen scrubs, planted three feet on centers, planted between the two rows of staggered trees, to obscure the area of view between the ground and the beginning of the tree canopy. Plans for such a vegetative screen and fence shall be submitted to the BOA who shall determine if they are in compliance with this section
 - c. **Earthen berm.** When an earthen berm is selected for a screen, a continuous border 20 feet wide shall be set outside a security fence (chain-link, six feet in height, with an additional three-strand barbed wire top inclined inward), within which the berm will be located and built on a maximum slope of 2:1 to four feet in height, covered with an appropriate ground cover and capped with a evergreen shrub hedge trimmed to four feet for an over all height of eight feet. The earthen berm border shall be fully irrigated. Plans for such a berm and fence shall be submitted to the P&ZC, who shall determine if they are in compliance with this section.
 - d. **Building wall.** The walls of a building may be used to form a part of the screen required by this part, provided that the building wall is part of the front set-back and the contents of the yard are still obscured. However, the building, if functioning as part of the administration and sales of the facility, recycled parts may be displayed from within the building.
4. **Automotive salvage yard and junkyard location.** Automotive salvage and junkyard operations are considered Industrial uses and permitted only where specifically listed within an appropriate implementing zoning district, as a special exception. A minimum 300 feet shall separate any new salvage yard or junkyard from any land owned or leased by a government agency for recreation, open space, conservation or related purposes. A minimum 500 feet shall separate yards from a

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school, hospital or other health care facility, residential use or religious place of worship, measured from the nearest property line of each.

5. **Access.** All driveways shall meet the LDR requirements for driveways.
6. **Screening tolerance.** No outdoor storage racks, stacked vehicles or other materials are to breach the height limits established for the screening devices. At no time are the contents of the salvage yard or junkyard to be visible above the screening device from outside the property.
7. **Screen maintenance.** The applicant must guarantee by affidavit that the screen will be maintained as specified and approved by the BOA. The removal of a portion of the screen or a portion of the screen fails due to neglect, shall be reason to suspend, revoke or modify the license issued for the salvage yard or junkyard operation.
8. **Plan of facility.** The applicant shall provide a site plan for the proposed yard. The site plan shall be of sufficient scale to clearly indicate the arrangement of the various activities and materials to be stored or processed within the property. At a minimum the site plan shall indicate the following:
 - a. An area sketch indication the location of the property within its immediate vicinity and the distance to the closest intersecting public roads;
 - b. The boundaries of the property, with dimensions, including the wall/fence locations or borders if vegetative or berm methods are being used for screening;
 - c. Location of any on-site environmental issues such as wetlands, natural seasonal surface water areas or drainage ways;
 - d. Locate, as close as possible, the existing vegetation and soil types on the property;
 - e. Indicate the topography, surface drainage and location of proposed retention areas;
 - f. Location of proposed structures, their sizes and their uses;
 - g. Location of any proposed on-site water supply wells and/or sanitary septic drain fields if central utilities are not available for use;
 - h. Location of the entrance/exit to the property and width and length of all driveways or internal roadways;
 - i. The location of any storage of captured liquid wastes and hazardous materials such as motor oils, gasoline and hydraulic fluids; and
 - j. Arrangement of storage aisles of sufficient width to accommodate fire fighting vehicles, with anticipated stored materials and activity areas identified.

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9. **Environmental safety.** The applicant shall guarantee that all appropriate measures are followed, as directed by the Florida Department of Environmental Protection and the County's fire services agency regarding the integrity of the property's environment, such as:
 - a. Motor vehicles and machinery using fossil fuels or batteries are stripped of these hazardous materials and properly stored or disposed of in conformance with NFPA code requirements prior to the vehicles or machinery being stored on the property;
 - b. That no liquid wastes are spilled or allowed to enter the ground from any point within the property;
 - c. All junk or salvaged tires will be properly stored or disposed of, with no inventory of junk tires stored for more than six months before being removed from the property. Salvaged and re-saleable tires may be kept on-site and properly stored consistent with NFPA Code requirements; and
 - d. A mosquito abatement program must be initiated for all water retaining junk surfaces on the property.
10. **Prohibited materials.** No materials shall be allowed into any automotive salvage yard or junkyard that are prohibited by local, state and federal law or regulation.
11. **Existing or legally non-conforming yards.** Existing and legal non-conforming yards may lawfully continue subject to the following conditions:
 - a. The area used for the operation of the automotive salvage or junkyard shall not be increased or intensified at any time.
 - b. No additional permanent buildings shall be erected and no presently existing permanent buildings shall be structurally altered to increase their bulk or square footage.

(Res. of 8-18-70, § 17(1); Ord. No. 93-15, § 70)(Ord. 03-04-1) (Old Sec. 12-302) (Ord. No. 05-06-05; Ord. No. 06-07-04, § 17)

Section 12.08.114. Reserved.

Section 12.08.115. Junk yards in existence and operating on January 1, 1971.

It is the intent of the BCC to minimize the extension of nonconforming uses and to look to their possible eventual elimination, any junkyard existing and operating as a nonconforming use in any district on January 1, 1971, shall be allowed to continue its operations subject to the following provisions:

- A. The area used for the operation of such junkyard shall not be increased at any time or under any circumstances.
- B. No additional permanent buildings shall be erected and no presently existing permanent buildings shall be structurally altered to increase their bulk or square footage area.

(Res. of 8-18-70, § 17(2))(Ord. 03-04-1) (Old Sec. 12-303) (Ord. No. 05-06-05)

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Section 12.08.116. Reserved.

Section 12.08.117. Mobile homes as accessory uses, offices, or temporary residences.

A. Applicability.

1. Allowed as accessory to construction (see 12.08.117C.1 below); or
2. Allowed as a temporary use permit for a temporary office or shelter pursuant to the provisions of this section in the AU agricultural, BC-1, BC-2, B-3, B-4, I-1 and I-2 zoning districts and all other zoning districts except residential (see section 12.08.117C.2 below); or
3. Allowed as a special exception for a temporary office in all residential zoning districts not listed in this subsection; (see section 12.08.117C.2 below); or
4. Allowed as a temporary use permit as a temporary residence (see section 12.08.117C.3 below).

B. Additional application requirements. A signed affidavit guaranteeing to remove the mobile home, pursuant to the requirements listed in this paragraph.

C. Additional standards for approval.

1. A mobile home shall not be considered as an accessory building, except as provided by special exception in certain business and industrial districts.
2. A mobile home may be used as a temporary office or shelter in all zoning districts except residential zoning districts or shelter in the AU agricultural zoning district incidental to construction or when development of the premises upon which it is located only during the time construction or development is actively under way for a period not in excess of one year or until completion of construction, whichever comes first; such mobile home shall be removed within ten days of the completion of the project. The zoning official may extend this permit for an extra year if construction is still underway. A temporary office may be allowed in all residential zoning districts only as a special exception.
3. A temporary use permit may allow a mobile home to be used as a temporary residence for a period not in excess of one year or until completion of construction, whichever comes first, in a residential district on property for which a building permit for the construction of a permanent dwelling has been obtained, providing that construction is actively carried forward to completion within the aforesaid year and providing that the mobile home shall be removed in any event within one year of the date of the issuance of the building permit.
4. In no instance shall two or more mobile homes be connected together so as to constitute one or more residences.

(Res. of 8-18-70, § 13(1); Ord. No. 93-15, § 64)(Ord. 03-04-1) (Old Sec. 12-233) (Ord. No. 05-06-05; Ord. No. 06-07-29, § 3)

Section 12.08.118. Reserved.

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Section 12.08.119. Mobile homes storage and parking in residential zoning districts prohibited.

All parking and storing of mobile homes in any manner is prohibited in all residential districts.
(Res. of 8-18-70, § 13(4); Ord. No. 89-21; Ord. No. 93-15, § 66)(Ord. 03-04-1) (Old Sec. 12-236)(Ord. No. 05-06-05)

Section 12.08.120. Required recreation/disaster shelter building.

A. **Applicability.** M-2, CG-1, CG-2, CG-3, and RV Park (FUD) Zoning Districts or within all manufactured home parks, manufactured home subdivisions, mobile home parks, RV parks, campgrounds, and seasonal parks containing more than 25 lots, rental spaces or campsites on which RVs, park models, mobile homes or manufactured homes are placed after November 14, 1994, in a manner requiring a building permit or which are developed after November 14, 1994, a recreation/disaster shelter building meeting the requirements of subsections B. and C. below of this section shall be provided.

B. **Additional standards for approval.** A required recreation/disaster shelter building shall have:

1. A minimum floor area of at least 15 square feet (excluding closets, toilets, bathrooms, porches, breezeways and terraces) per lot, rental space or campsite; and
2. A minimum floor elevation at least two feet above the established 100-year flood level; and
3. Approved hurricane storm shutters protecting all glass surfaces; and
4. Adequate emergency lighting and water supply with adequate emergency generators to supply the water and lighting; and
5. Designed and constructed to maintain structural integrity during a 120 mile per hour wind. Construction plans signed and sealed by a registered engineer and/or architect, certifying that the structure meets the requirements of this paragraph, shall be submitted to the building official and approved before final development orders are issued for new manufactured home parks, manufactured home subdivisions, mobile home parks, mobile home subdivisions (on central water and wastewater), RV parks, campgrounds, and seasonal parks developed after November 14, 1994, containing more than 25 lots, rental spaces or campsites and before issuing more than 25 building permits for placement of RVs, park models, mobile homes, manufactured homes or combination thereof, in any existing RV park, campground or mobile home park after November 14, 1994; and

C. **Additional requirements.**

1. A plan shall be provided to the County engineer showing the location of the recreation/disaster shelter building on the site in relation to the existing lots, rental spaces or campsites.
2. Documentation that the generators required pursuant to 12.08.120.B.2. is sufficient to provide emergency lighting and water supply.

(Ord. No. 05-06-05, § 75; Ord. No. 05-06-30, § 75)

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Sections 12.08.121, 12.08.122. Reserved.

Section 12.08.123. Service stations.

- A. **Applicability.** B-2, B-3, B-4, I-1, BC-1, BC-2.
- B. **Additional application requirements.**
- C. **Additional standards for approval.** The following requirements in addition to or supplementing any other applicable requirements of this chapter, apply to the location, design, construction, operation and maintenance of service stations.
1. **Lot size.** The lot size of service stations shall be not less than 100 feet in width and 100 feet in depth.
 2. **Required distance from churches, schools, etc.** There shall be a minimum distance of 250 feet, the shortest air line measurement between nearest points on any lot, to be used for service station purposes and any lot used or to be used for church, playground, playfield, park, hospital, elementary or high school, public library, theater, auditorium, stadium, arena, assembly hall or other similar public or semipublic place where large numbers of people congregate.
 3. **Location of pumps and buildings.**
 - a. Gasoline pumps be located not less than 15 feet from any property line.
 - b. No service station building or gasoline pump shall be located within 25 feet of any residentially zoned property.
 4. **Lighting.** All lighting on a service station must be so arranged and designed as not to glare directly into residentially zoned property.
 5. **Driveways and exits.** For each 100 feet of lot frontage or major fraction thereof, there shall be two driveways for entrance and exit. There shall be ten feet distance between the two driveways, and no driveway shall be over 50 feet in width at street line. Driveways shall be ten feet from alley or private property lines. Note: County engineers change.
 6. **Location of tanks.** All tanks for the storage of gasoline, kerosene or other petroleum products shall be located underground, except that tanks holding not in excess of 2,000 gallons used for the storage of liquefied petroleum gas may be located above ground. Such tanks for the storage of liquefied petroleum gas shall not be located within 25 feet of any front lot line, or within 15 feet of any side or rear lot line.

(Res. of 8-18-70, § 16)(Res. of 8-18-70, § 16(1))(Res. of 8-18-70, § 16(2))(Res. of 8-18-70, § 16(3), (4))(Res. of 8-18-70, § 16(5))(Res. of 8-18-70, § 16(6))(Res. of 8-18-70, § 16(7))(Res. of 8-18-70, § 16(8))(Ord. 03-04-1) (Old Sec's 12-281,12-282,12-283,12-284,12-285,12-286,12-287,12-288)(Ord. No. 05-06-05)

Section 12.08.124. Reserved.

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Section 12.08.125. Sexually oriented businesses/adult establishments.

- A. **Definitions.** All definitions are pursuant to section 4-102 of Article IV of Chapter 4 of this Code.
- B. **Applicability.** Allowed in I-1 industrial and I-2 industrial district through a special approval process by the BCC pursuant to Article IV of Chapter 4 of this Code.
- C. **Additional application requirements.** All application requirements are pursuant to Article IV of Chapter 4 of this Code. Completeness of the application will be determined by the County administrator.
- D. **Additional standards for approval.** All standards for approval and other requirements are pursuant to Article IV of Chapter 4 of this Code. Distance requirements for adult entertainment establishments are pursuant to section 4-201 et seq.

(Ord. 03-04-1)(Old Article IV Sec. 4-101 thru 4-255) (Ord. No. 05-06-05)

Section 12.08.126. Dwelling units located in a CM conservation/management lands zoning district and not located in a state park.

- A. **Applicability.** CM conservation/management lands zoning district.
- B. **Additional application requirements.** The following shall be included in the application for a building permit:
 - 1. A complete building permit application;
 - 2. Affidavit that the owner will not request a paved road or County maintenance of the road or expect other urban services and other affidavits as may be required by the application on file in the planning department; and
 - 3. A site plan showing the dwelling will meet the fire-wise standards contained in the adopted fire code.
- C. **Additional standards for approval.** The following requirements in addition to or supplementing any other applicable requirements of this chapter, shall apply to the location, design, and construction maintenance of such dwelling units:
 - 1. The applicable firewise standards are met.
 - 2. All appropriate affidavits are properly submitted, signed, and notarized.

(Ord. No. 05-06-05, § 72; Ord. No. 05-06-30, § 72)

Section 12.08.127. Solid waste.

- A. **Applicability.** All zoning districts.

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B. **Additional standards.**

1. All solid waste, including by way of example, used building materials, junk stoves, refrigerators, water heaters, scrap, junk or abandoned automobiles and trucks, machinery and heavy equipment will only be permitted, stored placed in licensed junkyards or refuse dumps, or other permitted, or other permitted sites.
2. It is the intent of this section to eliminate solid waste from being piled, stacked or otherwise discarded in any district within the County.
3. Used appliances and trucks not in operational condition or carrying a current license tag will be removed from all districts and placed in licensed junkyards or dumps.
4. All solid waste materials will be removed and placed in licensed junkyards or dumps within six months after official notification of such removal by the zoning supervisor.

(Res. of 8-18-70, § 17(3))(Ord. 03-04-1) (Old Sec. 12-304) (Ord. No. 05-06-05)

Section 12.08.128. TND land development regulations.

A. **Application procedures and approval process.** Prior to the issuance of any development orders for improvements or developments within a designated traditional neighborhood development, the following steps must be completed according to the procedures outlined in this section: 1) the property must have the appropriate MU: Mixed Use land use designation on the FLUM and the implementing: traditional neighborhood development district on the zoning atlas; 2) the applicant shall have had a pre-application conference; 3) a preliminary site plan and/or preliminary plat shall be submitted that will be consistent and in compliance with the requirements of the future land use map (FLUM) and the requirements of this chapter; and 4) a final site plan and/or final plat, along with an improvement plan, shall be prepared that will be in compliance with the requirements of this chapter in conjunction with a development order (DO).

1. **Pre-application conference.** The applicant shall schedule an appointment with the development services director to arrange a meeting to review application procedures with the design review committee (DRC). This meeting is to assist the applicant in understanding the compliance requirements of this chapter and related requirements within the Code of Ordinances.
2. **Development consistent with FLUM and zoning atlas.** Before submitting an application for any development order within a traditional neighborhood development, the applicant must initiate an amendment to the future land use map (FLUM) to secure a mixed use (MU) land use designation, in the event it is required, and an amendment to the zoning atlas to secure an implementing traditional neighborhood development district. Both actions may be initiated together. The applicant shall follow established protocol for a large scale plan amendment and rezone, as established in the Code of Ordinances. (See Comprehensive Plan FLU Policies 1.5 & 1.14)
3. **Design standards.** If there are any conflicts between the design standards of the subdivision regulations and the design guidelines of this chapter, the design provisions of this chapter shall apply only to TND developments.

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4. **Development certification.** The applicant shall present evidence that the development program and design of the TND have been certified by a Florida registered architect, landscape architect, engineer or urban planner, the latter being certified nationally.

B. **Preliminary site plan.** The purpose of a preliminary site plan and/or plat is to determine and establish the program of intent, density and intensity of the proposed development and the spatial distribution of the land use activities. Consistent with the requirements of a preliminary site plan and concurrency clearance that is required from the County engineer, platting may occur within the TND district wherein boundary surveys and individual lots are established. (See sections 12.04.104 through 12.04.105 for preliminary site plans in the Code of Ordinances.) The preliminary site plan shall, in addition to the requirements listed in the references cited above include the following:

1. An area context plan indicating how the neighborhood interconnects with existing development, if any, or how the neighborhood would eventually connect when proposed adjacent neighborhoods are developed or as in-fill between the new neighborhood and existing development is effected. Gated developments and developments that, by design, isolate or prevent inter-connectivity with existing adjacent development are not permitted. (TE Policy 8.7) (See Figure 1 in Section 12.05.260.I.)
2. An indication of an architectural theme or style, if prescribed, or open to contemporary architectural expressions; and an accompanying site plan indicating building massing and orientations relative to assigned uses and associated open spaces. The graphics may be conveyed through drawings or computer simulations illustrating typical building footprints and conceptual elevations focusing on facade delineation.
3. A written schedule or program generally conveying the development's objectives pertaining to densities and intensities and how these will manifest themselves in structures and their types as well as an accounting of the areal distribution of uses and their activities either in acres and/or square feet.
4. A written report which provides general information about the intent of the development, explaining the covenants, conservation easements or agreements which will determine the use, ownership and maintenance of the proposed development and its parts.

C. **Improvement plan.** The improvement plan will reflect compliance with standards and procedures for installation and maintenance of required improvements so that services and facilities are provided in such a manner as to insure the health and safety of the public. All improvements shall be installed in a timely and efficient manner and that, where improvements will be retained in private ownership, the improvements will be maintained perpetually in accordance with the requirements of these regulations. Individual potable-water wells and septic systems are not to be permitted within a traditional neighborhood development district. Central water and wastewater systems only are to be used. See section 12.04.111. Preliminary plats and improvement plans in the Code of Ordinances.

D. **Final site plan.** The purpose of a final site plan is to provide a level of detail that may function as a design development plan from which construction documents may be prepared. The plan will provide

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the means to review in detail the existing site conditions, surrounding properties and specific information unique to a traditional neighborhood development program in order to determine that it complies with the requirements and regulations of this chapter. The final plat requirements will need to be addressed to the extent the final site plan does not. Therefore, the final site plan, in addition to the requirements listed in the references cited in Future Land Policy 1.3.E.12., and sections 12.04.106 through 12.04.108: Final site plan; and section 12.04.112: Final plat in the Code of Ordinances, shall include the following:

1. Elevations of all proposed non-residential buildings and typical elevations of residential buildings illustrating architectural themes or styles. An accompanying site plan indicating building massing and orientations relative to assigned uses and associated open spaces. The graphics may be conveyed through drawings or computer simulations illustrating typical building footprints and conceptual elevations focusing on facade delineation.
2. A written schedule or program generally conveying the development's objectives pertaining to densities and intensities and how these will manifest themselves in structures and their types as well as an accounting of the areal distribution of uses and their activities either in acres and/or square feet.
3. A written report which provides general information about the intent of the development, explaining the covenants, conservation easements or agreements which will determine the use, ownership and maintenance of the proposed development and its parts.
4. Phasing plans where applicable.

E. **Amendments to the final site plan.** Whenever any application is submitted to substantially modify the approved final site plan under the district, or to undertake a new development on part of the property not included in the approved initial plan, the application must be approved by the BCC. Minor amendments to an existing plan shall be approved by the development services director and County engineer, who will notify the applicant of their determination within ten working days after receipt of the amendment request, minor changes include the following:

1. Increases or decreases of (ten percent) or less in the approved development program pertaining to densities and/or intensities in land use activities, but no more than ten percent cumulatively.
2. Internal rights-of-way realignments (other than relocation of access and connecting points into the development and adjacent developments) that are due to unforeseen or programmatic issues that will enhance the development without any net decrease in the conservation/preservation areas or required easements.
3. Changes in exterior building materials.
4. Relocation or reconfiguration of lakes, ponds or other water facilities subject to the approval of revised water management plans and permits.

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- F. **Subdivision of land.** When the traditional neighborhood development involves the subdivision of land as defined by sections 12.04.111: Preliminary plats and section 12.04.112, Final plat in the Code of Ordinances, the applicant shall submit all required land division documents in accordance with the requirements cited in these sections. If there are any conflicts between the design standards of the subdivision regulations and the design guidelines of this chapter, the design provisions of this chapter shall apply only to developments.
- G. **Ownership and maintenance of public space and facilities.** Provision shall be made for the ownership and maintenance of streets, squares, parks, open space and other public spaces in a traditional neighborhood development through development agreements where the developer, property owners, organizations, improvement districts, local government or other legal entities may negotiate ownership and maintenance of these community facilities.
- H. **Stormwater management.** The design and development of the traditional neighborhood development should minimize off-site stormwater run-off, promote on-site filtration and minimize the discharge of pollutants to ground and surface water. Natural topography and existing vegetative cover should be maintained to the maximum extent practical. New development and redevelopment shall meet the following requirements in addition to those cited in sections 12.12.400 through 12.12.404 in the Code of Ordinances and the requirements of the SFWMD and the SWFWMD water management districts.
1. Untreated direct stormwater discharges to wetlands or surface waters are not permitted.
 2. Redevelopment stormwater management systems should improve existing conditions and meet existing standards to the extent practical.
 3. All treatment systems must have operational and maintenance plans to assure that systems function as designed.
- I. **Circulation standards.** The circulation system shall allow for different modes of transportation. The system shall provide functional and visual links within the residential areas, mixed use area and open space system of the traditional neighborhood. The system shall provide connected pedestrian and bicycle routes, interconnect with an alley system and provide an integrated interface with existing adjacent streets at the edge of the neighborhood.
1. **Pedestrian circulation.** Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the traditional neighborhood. All streets, except for alleys, shall be bordered by sidewalks on both sides. The following provisions also apply:
 - a. **Sidewalks in residential areas.** Sidewalks shall connect all dwelling entrances to the adjacent public walkway, and shall be a minimum (five feet) in width when separated from the back of curb by a (seven feet) planter strip. The sidewalks should be located as far as practical from the traffic lanes and as close to the right-of-way line as practical. Sidewalks in high density residential areas shall be well lighted. In all cases, sidewalks shall be provided on both sides of the street. (See Figure 5 in section 12.08.128.L)

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- b. **Sidewalks in mixed use areas.** Pedestrian access shall be provided to schools, parks, shopping and transit stops within and adjacent to all residential development. Pedestrian access to these destinations from each house in the development shall be as direct as practical. Clear and well lighted sidewalks shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum (five feet) in width when separated from the back of curb by a (seven feet) planter strip, and when constructed adjacent to the curb, the minimum width shall be (six feet).
 - c. **Sidewalks in commercial areas.** Sidewalks in commercial areas shall be a minimum (ten feet) from back of curb incorporating tree-wells in lieu of planting strips. (See Figure 5 in Section 12.08.128.L)
 - d. **Sidewalks in public/institutional areas.** Sidewalks in public/institutional areas shall be a minimum (ten feet) from back of curb incorporating tree-wells in lieu of planting strips.
 - e. **Disabled accessibility.** All pedestrian facilities must comply with the applicable requirements of the Americans With Disabilities Act (ADA) and the Florida Accessibility Code for Building Construction (FACBC).
 - f. **Crosswalks.** Intersection of sidewalks with streets shall be designed with clearly defined edges, utilizing ADA access requirements at the curb line. Crosswalks shall be well lighted and clearly marked with contrasting paving materials or with striping. (See *Highlands County Technical Standards Manual* for applicable illustration)
2. **Bicycle circulation.** Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the neighborhood which are outside the street rights-of-way, shall be preserved and enhanced through stabilized surface materials, appropriate markings and signs, and plant materials. Facilities for bicycle travel may include:
- a. **On-street bicycle lane.** These bikeways are immediately adjacent to the vehicle lanes and are separated and delineated by a painted white strip on an expanded paved shoulder of the roadway or reserved lane adjacent to the street curb. This (four-foot) lane is intended to be exclusively used by the bicyclist and is not intended to be a pedestrian way or skating path. When the bikeway is adjacent to a parking lane, the width of both bikeway (four feet) and the parking lane (eight feet) together shall be (12 feet). All dedicated bicycle lanes shall be clearly delineated and signed. (See Figure 6 in section 12.08.128.L. and the applicable figure in the *Highlands County Technical Standards Manual*)
 - b. **Separate bicycle path.** These bikeways are separated from the street and are within their own rights-of-way and are usually shared with pedestrians, skaters, wheelchair users, joggers and other limited powered users. Generally these facilities align within greenways, open spaces and within wider street rights-of-way and are considered multiple use paths constructed with a hard surface with a minimum width of (ten feet). In

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some cases it may be desirable to increase the minimum width to (12 feet) in areas where volume of use is greater. (See Figure 6 in section 12.08.128.L)

3. **Public transit access.** Where public transit service is available or planned, sidewalk access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security through visual surveillance, and shall be well lighted.
4. **Motor vehicle circulation.** Motor vehicle circulation shall be designed to allow pedestrians, bicycles and automobiles to travel in a compatible manner. Traffic calming features such as curb extensions, traffic circles and medians may be used to encourage slower traffic speeds. Arterial streets should not bisect a traditional neighborhood. Each street type cross-section shall be approved by the County engineer within a traditional neighborhood development and classified according to the following hierarchy:
 - a. **Collector.** This street provides access to commercial or mixed use facilities within the neighborhood. It is the primary collector of vehicular traffic entering and leaving the neighborhood to gain access to the arterial which should be at the periphery of the neighborhood. However, it is also part of the County's major street network. On-street parking, whether diagonal or parallel, contributes to traffic calming, i.e., reduces moving vehicle speeds. Additional parking is provided on the lots to the side or to the rear of the buildings. It is typically a two-lane street (12-foot lanes) with parking lanes on both sides. (See applicable Figures in the *Highlands County Technical Standards Manual*.)
 - b. **Local street.** This street provides primary access to individual residential properties and connects the alley system into the overall vehicular circulation system. These streets are typically narrower (ten-foot lanes) and design speeds are typically (25 miles) per hour, and shall be designed in accordance with adopted design standards. (See applicable Figures in the *Highlands County Technical Standards Manual*)
 - c. **Alley (service lane).** These vehicle ways provide rear access to all residential properties within the neighborhood, unless location and spatial circumstances require access from the street. If driveway access must be provided from the street, and approved by the County engineer or his designee, the garage must not face the street unless it is located back of or aligned with the rear face of the primary structure. (See Figure 7 in section 12.08.128, L.)

Alleys also provide the service access for underground utilities, electronic services and solid waste collection. In the case of mixed use properties, the alley provides that same opportunity for underground utilities, electronic services, solid waste collection, loading zones and access to additional off-street parking within the block of mixed uses when curbside spaces have been taken. Alleys shall not form the boundary of a park, square, greenway or open space. They should be bounded on both sides by the structures they serve assuring the efficiency of use for which they were planned and designed. They are typically (24 feet) R.O.W., with 20 feet of paved surface, and preclude all parking. (See applicable Figures in the *Highlands County Technical Standards Manual*.)

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5. **Block size standards.** Blocks should be in traditional or modified grid patterns in order to optimize multiple alternate routes for the pedestrian and bicyclist as well as for the motorist. The lot and block design should promote development that minimizes pedestrian and vehicular conflict, promotes street life and activity, reinforces public spaces, promotes public safety and visually enhances development. (See Figure 2 in section 12.05.280.(I.)
 - a. Street layouts should provide for short blocks of varying sizes that on the average are (200 to 400 feet) wide and (400 to 800) feet long.
 - b. Each residential block shall have an access/service alley which is part of a continuous system of alleys throughout the traditional neighborhood development. Residential garages should be accessible off of the alley unless extenuating circumstances preclude such access due to redeveloping an existing neighborhood where alleys may not be possible.
 - c. Each commercial/mixed use block shall have sufficient depth and length to accommodate internal service and off-street parking.
 - d. Where a block exceeds (600 feet) in length, a dedicated cross alley or pedestrian pathway easement shall be provided for access through the block. Within commercial blocks, pedestrian pathways should be linked with the street front to the interior parking areas wherever possible mid-block.

6. **Street layout.** The traditional neighborhood development, in redevelopment or infill areas, should maintain any existing street grid pattern and restore any disrupted street grid where feasible. Streets shall be designed for the specific uses being served and therefore require variations in their cross-sections. This may include traffic calming techniques and streetscape considerations. The following criteria will be followed:
 - a. **Intersections.** Intersections shall be at right angles whenever possible, but in no case less than (75 degrees) unless an existing area having an intersection less than 75 degrees is being redeveloped and cannot be modified. Low traffic volume streets or streets with low vehicular speeds, may form into a multiple street intersection with the introduction of a traffic circle, square or diamond, with streets converging at angles less than 75 degrees, designed to appropriate scale for efficiency and safety. T-type intersections, when used, must be offset a minimum of 100 feet from another intersection.
 - b. **Corner radii.** Reducing the radius of street corners or curb returns slows turning traffic and shortens pedestrian crosswalks within the traditional neighborhood. Corner radii at street intersections shall be rounded by a tangential arc with a maximum radius of (ten feet) for local streets and (15 feet) for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of (ten feet.) (See Figure 4 in section 12.08.128.(L.)

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- c. **Driveway connections.** Driveway connections shall be minimized on arterial streets when that street bounds the neighborhood. Driveway connections for single-family residential access, in the event access by means of an alley is precluded, will only be on local streets. Driveway connections will be permitted on collector streets when accessing parking areas for commercial, public and multiple-family parking areas. (See sections 12.09.105 through 12.09.117 of the Code of Ordinances)
 - d. **Intersection clear sight triangles.** Clear sight triangles shall be maintained at intersections, as specified in section 12.09.103. In the Code of Ordinances, unless controlled by traffic control devices. (Ord. No. 06-07-04 § 19)
 - e. **Street orientation.** The orientation of streets should enhance the visual attributes of common open spaces and prominent buildings. All streets should terminate at other streets. The exception is where a street may terminate as a stub to future phases of the neighborhood development. Tee-intersections should be limited only to local streets terminating at peripheral streets. The long axis of a street should have appropriate visual termination with either a special use or signature building, a public open space, a traffic circle or square which may contain a monument or water feature. The street should never terminate on a typical structure off-set from the street centerline or on an unarticulated wall.
7. **Off-street parking and loading requirements.** Shared parking areas should be encouraged. Typical calculations for off-street parking requirements may be found in sections 12.10.200 through 12.10.218 of the Code of Ordinances. The following additional requirements are to be followed within the traditional neighborhood:
- a. Access to a parking lot or garage shall not be adjacent to a street intersection.
 - b. Temporary on-street parking (parallel) is allowed in residential areas in front of residences to accommodate additional guest parking.
 - c. Temporary on-street parking (parallel or angled) is allowed in mixed use areas, public/institutional areas and commercial areas in front of businesses to accommodate additional customer parking.
 - d. In mixed use areas, public/institutional areas and in commercial areas, parking lots should be located in the rear of buildings or in the center of the mixed-use block.
 - e. Parking lots or garages must provide not less than (two bicycle) parking spaces for every (ten vehicle) parking spaces. These bicycle spaces may be ganged or grouped together at the entrances of the lots or garages.
 - f. Adjacent on-street parking may apply toward the minimum parking requirements in commercial areas.

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- g. In a mixed residential area where secondary or auxiliary dwelling units are located, (1) off-street parking space is required for each secondary or auxiliary dwelling unit.
- h. In a mixed use area, access for service vehicles should, wherever possible, be a direct route to service and loading dock areas, while avoiding movement through any adjacent internal parking areas.
- i. Reduction in impervious surfaces through the use of pervious interlocking pavers is strongly encouraged for areas such as in remote parking lots for periodic use.

8. **Utilities.** All permanent utilities (water, sewer, power, telecommunication cables, etc.) shall be underground through-out the TND.

- a. Utilities shall be located within the alley rights-of-way wherever possible, unless extenuating circumstances may require alternate routes as might occur within areas of redevelopment or rehabilitation.
- b. Power lines connecting the street lights and other street electrical hardware are to be underground within the street right-of-way.

J. **Architectural standards.** Varying styles of architectural features and building materials are encouraged to give each building or group of buildings a distinct character consistent with the approved TND design theme. In the event the TND is for redevelopment or rehabilitation, circumstances may require on-site adjustments to these requirements with the approval of the County engineer and the development services director.

1. **Guidelines for existing structures.**

- a. Redevelopment of existing structures shall follow as close as possible to the intent of the traditional neighborhood development format unless existing extenuating circumstances require specific adjustments to these regulations.
- b. Existing structures within areas of redevelopment, if determined to be historic or architecturally significant and are so noted by local government, shall be incorporated into the TND development and site design, or if untenable, to be issued certificates of appropriateness by local government providing conditions for the relocation or mitigation of the structure where extenuating circumstances may require the structure's demolition or encroachment by the new development.
- c. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall be used as the criteria for renovating historic or architecturally significant structures, in the event the structures may be incorporated into the TND development program and site design.

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2. Guidelines for new structures.

- a. **Height.** Maximum heights for structures within the traditional neighborhood shall be as follows:
 - (1) **Single-family residential:** Two and one-half stories or 35 feet.
 - (2) **Multiple-family residential:** Five stories.
 - (3) **Commercial:** Two stories; with residential over five stories.
 - (4) **Commercial with offices over five stories:** Note: See definition for building height.

- b. **Entries and facades.**
 - (1) The architectural features, materials and articulation of a facade of a building shall be continued on all sides visible from a public street.
 - (2) The front facade of the principal building on any lot in a traditional neighborhood shall face onto a public street.
 - (3) The front facade shall not be oriented to face directly toward a parking lot.
 - (4) Porches, roof overhangs hooded front doors or other similar architectural elements shall define the front entrance to single-family residences and may encroach into the front setback requirement.
 - (5) Commercial buildings shall have a minimum of (70 percent) of their front facade at ground level be transparent, consisting of window or door openings allowing views into and out of the interior.
 - (6) New structures on opposite sides of the same street shall follow similar design guidelines.

- c. **Building materials.** The palette of building materials shall be consistent, guided by an approved pre-determined design theme or style through-out each development phase, unit or section of the TND.

- d. **Guidelines for garages and secondary (auxiliary) dwelling units.** Garages and secondary dwelling units may be placed on a single-family detached residential lot within the principal building or as an accessory building provided that the secondary dwelling unit or accessory building, combined with the garage, shall not exceed (1,300 square feet) gross floor area. Building materials shall match that used for the principal structure. Principal access to the garage should be off of the alley system depending upon the type of street the principal dwelling unit fronts upon. In the event access to the garage is off of

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the local street, the garage should be oriented to where the garage door does not face the local street nor be aligned with the front of the principal structure. In the event the garage door is to face the local street, than the front of the garage shall be set back to align with the back face of the principal structure. (See Figure 7 in section 12.08.128.(L.)

- e. **Guidelines for exterior signage.** A comprehensive sign or graphics program is required for the entire traditional neighborhood development which establishes a uniform sign palette or theme. Signs shall have a common style (e.g., size, shape, material). The following sign types shall be restricted to the following areas within the TND:

- (1) **Single-family detached/attached areas.** No permanent signs shall be permitted. A temporary contractor sign (to include all the various trades on the site) may be permitted only for the duration of the specific development and not to exceed 12 square feet in area.
- (2) **Mixed use areas.** Signs within these areas shall be wall/marquee signs or cantilever signs only. Wall/marquee signs shall be limited only to the front facade of a building or on the face of an overhang awning. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed (eight square feet).
- (3) **Commercial areas.** Signs within these areas shall be wall/marquee signs or cantilever signs only. Wall/marquee signs shall be limited only to the front facade of a building or on the face of an overhang awning. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed (eight square feet). Back-lit and neon signs are only permitted for wall signs or window signs. Off-premise signs are forbidden throughout the boundary of a traditional neighborhood development.
- (4) **Building art.** Not to be confused with signage, graphics are encouraged as architectural features such as frescos and other wall paintings where their use is to accent a facade, an entrance to a building or to compliment an architectural style such as art-deco. This form of structural enhancement shall be limited to commercial and public/institutional uses.

- f. **Guidelines for lighting.**

- (1) Street lighting shall be provided along all applicable streets. More light fixtures of less intense lumens, as apposed to less light fixtures of high intense lumens, should be used. Therefore, light fixtures should be installed on both sides of the street alternating at intervals of no greater than (75 feet on centers), or within the specifications of the selected light fixture. Street lighting design may require some modification to the minimum standards developed by the Illumination Engineering Society. Additionally, low-density, single-family dwelling areas may not need street lighting, except at the intersections of neighborhood streets where

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lighting will be required. A reduction in lighting for areas of transition from urban to rural is recommended.

- (2) Exterior lighting shall be directed downward, with no more than (30 percent) off from the vertical, in order to reduce the glare from ambient light onto adjacent properties. The objective is to provide sufficient light onto the sidewalk and street through light directing lens.

K. **Landscape and screening standards.** Overall composition and location of landscaping shall compliment the scale of the development and its surroundings. In general, larger well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where vegetative screening is required by this chapter, plant materials shall be selected that will provide at least (50 percent) opaqueness throughout the year. Required screening shall be satisfied by one or a combination of methods using decorative fencing, masonry walls and a vegetative hedge. (Pursuant to sections 12.11.100 through 12.11.114 of the Code of Ordinances. Where conflicts occur, the requirements of this chapter will prevail within the traditional neighborhood development.)

1. **Street trees.** A minimum of one broad leaf evergreen canopy tree every (30 feet) of street frontage or palm every (15 feet), or fractions thereof because of physical circumstances, shall be required. The same specie of tree shall be used on any one street through its entire length. Another tree specie may be selected for another street. The objective is to maintain consistency through the length of the street. Deciduous trees shall not be used because they do not have the comparative advantage over broad leaf evergreen trees within the climatic environment in south central Florida. Trees should preferably be located between the sidewalk and the curb or edge of pavement depending on the cross-section of the street. Where the pavement may extend from the building front to the curb, as may occur within the mixed use and commercial retail areas, trees shall be placed in planted tree wells, installed with irrigation, and may in some instances include up-lighting for evening hours effect. Tree grates are optional inasmuch as they respond to a maintenance policy issue.

When used in a boulevard situation, where a median separates the travel lanes, trees shall be located within the medians, either formally or informally depending on the width of the median in providing sufficient room for alternative tree spacing. Where trees within the street rights-of-way will interfere with existing overhead utility lines prior to their being relocated underground, as may occur when redeveloping an existing neighborhood, trees may be planted within the front yard setbacks adjacent to the sidewalk, structures permitting.

2. **Parking area landscaping and screening.** All parking and loading areas fronting on public streets, sidewalks or residential areas shall be prohibited. However, where they occur within areas of redevelopment or rehabilitation, the following provisions will be required. (Pursuant to sections 12.11.100 through 12.11.114 in the Code of Ordinances. Where conflicts occur, the requirements of this chapter will prevail within the traditional neighborhood development.)
 - a. A landscape buffer area at least (ten feet) wide along the public street or sidewalk. If adjacent to a residential area, (20 feet) will be required.

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- b. One tree for each (25 linear feet) of parking lot frontage or edge.
 - c. A screening hedge, not less than (three feet) in height and not less than (50 percent opaque) shall be installed along the street and/or sidewalk frontage.
 - d. Wherever an exit from a public parking area occurs onto a public street, a visual vertical clear zone between three feet and seven feet shall be maintained for all plant materials within 20 feet in each direction from the exit along the curb line or edge of pavement.
3. **Parking area interior landscaping.** Will be required pursuant to sections 12.11.100 through 12.11.114 in the Code of Ordinances.
4. **Installation and maintenance of landscape materials** will be required pursuant to sections 12.11.100 through 12.11.114 in the Code of Ordinances.
- a. A developer's agreement (DA) between the County and the developer or property owner shall govern the installation of all landscape improvements required by the approved plan. Covenants and related deed restrictions shall be administered by the property owner association (POA), which shall maintain the public common areas, open space, landscaping and other related requirements cited in the DA.
 - b. All plant materials shall be Florida Grade No. 1 or better in accordance with Grades and Standards for Nursery Plants (GSNP) and installed to current industry standards.
 - c. Maintenance and replacement, after landscape contract installation warranties have expired, shall be the responsibility of the property owner or maintenance entity created for this purpose. Therefore, covenants and/or property owners association agreements to cover this critical issue in order to sustain the desired community or neighborhood image shall be required. Landscape maintenance shall incorporate environmentally sound management practices, including the water and energy efficient irrigation systems and a regular pruning program for materials on public lands.
5. **Materials.** Street tree species shall be selected from the following list. This list is not to be considered exclusive because new species become available that will qualify as an acceptable street tree. Also, this list does not preclude the many other tree species (deciduous, conifer, palm and other broad leaf evergreen plant material) that may be used elsewhere within the TND, which may be found in sections 12.11.100 through 12.11.114 of the Code of Ordinances.

Trees:

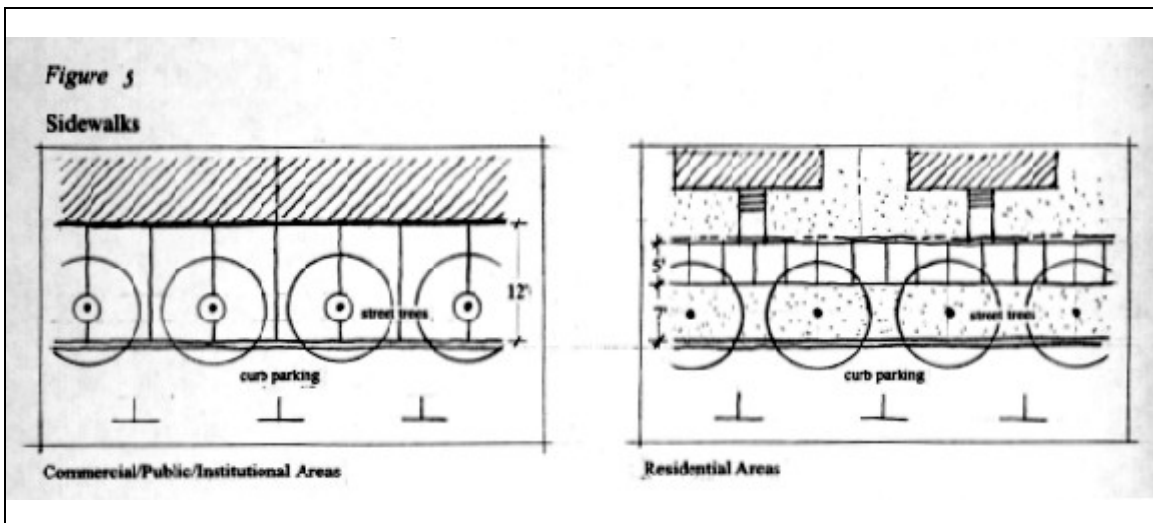
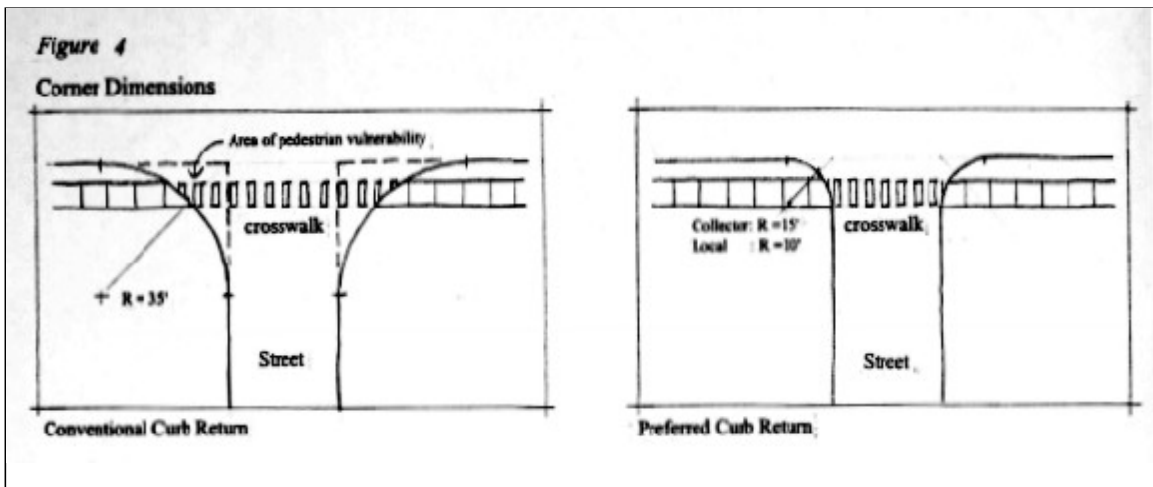
| Common Name: | Botanical Name: |
|---------------------|---|
| Live oak | Quercus virginiana |
| Highrise Live oak | Quercus virginiana "QVTIA" (preferred) |
| Laurel oak | Quercus laurifolia |
| American Holly | Ilex opaca |
| East Palatka holly | Ilex x attenuata "East Palatka" (preferred) |

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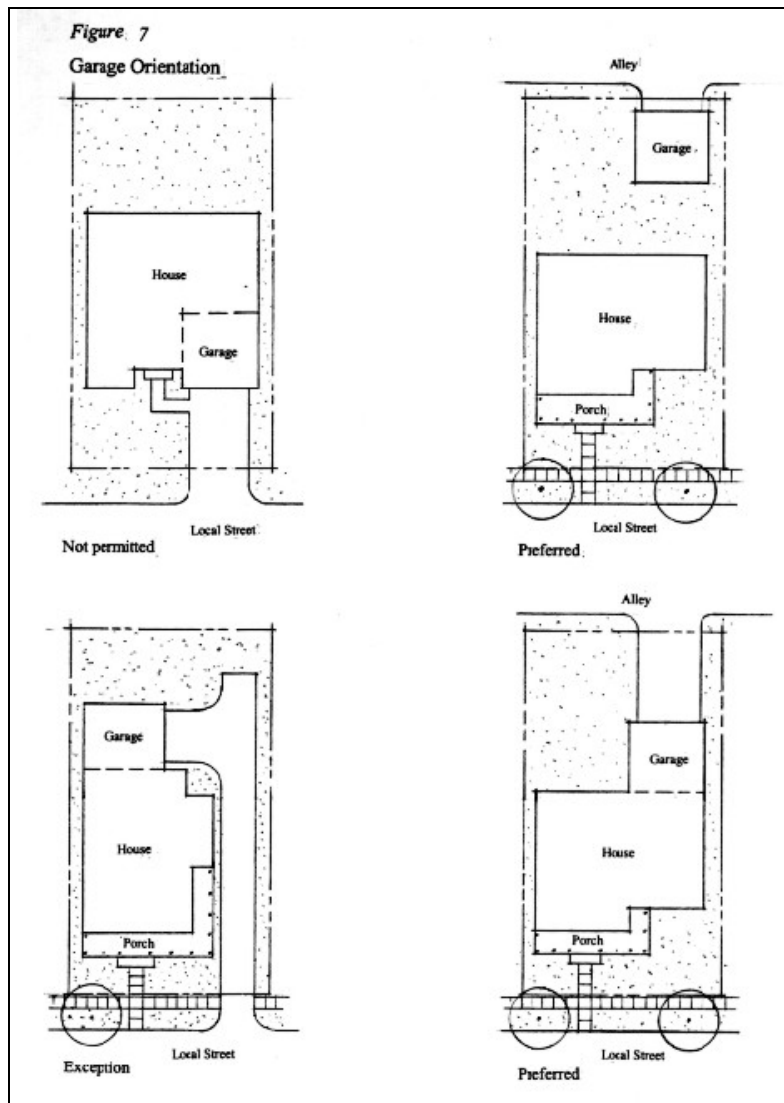
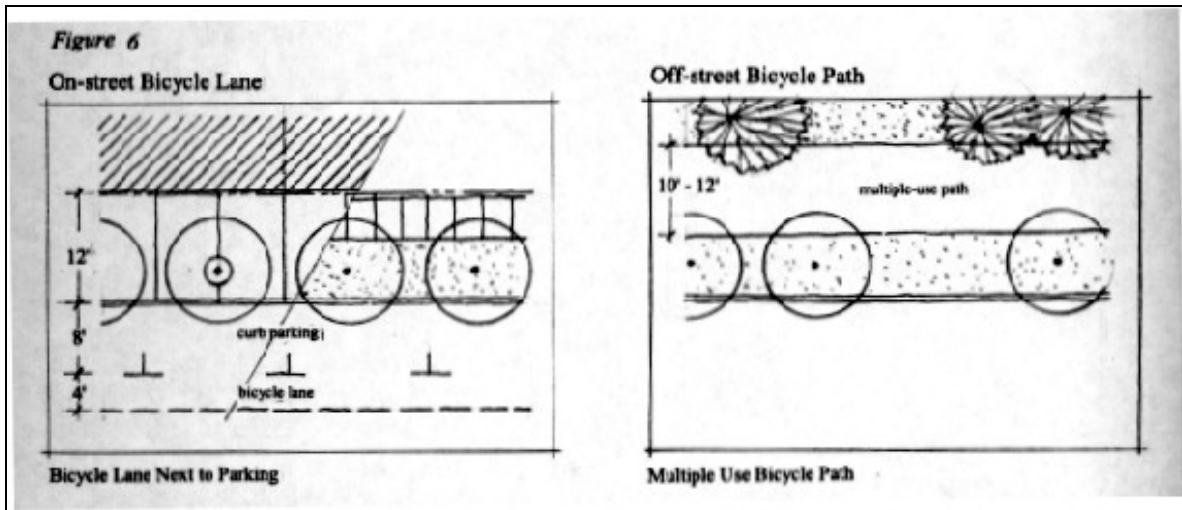
| | |
|-----------------------|---|
| Southern Magnolia | Magnolia grandiflora |
| Lacebark elm | Ulmus parvafolia "Drake" |
| Lacebark "Bosque" elm | Ulmus parvafolia "UPMTF" (preferred) |
| Carob tree | Ceratonia siliqua |
| Camphor tree | Cinnamomum camphora |
| Pongam | Pongamia pinnata |
| Loblolly Bay | Gordonia lasianthus |
| Chinese Fan Palm | Livistona chinensis |
| Date Palm | Phoenix dactylifera, (best in retail areas and entrances) |
| Date Palm | Phoenix dactylifera "Medjool" (preferred) |
| Queen Palm | Syagrus romanzoffiana |
| Sabal Palm | Sabal palmetto |

Note: The species called out on this list as preferred are cultivars that have been propagated for their upright structure which enhances them as street trees.

L. **Graphic illustrations to explain certain TND requirements:**



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(Ord. No. 03-04-1)

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(Ord. No. 03-04-1) (Ord. No. 05-06-05; Ord. No. 06-07-04, § 19)

Section 12.08.129. Water facilities (potable water facilities) covered or included by Florida Administrative Code 40 D-2 or 40 E-2.

- A. **Applicability.** Permitted in the PW, public water supply district (section 12.05.281).
- B. **Additional application requirements.** All additional application requirements are pursuant to section 12.05.281 of this chapter.
- C. **Additional standards for approval.** A special use permit pursuant to section 12.05.281 is required. A special use permit may be granted by the BCC after public hearing and subject to appropriate conditions and safeguards for a public water facility covered or included by Florida Administrative Code 40D-2 or 40E-2. Proof and specific evidence shall be provided that the requirements and the standards contained in section 12.05.281.F. are met.

(Ord. No. 05-06-05)

Section 12.08.130. Reserved.

Section 12.08.131. Wastewater treatment facilities or structures or water treatment facilities or structures.

- A. **Applicability.** Permitted pursuant to applicable zoning district requirements.
- B. **Additional standards for approval.**
 - 1. Structures and facilities for wastewater treatment or water treatment shall not be located within 100 feet of any lot line adjacent to residentially zoned property. A landscaped buffer strip not less than eight feet in width shall be provided along all property lines adjacent to residential zoning. The required landscaped buffer strips shall be designed and planted to be at least 80 percent opaque from two to six feet above grade when viewed horizontally at maturity; however, a six-foot-high opaque fence, wall or similar structure may be substituted in lieu of the vegetative screening.
 - 2. All requirements of Division 1, Potable Water Standards and Division 2, Sanitary Sewer Systems of Article 14 Public Facility Standards of this chapter are applicable.

(Ord. 03-04-1) (Old Sec. 12-105)(Ord. 00-01-11 §30) (Ord. No. 05-06-05)

Section 12.08.132. Reserved.

Section 12.08.133. Wireless communication facilities- antennas and towers as accessory uses.

- A. **Applicability.** Wireless communication facilities - antennas and towers as accessory uses are permitted in which zoning districts pursuant to the following standards.

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- B. **Additional standards for approval.** The following antennas and towers shall be allowed as permitted accessory uses:
1. Any antenna not more than one meter in diameter, which is not attached to a transmission tower, shall be a permitted accessory use to any structure of at least three stories in height. other than single-family or two-family dwellings provided:
 - a. The antenna, its antenna mount and any associated support facilities do not extend more than 20 feet above the highest point of the structure, or the maximum height for permitted accessory use in Table 1 of this article, whichever is less, and the antenna and its mount are not directly attached to the ground;
 - b. The antenna complies with all applicable federal and state regulations;
 - c. The antenna complies with all applicable building codes;
 - d. The antenna complies with the requirements of subsections (e), (k) and (l) of section 12-331 of this article.
 - e. A structure mounted antenna may be mounted to the exterior of the structure, including but not limited to, the roof of the structure. If the antenna is mounted on the structure roof, the structure-mounted facility may include the antenna supports and/or associated support facilities. Structures to which antennas may be attached include, but are not limited to, commercial, institutional, office and industrial buildings, multi-family residential buildings, water tanks, utility and light poles not located in public rights-of-way or easements, poles at publicly-owned athletic facilities or other structures not originally designed as antenna mounts. A building permit application is required for antennas attached to structures and permitted as an accessory use.
 2. A non-commercial, receive only, antenna and any tower to support the antenna shall be a permitted accessory use to any single-family or two-family dwelling.
- C. Non-commercial receive only antennas which receive direct broadcast satellite service video programming services via multi-point distribution services shall be a permitted accessory use if one meter or less in diameter in residential use zoning districts and three meters or less in diameter in all other zoning districts.
- D. An amateur radio antenna and any tower to support the antenna that is owned and operated by a federally-licensed amateur radio station operator and used exclusively for non-commercial purposes shall be a permitted accessory use in all zoning districts.
- E. Any antenna and any tower to support the antenna that is owned and operated or licensed by the Federal Aviation Administration and used exclusively for aircraft navigation (NAVAIDS) shall be a permitted accessory use in the PU public lands zoning district.

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- F. Any antenna and any tower to support the antenna, not greater than 35 feet in height and used exclusively as an accessory use to an existing principal use or an existing use allowed by special exception shall be a permitted accessory use in any zoning district subject to the requirements of section 12.08.135.
- G. Any antenna and any tower to support the antenna that is owned and operated by the BCC or the Highlands County Sheriff for public safety communications shall be a permitted accessory use in the PU public lands zoning district.
- H. Any antenna and any tower to support the antenna which: (1) is not greater than 350 feet in height; (2) is located not less than one mile from the property line of adjacent real property under separate ownership; (3) has between the antenna/tower and adjacent property under separate ownership a vegetative buffer which is functionally equivalent to that required by subsection (j) of section 12.08.135; and (4) is used exclusively as an accessory use to an existing principal use or an existing use allowed by special exception, shall be a permitted use in the agricultural (AU) district.
- I. Any antenna and any tower to support the antenna which: (1) is not greater than 350 feet in height; (2) is located not less than one mile from the property line of adjacent real property under separate ownership; (3) has between the antenna/tower and adjacent property under separate ownership a vegetative buffer which is functionally equivalent to that required by subsection L. of section 12.08.135; and (4) is used exclusively as an accessory use to an existing principal use or an existing use allowed by special exception, shall be a permitted use in the agriculture (AU) district.

(Ord. 00/01-1 § 33)(Ord. 03-04-1)(Old Sec.12-330) (Ord. No. 05-06-05)

Section 12.08.134. Reserved.

Section 12.08.135. Wireless communications facilities (WCF).

- A. **Applicability.** This section shall regulate the location, erection, construction and modification of all wireless communication facilities in unincorporated Highlands County. Except as provided in subsection B. of this section, every wireless communications facility allowed by special exception or otherwise shall, at a minimum, satisfy the requirements of this section.
- B. **Special exception application requirements for wireless communications facilities.** Applications for special exceptions shall be processed in accordance with this chapter and shall include the following documentation:
 - 1. Copies of the following letters and all responses shall be provided to the County administrator for verification: Applicant's letters to other entities owning or using transmission towers in Highlands County and extending to a point one mile outside of Highlands County, as identified on a list maintained by Highlands County Planning Department, sent registered mail, return receipt requested inquiring whether said entities have a need to co-locate antennas or have tower space available for co-location of antennas;
 - 2. A statement by the applicant as to whether construction of the transmission tower will accommodate co-location of additional antennas for future wireless service providers users, including the co-location capacity;

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3. A statement by the applicant demonstrating, to the satisfaction of the County, that no existing transmission tower, alternative tower structure, building or other structure within the applicant's geographic search area:
 - a. Meets the applicant's engineering requirements for the proposed facility;
 - b. Is of sufficient height to meet the applicant's engineering requirement;
 - c. Has sufficient strength to support the applicant's proposed antenna;
 - d. Has sufficient vertical space to accommodate the applicant's antenna; or
 - e. Is available for lease under a reasonable leasing agreement, as determined by the industry standards for the geographic area.
4. A statement by the applicant indicating that government owned property is, or is not, available within the search ring for the wireless communication facility. If government owned property is available, the statement should include a full explanation if the applicant does not plan to locate on that property;
5. A letter of intent, committing the tower owner and his or her successors and assigns to allow the shared use and co-location of the tower, if additional user(s) agree in writing to meet reasonable terms and conditions for such shared use; and
6. Visual aids of the proposed wireless communication facility site showing pre-development (existing) and post-development conditions. The visual aids for pre-development conditions shall include at a (minimum 35 mm color eight by ten photographs and/or color video tape). The visual aids shall show the closest public views of the facility from a minimum of four locations. The pre-development visual aids shall be used to show post-development views of the facility (transmission tower, antennas, associated support facilities, landscaping and security fencing.) Post-development views shall include views of the facility as it would appear immediately after construction and may include views of 12 and 24 months after construction. The visual aids shall show the relationship and proximity to neighboring residential zoning districts and uses and how the facility will appear from public view points. The visual aids may be accompanied by a corresponding written visual impact analysis prepared by the applicant. These requirements for visual aids are minimums and the County reserves the right to require additional visual aids as determined on a case by case basis.
7. A letter from the property owner consenting to the application.
8. Site plan approved by the County engineer for any ground-mounted towers in accordance with the requirements of the Code of Ordinances, Highlands County, Florida. (Ord. No. 06-07-04 § 20)

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9. A copy of the FAA response to the applicant's notice of proposed construction of alteration, or its replacement.
 10. At the time of initial application, an inventory of all communication facilities (wireless and backhaul) which are under the applicant's control and/or are being used or planned by the applicant, located within the incorporated and unincorporated areas of Highlands County and within one mile outside the County information on each transmission tower listed shall include:
 - a. The type of tower or supporting structure;
 - b. The height of the tower including antennas;
 - c. Latitude and longitude and state plane coordinate location;
 - d. Street and mailing address of the owner and site address of the facility;
 - e. FCC and applicable FAA permit numbers for each transmission tower and antenna facility;
 - f. Ability of transmission tower or structure, associated support facilities and site to accommodate additional antenna(s), including the wireless service signal capacity; and
 - g. Indication whether the site is co-located and if so, the names of the co-located service providers/owners.
 11. Applications for new wireless communication facilities shall include a letter from the applicant's engineer stating that the transmission tower and associated support facilities will not interfere or obstruct public safety telecommunications.
 12. The applicant shall provide updated information with subsequent applications.
 13. Payment of all fees established by resolution of the BCC. (Ord. No. 05-06-05 § 73; Ord. No. 05-06-30 § 73)
- C. **Time for submittal.** The application and documentation required by subsection (a) of this section shall be delivered to the Highlands County Zoning Department not less than 30 days prior to the public hearing on the application for a special exception. Note: See section 12-331.
- D. **Exceptions.** to the applicability of this section. The requirements of this section do not apply to:
1. Non-commercial freestanding and structure-mounted "receive only" antennas which receive direct broadcast satellite service video programming services via multipoint distribution services which are one meter or less in diameter in residential zones and three meters or less in diameter in non-residential zones. The antennas shall meet all other requirements of the zoning district as set forth in Chapter 12 of the Highlands County Code of Ordinances.

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2. Amateur radio antennas and any tower to support the antenna that is owned and operated by a federally-licensed amateur radio station operator used exclusively for non-commercial purposes.
3. Any antenna and any tower to support the antenna, owned and operated or licensed by the Federal Aviation Administration, and used exclusively for aircraft navigation (NAVAIDS).
4. Any antenna and any tower to support the antenna, not greater than 35 feet in height, and used exclusively as an accessory use to essential services.
5. Any antenna and any tower to support the antenna owned and operated by a governmental entity for public safety communications.

E. **Height limitations.** The height of antennas and towers shall be determined pursuant to this section.

1. The special exception shall specify the height pursuant to Table 1 of this subsection, based on standards of approval in this section.
2. Measurement of transmission tower height shall include antenna, base pad, and other appurtenances and equipment attached to the tower. Height shall be measured from the ground surface which existed prior to actual erection or construction immediately outside the construction site boundaries of the wireless communication facility.
3. Structure-attached antenna mounts may extend a maximum of 20 feet above the roof line or top of the structure.
4. Pole-attached antenna mounts may extend a maximum of 20 feet above the top of the pole.
5. In all zoning districts other than those listed in Table 1 of this subsection, every antenna shall be incorporated in a camouflaged antenna facility which is a structure-mounted facility or an alternative tower structure and shall not extend more than 20 feet above the roof line of the structure.
6. The permitted, prohibited, and special exception heights for ground-mounted towers and alternative tower structures are set forth in Table 1 in this subsection as follows:

| TABLE 1 - NON RESIDENTIAL HEIGHT REQUIREMENTS | | | | | |
|--|---|---|--|---|---|
| Zoning District | Maximum Height for Permitted Accessory Use | Maximum Height for Zoning District | Maximum Height for Special Exceptions Without Co-Location | Maximum Height for Special Exceptions for Co-Locations | Camouflage Required (Alternative Tower Structures) |
| AU | 50 ft. | 350 ft. | 150 ft. | 350 ft. | NO |
| PU | 100 ft. | 350 ft. | 150 ft. | 350 ft. | NO |
| O-1 | 30 ft. | 50 ft. | 50 ft. | NA | YES |
| B-1 | 50 ft. | 100 ft. | 100 ft. | NA | YES |
| B-2 | 50 ft. | 100 ft. | 100 ft. | NA | YES |
| B-3 | 90 ft. | 300 ft. | 150 ft. | 250 ft. | NO |
| B-4 | 90 ft. | 300 ft. | 150 ft. | 250 ft. | NO |
| I-1 | 90 ft. | 300 ft. | 150 ft. | 300 ft. | NO |
| I-2 | 150 ft. | 350 ft. | 250 ft. | 350 ft. | NO |

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- F. **Co-location requirements for ground-mounted towers and alternative tower structures.** Ground-mounted towers and alternative tower structures over 50 feet in height shall be designed and constructed to accommodate one co-location for each additional 30 feet in tower height proposed. Towers less than 50 feet in height shall be exempt from this provision.
- G. **Camouflage.** Structure-mounted facilities, pole-attached antennas, alternative tower structures and all associated support facilities shall be constructed as camouflaged facilities as required in Table 1 herein. Camouflage may be required for other facilities if determined by the BOA that camouflage is appropriate for a specific site to minimize the aesthetic impact of the facility.
- H. **Separation distances between towers.** The separation distances established in Table 2 of this subsection shall be required unless reduced by special exception as specified in this subsection.
 - 1. Ground-mounted towers shall comply with the horizontal separation measured between bases of the transmission towers as specified in Table 2, irrespective of jurisdictional boundaries.
 - 2. Minimum separation between pole-mounted facilities shall be determined by the location of the existing utility poles or structures. All measurements shall be certified by a professional land surveyor.
 - 3. Separation distances are as follows:

| TABLE 2 - SEPARATION DISTANCE BETWEEN TOWERS | | | |
|---|-------------------------------------|--------------------------------------|--------------------------------------|
| | Height of Proposed Facility | | |
| | Proposed Tower Below 50 feet | Proposed Tower 50 to 150 feet | Proposed Tower Above 150 feet |
| Height of Existing Facility | Required Separation | | |
| Existing Tower Below 50 feet | Exempt | Exempt | Exempt |
| Existing Tower 50 to 150 feet | Exempt | 2,500 feet | 3,500 feet |
| Existing Tower Above 150 feet | Exempt | 3,500 feet | 5,000 feet |

- 4. A request by an applicant for a ground-mounted tower for a reduction of the separation distance specified in Table 2 of this subsection shall be granted, in whole or in part, by the BOA if it finds, based upon the record at the public hearing, that the following standards, where applicable, have been met:
 - a. The reduction will not be contrary to the public interest;
 - b. The reduction will promote co-location;
 - c. The reduction will not create significant incompatibilities with the adjacent zoning district(s) or designation(s) specified in subsection (g) of this section;

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- d. Locating the tower in compliance with the separation requirements set forth in Table 2 of this section would create a greater aesthetic impact than would be caused by allowing a reduction;
- e. The tower will be substantially screened or concealed from public view in the adjacent protected zoning district(s) or designation(s) by intervening buildings, mature trees, landscaping, structures or similar screening;
- f. The reduction is needed to provide adequate service; and
- g. If the separation is reduced, the reduced separation shall not be less than the setbacks specified in this section.

I. Separation distances from adjacent residential zoning, residential comprehensive plan category, or residential use.

- 1. Ground-mounted towers (monopole, lattice and guyed tower) shall have a horizontal separation of 200 feet or 300 percent of the tower height whichever is greater when the tower is adjacent or in proximity to residential zoning districts or other property having an existing residential use, or conservation management zoning districts, or other areas designated low density residential, medium density residential, high density residential or conservation/management on the comprehensive plan future land use map unless the property within that 200 feet or 300 percent of the tower height, whichever is greater, is owned by the same property owner who owns the property upon which the tower will be located or all owners of property within that 200 feet or 300 percent of the tower height and legally competent persons residing within that 200 feet or 300 percent of the tower height as of the application date agree in writing to construction of the tower(s). Alternative towers require no separation other than the setbacks required by this section. These separation distances established in this section shall be required unless reduced by special exception, pursuant to meeting the applicable standards contained in subsection I.2. below and the reduction allowed under the special exception may not be greater than 50 percent of the separation distance otherwise required by this subsection.
- 2. A request by an applicant for a ground-mounted tower for a reduction of the separation distance specified in subsection I.1. may be granted, in whole or in part, by the BOA if it finds, based upon the record at the public hearing, that the following standards, where applicable, have been met:
 - a. The reduction will not be contrary to the public interest;
 - b. The reduction will promote co-location;
 - c. The reduction will not create significant incompatibilities with the impacted zoning district(s) or comprehensive plan designation(s) specified in this subsection;

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- d. Locating the tower in compliance with the separation requirements set forth in this section would create a greater aesthetic impact than would be caused by allowing a reduction.
- e. The tower will be substantially screened or concealed from public view in the adjacent zoning protected districts(s) or designations(s) by intervening buildings, mature trees, landscaping, structures or similar screening.
- f. The reduction is needed to provide adequate service; and
- g. If the separation is reduced, the reduced separation shall not be less than the setbacks specified in this section.

J. **General setbacks and fall zone setbacks.** All ground-mounted towers and alternative tower structures and their associated support facilities shall conform with the following setback standards:

- 1. Guy anchors and accessory structures shall meet the minimum setback requirements of the zoning district in which they are located.
- 2. Alternative tower structures or ground-mounted towers not located in rights-of-way shall be set back from the property line a distance equal to the fall zone radius of the tower as designed and certified by a professional structural engineer or the minimum zoning district set back, whichever is greater.
- 3. Ground-mounted towers and alternative tower structures located in rights-of-way or easements shall meet the requirements of the right-of-way use permit issued by the permitting authority for the right-of-way.
- 4. The ground-mounted tower or alternative tower structure may be located on a lot containing other permitted principal uses and must meet specified setbacks, and the lot shall comply with the applicable minimum lot size for the zoning district or be a legal nonconforming lot.
- 5. The fall zone shall be entirely within the property of the owner of the wireless communication facility or tower unless the owners of all property within the fall Zone grant easements to the owner of the wireless communication facility or tower allowing the fall zone to encroach upon their property. Unless specifically authorized in writing by the property owner(s) owning land within the fall zone upon which the building will be located, no buildings other than wireless facility support facilities shall be allowed within the fall zones. Fall zones for ground-mounted towers shall be determined by a registered professional engineer licensed in the State of Florida.

K. **Secure facility design.** Wireless communication facilities shall be designed, constructed, and maintained to satisfy the following requirements:

- 1. All parts of the wireless communication facilities shall maintain a minimum horizontal separation of ten feet from any overhead utility lines. This requirement does not preclude a greater separation if required by federal, state, or local laws or regulations or the utility company.

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2. Each ground-mounted facility (including guy wire anchors) and all support facilities shall be surrounded with a chain link fence not less than six feet in height from finished grade (measured from the highest point within ten feet of the fence). The facility site shall be secured by a construction fence prior to the start of transmission tower construction.
 3. Each transmission tower climbing device shall have a removable or retractable section, ten feet in length, at the bottom of the climbing device or otherwise designed to prevent unauthorized persons from climbing the tower.
 4. Structure-mounted facilities shall be located and designed to be accessible to authorized personnel only.
 5. Support facilities shall be of vandal-resistant design.
- L. **Landscaping.** The aesthetic impacts of wireless communication facilities shall be mitigated through provision of landscaping, as follows:
1. Landscaping shall be located parallel to and within the outer perimeter of the wireless communication facility construction boundaries.
 2. Landscaping shall be located not less than ten feet from the outside of all security fencing.
 3. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute or to supplement the landscape buffer requirements. Existing vegetation may include, but is not limited to, landscaping or vegetation which is outside of the wireless communication facility construction boundaries, but is within the property boundaries of the lot and under the control of the property owner on which the wireless communication facility is located.
 4. The following landscaping shall be provided and maintained around the perimeter of the tower, all freestanding support facilities, and guy-wire anchors:
 - a. A row of large-canopy trees 15 feet in height with a two-inch caliper trunk (at the time of planting). Trees shall be planted 20 feet on center around the perimeter of the fence; and
 - b. A continuous hedge of shrubs in front of the trees. The shrubs shall be at least 30 inches high at planting and capable of growing to at least 36 inches in height within 12 months; and
 - c. All plants shall be evergreen or broadleaf evergreen and of the approved types as listed in Article 11 of Chapter 12 (Landscaping) of the Highlands County Code of Ordinances.
 5. Landscaping shall be installed prior to final building inspection by County and shall be maintained in accordance with the Article 11 of Chapter 12 (Landscaping) of the Highlands County Code of Ordinances. (Ord. No. 05-06-05 § 74; Ord. 05-06-30 § 74)

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- M. **Signage.** The wireless communications facility shall have signage to identify the facility as a "no-trespassing area" and to provide a current emergency contact, telephone number, site address and other information as may be required by applicable federal, state, or local laws or regulations. No other signage shall be allowed on any wireless communication facility.
- N. **Illumination.** Wireless communication facilities shall not be artificially lighted except as required by federal, state, or local laws or regulations.
- O. **Finished color.**
1. Non-camouflaged ground-mounted towers shall be painted or have a non-reflecting and non-contrasting finish selected to minimize visibility of the facility from public view, except where contrasting color is required by federal, state, or local laws or regulations.
 2. The exterior of non-camouflaged support facilities shall be architecturally designed to blend in with the existing aesthetic and architectural standards of the surrounding environment.
- P. **Structural design.**
1. Ground-mounted towers and alternative tower structures shall be constructed to the EIA/TIA 222-F standards, as may be amended, as published by the Electronic Industries Association, which may be amended from time to time, and all applicable County ordinances, rules and regulations.
 2. Any modifications to existing ground-mounted towers and alternative tower structures shall require prior submission to the County building department of plans and certifications prepared by a professional engineer (structural), which demonstrate compliance with the EIA/TIA 222-F standards, as may be amended.
- Q. **Wireless communication facility** shall not create interference with or degrade the quality of existing broadcast telecommunications. A wireless communication facility shall not create interference with or degrade the quality of existing broadcast telecommunications, including but not limited to, emergency services and essential services communications, cable television, and other wireless communication systems.
1. Applications for new wireless communication facilities shall include a letter pursuant to subsection A. of this section.
 2. Any interference and/or obstruction pursuant to this subsection shall be corrected by the applicant or wireless communication facility owner at no cost to the County, within the following time frames:
 - a. Interference with emergency services or essential services communications--24 hours.
 - b. Interference with cable television and other wireless communication systems--45 calendar days.

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R. Modification of existing transmission towers for co-location.

1. Ground-mounted towers or alternative tower structures existing prior to January 2, 2001, may be modified to permit the co-location of antennas in order to promote co-location and to minimize the adverse aesthetic impacts associated with the proliferation of ground-mounted towers. Modification of ground-mounted towers or alternative tower structures existing prior to January 2, 2001, shall require application and approval of a building permit and shall be considered a permitted use, provided that the modified tower is:
 - a. In compliance with all the standards of this chapter except as modified in this section; and
 - b. Does not exceed ten feet over the height of the existing tower unless additional height is approved by special exception. The height added through modification shall not exceed the maximum height allowed in the property's zoning district.
2. Ground-mounted towers in existence prior to January 2, 2001, may be modified by adding no more than five antennas without a special exception for the modification.
3. Transmission towers which have been modified to accommodate co-location in accordance with this section shall not be deemed to be in violation of zoning district setbacks, the tower to adjacent zoning district/designation separation requirements specified in subsection I. of this section, or the tower to tower separation requirements specified in subsection H. of this section or Table 2 herein.

S. Replacement of existing transmission towers for co-location.

1. To promote co-location and to minimize the adverse aesthetic impacts associated with the proliferation of ground-mounted towers, the replacement of existing ground-mounted towers or alternative tower structures to accommodate the co-location of additional antenna(s) shall require application and approval of a site plan, building permit, and shall be considered a permitted use in the zoning districts listed in Table 1, provided that the replacement tower is:
 - a. In compliance with all the standards of this chapter except as modified in this section;
 - b. Located no more than 100 feet from the existing tower;
 - c. Located no more than 50 feet from the existing tower;
 - d. The same tower type as the existing tower or a monopole tower or guyed tower replacing an existing lattice tower, or an alternative tower structure replacing a ground-mounted tower;
 - e. Does not exceed 40 feet over the height of the existing tower unless additional height is approved by special exception; and

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f. The only transmission tower remaining on the site. The transmission tower which is being replaced must be removed from the site within 30 days of completion of the replacement tower.

2. An existing ground-mounted tower shall not be replaced more than one time without a special exception for the replacement.
3. Replacement transmission towers which have been constructed to accommodate co-location in accordance with this section shall not be deemed to be in violation of zoning district setbacks, the tower to adjacent zoning district/designation separation requirements specified in subsection I. of this section, or the tower to tower separation requirements specified in subsection H. of this section or Table 2 herein.
4. The height added through modification and replacement shall not exceed a total of 40 feet unless otherwise approved by special exception.

T. Certification of compliance with FCC non-ionizing electromagnetic radiation (NIER) standards. Prior to issuance of a certificate of occupancy by the County, the applicant for a new commercial wireless communication facility shall submit to the FCC, with a copy to the County administrator, a certification prepared by a professional engineer, certifying that the facility is operating within the radiation emission limits established by the FCC for non-ionizing electromagnetic radiation.

U. Abandonment.

1. In the event the use of any wireless communications facility is discontinued for a period of 180 consecutive days, the facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the County administrator who shall have the right to request documentation and/or affidavits from the transmission tower owner/operator regarding the issue of tower usage. Except where the County has determined the non-use constitutes an unsafe condition and a shorter response period is specified in the County's notice of abandonment, the transmission tower owner/operator shall respond within 60 calendar days to the above notice of abandonment.
2. Failure or refusal by the transmission tower owner/operator to respond for any reason shall constitute prima facie evidence that the transmission tower has been abandoned.
3. Upon a determination of abandonment and notice thereof to the property owner and to the transmission tower owner/operator, the tower owner/operator or property owner shall have an additional 90 calendar days within which to:
 - a. Activate the use of the facility or transfer the tower to another tower owner/operator who makes actual use of the tower within the 90 calendar day period; or
 - b. At no cost to the County, dismantle and remove the wireless communication facility.

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4. At the earlier, of 90 calendar days from the date of abandonment without reactivation or upon completion of dismantling and removal, any previous special exception and/or approval for the facility shall automatically expire.
 5. The tower applicant shall provide security or surety as required in subsection W. of this section sufficient to cover the cost of tower removal in the event the tower is abandoned.
- V. **Violations.** The owner of the wireless communication facility and the property owner of the land upon which the facility is located at the time the facility is determined to be abandoned shall be jointly and severally liable for any violation of this section.
- W. **Agreement for removal of abandoned or dilapidated tower.** An agreement between Highlands County and the owner of the tower or the land owner must be submitted. The agreement shall be maintained by the County clerk's office and monitored by the County engineer's office. The County may utilize the security provided under the agreement and complete the removal of the tower if the tower has not been removed within 180 days of abandonment. The agreement must contain a description of the amount and type of security provided to ensure removal of the tower pursuant to the provisions of these regulations and the project engineer's cost estimate of the tower removal.
1. The security shall be in the amount of 110 percent of the estimated cost of removing the tower;
 2. Security requirements may be satisfied by a performance bond, cashier's check, cash, interest bearing certificate of deposit, irrevocable letter of credit, or surety bond.
 3. The security must be for the duration of the life of the tower and the length of the permit or whichever is greater. The security must be in a form acceptable to the BCC. The security will have to be renewed, as required by the BCC. At the time of renewal, the amount of the security will be adjusted for increases in removal costs. A security required by other governmental agencies for the purpose of fulfilling the requirement for removal of an abandoned tower may be accepted partially or completely by the BCC.
- X. **Permitted use in agricultural.** Any antenna and any tower to support the antenna shall be a permitted use in the Agricultural AU district which: (1) is located more than one mile from a platted subdivision or other residential development that contains five or more lots or dwelling units; (2) meets all standards contained in this section; (3) submits an application pursuant to this section to the County engineer; (4) has between the antenna/tower and adjacent property under separate ownership a vegetative buffer which is functionally equivalent to that required by subsection L. of this section; and (5) submits a site plan to the County engineer for approval by the County engineer after review by Highlands County staff and a consultant hired pursuant to subsection Y. of this section.
- Y. **Schedule of fees and charges.** The BCC may establish from time to time by resolution a schedule of fees, charges and expenses and a collection procedure for administration of this section for the review of applications by County staff and consultants or consulting engineers, hired by the County. Those fees shall be paid by the applicant to the County when the application is filed.

(Ord. 00-01-11 §§ 34--42)(Ord. 00/01-1 14)(Ord. 03-04-1)(Old Sec's 12-331, 12-332) (Ord. No. 05-06-05, §§ 73, 74; Ord. No. 05-06-30, §§ 73, 74; Ord. No. 06-07-04, § 20)

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ARTICLE 9.

TRANSPORTATION SYSTEM STANDARDS AND PERMITS

Section 12.09.100. Transportation system standards.

These regulations apply to the transportation system throughout Highlands County including bikeways, and pedestrian access. This article shall be construed and implemented to create an efficient, safe, and balanced system of traffic circulation accommodating vehicles, bicycles, and pedestrians. The minimum engineering design and construction standards of the transportation system are found in the *Highlands County Technical Standards Manual*, current edition.

(Ord. No. 05-06-30, § 76)

Section 12.09.101. Traffic impact study requirements.

- A. A traffic impact study shall be prepared and submitted by an applicant seeking development approval for certain developments as part of the concurrency clearance required by these regulations. The requirements shall be as follows:
1. **Small projects.** No traffic impact study will be required for developments generating less than or equal to 50 average daily trips. Traffic impact from these developments will be reviewed by the County engineer who will assign driveway or road connection requirements in accordance with this article.
 2. **Minor traffic review.** Developments generating more than 50 but less than or equal to 1,000 average daily trips will be required to submit a minor traffic review. Requirements are explained in section 12.13, other administrative procedures of these regulations.
 3. **Land development traffic assessment (LDTA).** A land development traffic assessment shall be required for all developments generating more than 1,000 average daily trips. Requirements for this study can also be found under section 12.13, other administrative procedures.
- B. Each traffic impact study shall be designed to predict the impact of the proposed development on the County's transportation system. In addition to the requirements of section 12.13 other administrative procedures, the following general information shall be provided as a part of the traffic impact study:
1. A statement explaining the assumptions used in the study including existing average daily background traffic, background traffic growth rate, directional splits, average trip length, major attractions;
 2. Estimates and projections of average daily background traffic and the effect of projected development generated traffic on the level of service adopted by the County;
 3. The need for frontage or access roads parallel to the primary access road;
 4. The need for signalization; and,

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- 5. Provisions for maintaining the minimum level of service adopted by the County for affected roadways and affected intersections.

(Ord. No. 05-06-30, § 76)

Section 12.09.102. Roadway management and maintenance standards.

- A. No development order or permit shall be issued which reduces the level of service for roadways below that established herein.

Table with 2 columns: Functional Classification, Peak-Hour/Peak Season Level of Service. Rows include Principal Arterial, Minor Arterial, Major Collector, and Minor Collector, all with level C.

Roadway functional classification shall be the same as that defined by the Federal Highway Administration and the Florida Department of Transportation.

- B. Highlands County shall not accept any unpaved public road rights-of-way for maintenance. An exception to this is that unpaved public rights-of-way that are not under County maintenance as of July 24, 2001, Ordinance No. 00-01-23 of these regulations may be accepted for County maintenance if:
1. All property owners contribute to the costs for construction of roads, drainage, and related improvements to County public (paved) road standards; and
2. A minimum 60-foot public right-of-way exists which is contiguous to an existing paved County, city, or state maintained road.

- C. Assistance in upgrading unpaved County maintained roads. The County may assist affected property owners, on County maintained unpaved roads, in achieving the goal of a paved road if funds are contributed toward the complete purchase price of materials. The County will provide labor and equipment.

(Ord. No. 05-06-30, § 76)

Section 12.09.103. Access and circulation.

- A. Access and circulation standards. Every preliminary site plan and preliminary plat prepared and submitted for development approval pursuant to these regulations, every application for a residential driveway permit, and every application for a driveway or road connection permit, shall demonstrate compliance with the vehicular access and circulation standards of this section.
1. Guaranteed access. Every project shall have access to either a public County or state right-of-way (or both). Access to a state road is controlled and permitted by the Florida Department of Transportation in compliance with Chapter 14-97, F.A.C., State Highway System Access Management Classification System and Standards. The total number of access points to County roads shall be as follows:

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| Type of Development | Number of Access Points |
|---|--------------------------------|
| Residential, 1 through 75 units | 1* |
| Residential, more than 75 units | 2 |
| Nonresidential, less than 100 required parking spaces | 1* |
| Nonresidential, 100 to 299 required parking spaces | 2 |
| Nonresidential, 300 or more required parking spaces | 2 or more |

*** The County engineer may approve additional access points where transportation circulation and safety conditions permit.**

Where two or more access points are required, the first access point must be constructed prior to issuance of building permits and the second access point must be constructed prior to the issuance of a building permit for the 76th unit. However, a bond or other form of surety guaranteeing construction of the improvements shown on the improvement plan or plat may be acceptable.

2. **Corner lot.** Corner lots shall meet the following connection requirements:

| Minimum Distance from Rights-of- Way Position | Access Allowed | Intersection |
|--|-----------------------|---------------------|
| Approaching Intersection | Full Access | 230' |
| Approaching Intersection | Right-In Only** | 100' |
| Departing Intersection | Full Access | 230' |
| Departing Intersection | Right-Out Only** | 100' |

**** For right-in only and right-out only connections, the connections shall be designed to effectively eliminate unpermitted movements.**

- a. Where a lot meets the zoning requirements for road frontage and none of the above designs are possible, one full access driveway shall be allowed within the 25 percent of the lot that is farthest from the centerline of the intersection of the rights-of-way.
 - b. Schools and/or uses requiring emergency vehicle access may have one additional access provided that the additional access drive is limited to school bus or emergency vehicle use only.
 - c. A service/filling station may be allowed one additional point of access for each 150 feet of street frontage. Each access shall not exceed 30 feet in width and shall be separated from all property lines and all other access points by a minimum 15-foot curb island.
3. **All roads proposed in a new development** shall be designed and constructed pursuant to standards and drawings in the *Highlands County Technical Standards Manual*, current edition. Roads, dedicated to the public, by recorded subdivision or by deed, shall be accepted by the County for maintenance according to the policy described in section 12.04.113 guarantees, sureties, improvements completion, and maintenance of these regulations.
4. **Private streets** may be allowed within manufactured home parks, seasonal parks, planned unit developments, cluster/PUD developments, and all types of subdivisions. Streets in developments

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where individual lots are not proposed for sale may be designed and constructed to private road standards described in *Highlands County Technical Standards Manual*, current edition. Private streets in developments where individual lots are intended for sale shall be designed and constructed in compliance with public road standards described in *Highlands County Technical Standards Manual*, current edition, and a property owner's association must be established to provide maintenance pursuant to section 12.04.517 maintenance by condominium, owners' association, or co-op of these regulations.

5. **For development proposed on principal arterials or major collectors**, the County engineer may require frontage or service roads, requiring access from the frontage road rather than the arterial or collector. This requirement may be met through interconnecting parking lots which abut the arterial or major collector facility. Where natural features cause this requirement to be physically infeasible, alternate designs may be approved.
6. **Separation between access points on all arterial roadways** shall be as required by Chapter 14-97, F.A.C. However, two adjacent projects may share a common driveway provided that appropriate access easements are granted between or among property owners.
7. **All proposed rights-of-way** shall be located and sized in compliance with section 12.09.104 roadway design standards of these regulations.
8. **The street layout in all new development** shall be coordinated with and interconnected to the street system of the surrounding area. Streets in proposed subdivisions shall be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are unplatted, stub outs in the new development shall be provided for future connection to the adjacent unplatted land.
9. **All structures, not including accessory or temporary uses**, hereafter erected or relocated shall be on a lot adjacent to or abutting on a public street, or with access to a public street by means of a private street or easement which has been recorded in the Official Records of Highlands County, Florida.
10. **Residential driveways, and commercial driveways exempted** under section 12.04.610 commercial driveways of these regulations, shall have either concrete or asphalt aprons when connecting to paved roads. Aprons connecting unpaved roads may be constructed of the same material as the road. Driveways shall be constructed pursuant to the standards of section 12.09.105 driveway permits of these regulations.
11. Driveways and road connections to commercial building structures, subdivisions, manufactured home parks, seasonal parks, planned unit developments, and cluster/PUD developments shall be designed in compliance with the *Highlands County Technical Standards Manual*, current edition. Upon review and concurrence by the County engineer with the results and recommendations contained in the traffic impact study, deviation from the case drawing requirements may be allowed. A case might exist whereby off-site transportation improvements to another link or intersection impacted by the proposed development would create less hazardous or congested facilities.

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12. For the purposes of these regulations, the following terms are defined:
 - a. **Corner lot:** A corner lot is a lot abutting upon two or more streets at a street intersection, or abutting upon two adjoining and deflected lines of the same street and thereby forming an interior angle of less than 135 degrees.
 - b. **Double frontage lot:** This is a lot having two or more of its non-adjointing property lines abutting upon a street or streets.
13. **In residential developments,** a driveway for a corner lot shall be located on the street having the lower, functional classification or in the case where roads have the same functional classification, on the roadway having the smaller ADT. Design and construction shall be according to section 12.09.103.A.1., 2, and section 12.09.105 driveway permits of these regulations.
14. **In nonresidential developments,** a driveway entrance for a corner lot shall be located as determined by the designing engineer and approved by the County engineer as a part of the improvement plan or final site plan for the project. Design and construction shall be according to section 12.09.103.A.1., 2, and section 12.09.105 driveway permits of these regulations.
15. If at all possible, lots in new development shall be designed so as not to be double frontage lots. Where this design cannot be accomplished or where an existing double frontage lot is encountered, a lot shall have a minimum 20 foot non-access buffer to isolate the double frontage lot from the fronts of other lots. A decorative fence, decorative hedging, or berm shall be installed in the non-access buffer. Plans for this screening shall be the same as for 20-foot transitional protective yards described in section 12.11 landscaping standards, of these regulations or as approved by the County engineer.
16. **Access to selected segments of the US 27 principal arterial highway** will be controlled as per terms of a resolution adopted July 31, 1990, by the BCC which approves a joint Florida Department of Transportation - Highlands County Median Access Management Plan.
 - a. Driveway connections to State roads will be as approved by the Florida Department of Transportation, and in addition, connections to SR 25 (US 27) will be in compliance with the adopted Median Access Management Plan and Chapter 14-97, F.A.C.
 - b. Developers requesting authorization for the installation of signalization devices that would facilitate access to their development will be required to provide the County with documentation, i.e., studies, pedestrian counts, traffic counts, etc., that warrant signalization device requested.
 - c. Under no circumstances shall the foregoing be construed to require the County to deny access to those properties adjacent to the corridor so as to constitute a "taking" of property under judicially established principles.

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B. **Development within an adjacent municipality.** Where development is proposed adjacent to a County maintained road, but the development site itself lies within a municipality, and the developer desires either a driveway connection or a drainage connection to the County road and right-of-way, the developer shall comply with County requirements contained in Article 9, Division 4 of Article 12, and Division 1 of Article 13 of this chapter to the extent that these developments impact County roads, rights-of-way, or drainage systems just as if the development were in the unincorporated area of the County. This type development will be referred to in these regulations as adjacent development.

1. **The developer shall pay all fees** required pursuant to the fee schedule adopted by the BCC and meet all application and deadline requirements pursuant to the requirements contained in Article 9, Division 4 of Article 12, and Division 1 of Article 13 of this chapter and of the *Highlands County Technical Standards Manual*, current edition.

Exception: Irrigation and landscape plans will not be reviewed for on-site construction, nor will the per sheet review fee be charged on these two plans.

2. **Traffic impact study.** County rules regulating traffic impact studies will apply to adjacent development.
3. **Guarantees, sureties, improvements completion, and maintenance:** The requirements of section 12.04.113 of these regulations concerning the posting of sureties to guarantee completion of the work will apply to all construction within the County right-of-way resulting from adjacent development with the exception of small projects established pursuant to Division 3 of Article 1 of the *Highlands County Technical Standards Manual*, current edition. Small projects must meet the requirements of division 3 of Article 1 of the *Highlands County Technical Standards Manual*, current edition. A final development order and permit authorizing work within the County right-of-way will not be issued until the developer/applicant has entered into an improvement agreement and posted security based on the engineer's signed and sealed cost estimate as described in the aforementioned section 12.04.113. Upon completion of the work, receipt of a signed and sealed certificate of completion and "as built" plan, and acceptance by the County engineer, the security will be returned to the developer/applicant. The maintenance agreement and surety mentioned in said section 12.04.113 will not be required.
4. **Building permits and certificates of occupancy.** A standing agreement between Highlands County and the municipalities within the County is that the municipality will withhold issuing the building permit for adjacent development until the right-of-way construction plan is approved, and to withhold the certificate of occupancy until the County is satisfied that all right-of-way work is completed. The developer/applicant should take this into consideration when calculating the completion date for the project.

C. **Pedestrian access standards.**

1. Proposed development requiring site plan or improvement plan review abutting collector or arterial facilities shall provide sidewalks adjacent to the collector or arterial roadway. Location of sidewalks shall be consistent with planned roadway improvements.

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2. Where a proposed development includes improvements or new construction of collector or arterial facilities, facility designs shall include provisions for sidewalks and bikeways within the right-of-way.
3. Design and construction of sidewalks, bikeways, or other footpaths shall conform to the specifications of the *Highlands County Technical Standards Manual*, current edition, including provisions for access by physically handicapped persons.

D. Standards for drive-up facilities. All facilities providing drive-up or drive-through service shall provide onsite stacking lanes in accordance with the standards listed below.

1. Drive-in facilities and stacking lanes shall be located and designed to minimize turning movements relative to driveway access to streets and intersections.
2. Drive-in facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways.
3. A bypass lane shall be provided.
4. Stacking lane distance shall be measured from the service window to the property line bordering the furthestmost street providing access to the facility, as measured along the centerline of the stacking lane.
5. Minimum stacking lane distance shall be as follows:
 - a. Financial institutions - a minimum distance of 200 feet; two or more stacking lanes may be provided which together total 200 feet
 - b. All other uses - a minimum distance of 120 feet unless otherwise noted in these regulations.
6. Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-up facilities.
7. Where turns are required in the exit lane, the minimum distance from any drive-up station to the beginning point of the curve shall be 34 feet. The minimum inside turning radius shall be 25 feet.

E. Clear visibility triangle at street intersections. In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by the right-of-way lines of two intersecting streets.

1. Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and ten feet above the centerline grade, measured from the centerline of the intersection. Anything placed in this triangle shall be in accordance with the roadside recovery area provisions of the State of Florida Department of

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Transportation's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (Florida Greenbook), current edition where appropriate.

- 2. The clear visibility triangle shall be formed by connecting a point on each street right-of-way line, to be located at the distance from the intersection of the street right-of-way lines indicated below, and a third line connecting the two points.

Clear Visibility Triangle
Minimum Distances Required

Table with 2 columns: Road Classification, Distance from Street Right-of-Way Intersection. Rows include Local Street (50 feet), Rural Minor Collector (70 feet), Rural Major Collector (80 feet), and Principal Arterial (100 feet).

The minimum distances required may be modified according to the State of Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (Florida Greenbook), current edition.

- F. Clear visibility triangle at driveways. In order to provide a clear view of the street, there shall be a triangular area of clear visibility formed by the intersection of the driveway with the street right-of-way line.
1. Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and ten feet above the crown of the adjacent roadway.
2. The clear visibility triangle formed by the intersection of a driveway with a street right-of-way line is described as follows: Beginning at the intersection of the driveway edge with the right-of-way line, thence along the right-of-way in a direction away from the driveway for a distance of ten feet, thence in a straight line across the property to a point on the edge of the driveway ten feet from the point of beginning.

(Ord. No. 05-06-30, § 76)

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Section 12.09.104. Roadway design standards.

A. Right-of-way requirements.

- 1. **Widths.** Right-of-way requirements for road construction shall be as shown in the *Highlands County Technical Standards Manual*, current edition and as follows:

| Functional Classification | Right-of-Way Width |
|--|---------------------------|
| Principal Arterial (multi-lane) | 200 feet |
| Principal Arterial | 150 feet |
| Rural Major Collector | 100 feet |
| Rural Minor Collector | 80 feet |
| Local Street | 60 feet |
| Marginal Access or Frontage Road | 50 feet |
| Alley | 40 feet |
| Manufactured Home Park roads (Private) | 40 feet |
| Seasonal Park Roads (Private) | 40 feet |

- 2. Private road rights-of-way, when allowed within subdivisions, shall be the same width as public rights-of-way.
- 3. Where one-way private streets are utilized in manufactured home parks or seasonal parks, the minimum right-of-way width shall be 25 feet.
- 4. Future right-of-way requirements are identified in the Traffic Circulation Element of the Highlands County Comprehensive Plan. Where roadway construction, improvement, or reconstruction is not required to serve the needs of the proposed development project, future rights-of-way shall nevertheless be reserved for future acquisition. No part of the reserved area shall be used to satisfy minimum requirements of these regulations. Building setback shall be based on future right-of-way line.
- 5. A proposed subdivision that encompasses an existing public street that does not conform to the minimum right-of-way requirements shall provide for the dedication of additional right-of-way along either one or both sides of said street so that the minimum right-of-way required by this can be established. If the proposed subdivision abuts only on one side of said street, then a minimum of one-half the required right-of-way, shall be dedicated or reserved by the subdivision.

B. Protection of use of rights-of-way.

- 1. No encroachment, including signs, shall be permitted into existing rights-of-way, except for temporary use authorized by the BCC, or otherwise exclusively defined and allowed by these regulations.
- 2. Use of the right-of-way for public or private utilities including, but not limited to, sanitary wastewater, potable water, telephone wires, cable television wires, gas lines, electricity

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distribution lines, sidewalks, and bicycle ways shall be allowed subject to the requirements of section 12.14 Division 3 of these regulations and the payment of any franchise fee or right-of-way use fee in effect. A utility permit shall be required from the County engineer in all cases.

3. Electricity and gas transmission lines and appurtenant installations shall be located in existing transmission line easements and, where feasible, these transmission line easements shall be located away from arterial rights-of-way. Permits for transmission line construction, in both public and private easements, shall be required from the BCC, and shall require prior to issuance of the permit, evidence that all State and local requirements have been met, including County zoning requirements. Payment of any franchise fee or right-of-way use fee in effect from time to time shall also be required. (See section 12.14.300 of these regulations for details.)
4. All other work within the right-of-way including, but not limited to, roadway improvements, drainage improvements, structures, pole installations, sidewalks, bicycle paths, or sign placements shall be allowed subject to the provisions of these regulations.

A utility permit and/or construction permit shall be required from the County engineer. Payment of any franchise fee or right-of-way use fee in effect from time to time shall also be required.

5. No utilization of the right-of-way for parking shall be permitted, except as authorized by the BCC.
6. Exemptions:
 - a. Highlands County departments or agencies under contract to Highlands County, as authorized by the BCC.
 - b. Approved U.S. Postal Service mail boxes or newspaper delivery receptacles with a support system as follows: metal or concrete supports not exceeding ten square inches; or wooden supports not exceeding 20 square inches. The support systems shall be a minimum of two feet from the edge of pavement of a local access street and six feet from the edge of pavement on an arterial or collector road.

C. **Vacations of rights-of-way.** Applications to vacate a right-of-way shall be reviewed by the BCC based on the following findings:

1. The requested vacation is not inconsistent with the Traffic Circulation Element of the Highlands County Comprehensive Plan.
2. The requested vacation complies with F.S. §§ 336.09--336.12.
3. The right-of-way does not provide the sole access to any property.
4. The vacation would not jeopardize current or future location of any utility.

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5. The proposed vacation is not detrimental to the public interest and provides a positive benefit to the County.
- D. **Minimum centerline radius.** The minimum centerline radius shall be as follows:
1. **Local street.** 150 feet unless the maximum length of tangent coming into the curve from an intersection or substantial curve is less than 700 feet, in which case the radius may be reduced to 75 feet.
 2. **Collector street.** 300 feet minimum.
 3. **Arterial street.** 750 feet minimum.
- E. **Collector intersections.** New street entrances on roads designated or classified as collector streets shall not be less than 500 feet apart. However, the County engineer may reduce these requirements whenever it is determined that such action will not be contrary to the purpose of these regulations.
- F. **Street jogs.** Street jogs or center line offsets of less than 125 feet will not be allowed at intersections.
- G. **Dead-end streets.** Temporary dead-end streets may be permitted upon approval of the County engineer provided a temporary shellrock cul-de-sac is constructed at the closed end.
- H. **Local and collector streets.** Local and collector streets within developments shall be so laid out and designed that their use by through traffic and speeding traffic will be discouraged. Curvilinear design is recommended. Whenever a street changes direction or connecting street lines deflect from each other by more than ten degrees, a horizontal curve shall be provided.
- I. **Reverse curves.** A tangent of at least 100 feet shall be introduced between reverse curves on collector streets.
- J. **Street name and number.** All streets within a development hereafter established shall be named or numbered. No name or numbers shall be used which will duplicate or be confused with existing street names, and all names shall be approved by the E-911 section of the zoning department and the County engineer.
- K. **Residential block length.** In general, intersecting streets, which determine block length, shall be provided at such intervals as necessary to meet existing street patterns, topography, and requirements for safe and convenient vehicular and pedestrian circulation. Blocks, however, shall not exceed 1,800 feet in length, where possible, and straight lengths of local streets greater than 1,000 feet in length shall be avoided where possible.
- L. **Cul-de-sac street.** Permanently designed as such, a cul-de-sac street shall not exceed 1,000 feet in length unless otherwise approved by the County engineer, and shall be provided at the closed end (cul-de-sac) with a turnaround having an outside roadway diameter of at least 80 feet and a property line diameter of at least 120 feet. Each lot shall front on the cul-de-sac a minimum of 30 feet.

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- M. **Roadway specifications.** Specifications for design and construction of roads and streets in compliance with these regulations are contained in the *Highlands County Technical Standards Manual*, current edition

- N. **Private street and roadways.** Anyone who plats a lot or obtains a building permit for a lot utilizing a private or public non-County maintained road easement for access is required to complete and record the notice of non-maintained access form with the BCC. Private street and roadway standards in compliance with these regulations are contained in the *Highlands County Technical Standards Manual*, current edition. *See attached form:*

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NOTICE OF NON-MAINTAINED ACCESS

NOTICE IS HEREBY GIVEN that the hereinafter described parcel of land in Highlands County, Florida does not front on a County or publicly maintained road and that the route of access to and from said parcel is not maintained with public funds and that neither Highlands County nor any other unit of government has any obligation to construct or maintain such access route, and that such maintenance of the access route as may be needed in the future shall be performed solely at the expense of the occupants of said parcel:

Legal description:

Lot, Block:

Subdivision:

This Notice does not constitute a representation that lawful access to the parcel exists.

IN WITNESS WHEREOF the undersigned owner(s) have/has executed this Notice and cause the same to be recorded in the public records of Highlands County, Florida, on this _____ day of _____, 20__.

Signature of owner

Print Name

PREPARED BY: _____

FORM ORIGINATED FROM:
STATE OF FLORIDA
COUNTY OF HIGHLANDS

The foregoing instrument was acknowledged before me this _____ day of _____, who is personally known to me or who produced _____ as identification.

NOTARY COMMISSION: _____

revised February 2, 2000
END FORM
(Ord. No. 05-06-30, § 76)

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Section 12.09.105. Driveway permits--Purpose and intent.

The purpose and intent of this section is to regulate the location, size, method of construction, and installation of driveways and road connections to the right-of-way; to provide for the efficient and safe operation of the County road system; and to protect the structural and physical integrity of roads and the associated stormwater management systems. The *Highlands County Technical Standards Manual*, current edition provides illustrations and references which represent the minimum design, construction and installation requirements for all driveways regardless of lot size, and those certain road connections which serve land divisions of ten acres or larger parcels pursuant to section 12.09.111, ten acre parcel road connections, of these regulations. For the purpose of these regulations, a distinction between driveways and road connections is made as follows:

- A. A driveway is used to connect a single lot, parcel, or tract to any road with the intention that no more than one or possibly two residential, commercial, or agricultural structures, or an undeveloped lot, tract or parcel will be served by the connection.
- B. A road connection is used to connect a public or private road to a public road, and applies to roads that connect such developments as subdivisions, manufactured home parks, seasonal parks, planned unit developments, and cluster/PUD developments to public roads, and includes roads in existing undeveloped recorded subdivisions.

(Ord. No. 05-06-30, § 76)

Section 12.09.106. Applicability.

- A. **Driveway permit.** A driveway permit shall be required for all developments proposing to construct a new driveway or road connection, or utilize an existing driveway or road connection as defined above within:
 - 1. The unincorporated areas of Highlands County; and/or
 - 2. The incorporated area, when the proposed connection is to a County maintained road, or a building permit is issued by the County.
- B. The applicant shall apply for a driveway permit using an application form established for such purpose by the BCC, and submitting it to the County engineer along with an application fee to be established by the BCC. The County engineer is charged with the responsibility of reviewing and approving the applications. A permit will not be required for the routine maintenance of a permitted driveway or road connection. However, where an existing permitted/unpermitted driveway is to be widened, its elevation is to be changed, and/or its design is to be substantially altered, a new permit will be required. For connections to a state road, an approved permit from the Florida Department of Transportation shall be submitted to the County engineer prior to commencement of construction.
- C. **Driveway exemption.** The County engineer may exempt an applicant from the requirement to obtain a permit and construct a driveway connection to any unimproved roadway which provides ingress and egress for the applicant's property. This exemption will not be allowed where a culvert is required. The exemption shall be conditioned upon the requirement that the applicant or his successor in title obtain a permit and construct a driveway connection at such time as the road is improved. The applicant shall

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submit a request for inspection to the County engineer along with the inspection fee as established by the BCC. No driveway requirement or permit will be waived without payment of this fee.

(Ord. No. 05-06-30, § 76)

Section 12.09.107. Permit conditions.

The following conditions apply to an approved driveway permit:

- A. A driveway permit authorizes construction in the right-of-way, but the installation is for permissive use only and shall not be construed to create or vest any property right of the associated right-of-way to the permittee.
- B. The permittee, his successor or assigns shall be responsible for construction, repair, and maintenance of the driveway until it is removed or unless specified otherwise by the County engineer.
- C. If a change in use by the permittee, his successor or assigns creates undue disruption of traffic, or creates safety hazards at any time in the life of the driveway, the County engineer shall have the authority to require its alteration or relocation at the expense of the permittee, his successor or assigns.
- D. The permittee shall commence actual construction in good faith within 90 calendar days and shall complete it within 365 calendar days from the date of issuance of the permit.
- E. The driveway construction and installation work shall conform to the standards of these regulations; the County engineer may issue a "stop work" order for any violation of the permit conditions.
- F. All materials, equipment, and traffic control devices shall be subject to inspection by the County engineer.
- G. All property shall be restored equal to or better than its original condition, or to the satisfaction of the County engineer; all disturbed area within the right-of-way shall be sodded.
- H. The permittee shall notify all appropriate utility companies prior to the start of construction.
- I. For residential driveways, the lot or tract numbers or address shall be posted at the job site at front property corners, and also on the side property corners when the lot or tract is a corner lot, until final inspection.
- J. All applicable safety regulations of the Florida Department of Transportation and Occupational Safety and Health Administration shall be observed during construction and the permittee must take such measures, including placing and display of safety devices, as may be necessary to insure safety of the general public affected by the project.
- K. Highlands County shall not be responsible for any damages, claims or injuries that may occur because of the driveway construction, design, maintenance or continuing existence of the driveway.

(Ord. No. 05-06-30, § 76)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

Section 12.09.108. Driveway permitting procedure--Intent.

The general intent of this article is to establish procedures for obtaining driveway permits and road connection permits such that the process is as simple as possible while maintaining compliance with the County's comprehensive plan.

(Ord. No. 05-06-30, § 76)

Section 12.09.109. Commercial driveways.

A commercial driveway proposed for construction at the same time as the commercial building structure requiring a final site plan approval, driveway permitting shall be a part of the final site plan submittal pursuant to section 12.04.103 commercial building structures, of these regulations. A driveway permit application, signed by the owner, will be submitted along with the final site plan or subdivision improvement plan. The driveway connection shall be designed and approved as part of the final site plan in full compliance with the requirements of this section and the *Highlands County Technical Standards Manual*, current edition.

A driveway proposed for an existing commercial building structure shall be designed in full compliance with the requirements of this section and the *Highlands County Technical Standards Manual*, current edition. Three copies of a site plan, signed and sealed by a professional engineer registered in Florida, and a driveway permit application, signed by the owner, shall be submitted to the County engineer. The review standards, testing and inspection requirements will be the same as for a driveway proposed for construction at the same time as the commercial building structure requiring a final site plan approval.

(Ord. No. 05-06-30, § 76)

Section 12.09.110. Commercial driveways exempt from development order process.

Certain commercial driveways as listed in these regulations, which are exempt from the development order process, shall require submittal of three copies of a driveway permit application and a sketch of the proposed construction to the County engineer. The design and construction of the driveway shall conform to the applicable commercial driveway details shown in the illustrations in the *Highlands County Technical Standards Manual*, current edition.

(Ord. No. 05-06-30, § 76)

Section 12.09.111. Ten acre parcel road connections.

For road connections serving ten acre or larger parcel land divisions as described in these regulations, driveway permit applications will be required. Three copies of a driveway permit application along with a sketch of the proposed construction shall be submitted to the County engineer for his review and approval. The design and construction of the road connection shall conform to the applicable commercial driveway details shown in the *Highlands County Technical Standards Manual*, current edition.

(Ord. No. 05-06-30, § 76)

Section 12.09.112. Residential driveways.

A driveway permit application, as required by these regulations, shall be submitted to the County engineer. A single-family, duplex or manufactured home residential driveway shall be located, designed and constructed according to the illustrations for residential driveways in the *Highlands County Technical Standards Manual*, current edition, unless approved otherwise by the County engineer. When a roadside ditch

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closure is proposed by means of piping the full width of a residential lot, the side drain pipe and the driveway details shall conform to the details in the applicable illustration in the *Highlands County Technical Standards Manual*, current edition.

Exception: Residential driveways, not concurrently associated with the construction of a single-family residence, duplex structure, or manufactured home, and where no building permit is being issued except for the concrete driveway itself, are exempt from the development order process, but not from the requirement to obtain a driveway permit. Three copies of a driveway permit application along with a sketch of the proposed construction shall be submitted to the County engineer for his review and approval. The residential driveway shall be located, designed and constructed according to the illustrations for residential driveways in the *Highlands County Technical Standards Manual*, current edition, unless approved otherwise by the County engineer.

(Ord. No. 05-06-30, § 76)

Section 12.09.113. Existing driveways.

When an existing residential or commercial driveway connection to a road is to be utilized to satisfy the requirements of these regulations, it must be inspected by the County engineer and found to be substantially in conformance with the standards of this section for the type of development that it is intended to serve. The applicant shall submit a request for inspection along with the inspection fee as established by the BCC. This provision does not apply when a new project is being designed by a registered professional engineer. When an existing connection to a state road is to be utilized, the owner must provide an approval letter from FDOT prior to a building permit being issued.

Where a structure, either commercial or residential, is being replaced, a driveway permit will be required. However, the applicant has the option, upon payment of an established fee, of having the County engineer's office inspect the existing driveway. If the driveway meets the requirements of these regulations no permit will be required. If the driveway does not meet current standards, a permit must be obtained and a driveway constructed in compliance with the applicable requirements of this section and other sections of these regulations.

(Ord. No. 05-06-30, § 76)

Section 12.09.114. Required information.

All driveway permit applications shall include the following information at a minimum:

- A. Owner's name, mailing address, and telephone number;
- B. Legal description of the lot or tract;
- C. Lot dimensions, total lot or parcel area;
- D. A copy of the most recent boundary survey;
- E. The following information shown on the accompanying site plan, as applicable:
 1. Drawing scale used, or the notation "not to scale";

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2. North arrow;
3. Street names of all abutting rights-of-way and showing their side swales or ditches;
4. Location of proposed driveway with respect to the lot lines;
5. Proposed driveway geometrics including width of driveway at the right-of-way line, size of radii or turnouts at the intersecting roadway and distances from front or side lot corners;
6. Type of pavement being used, such as asphalt, concrete, etc;
7. General direction of flow across the lot and in the roadside swales and ditches to ensure that the runoff will be conveyed from the lot without flooding adjacent properties, and if applicable to ensure that the grading of the lot is in compliance with an approved stormwater management plan or an improvement plan;
8. Location of septic tank and drain field; and
9. Maximum proposed finished floor elevation, existing elevations along the adjacent roads (paved or unpaved) according to the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Florida Greenbook), current edition definition of terms, existing finished floor elevations of adjacent structures, and elevations of adjacent vacant lots.

(Ord. No. 05-06-30, § 76)

Section 12.09.115. Design and specifications.

The design of the individual driveways shall conform to and incorporate the features listed below.

- A. The geometric design and location of a driveway shall conform with the applicable drawing details, section 12.09.103, and the *Highlands County Technical Standards Manual*, current edition.
- B. The driveway edges shall be connected flush to the edge of pavement (or the traveled way in the case of an unpaved road) of the roadway with adequate radii or taper to provide a safe turning maneuver, to avoid being a hazard to through traffic, and to accommodate the turning vehicle within the driveway. In the case of concrete driveways connecting to an unpaved road, the concrete edges shall extend only to the proposed or future pavement edge, beyond which line the material must be the same as the existing roadway.
- C. Driveways shall be positioned to intersect as nearly as possible at right angles to the roadway, and shall be constructed within the limits of an area defined by the extension of the two side lot lines to the edge of pavement, unless approved otherwise in advance by the County engineer. The County engineer shall consider space limitation, right-of-way obstructions, lots fronting on culs-de-sac and other unusual circumstances in making his decision.

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- D. Driveways, or any portion thereof, will not be constructed within side and rear lot drainage and utility easements unless permitted by the County engineer. If authorized, the permittee shall be responsible for the expense of removal and replacement, should such become necessary.
- E. All driveways are to be constructed such that drainage within the road right-of-way is not impaired, and the stability of the subgrade is not altered.
- F. If a drainage culvert is required under the driveway, the type, invert elevation, and diameter shall be as required by the *Highlands County Technical Standards Manual*, current edition. The length of drainage culvert required shall be based on the driveway width at the centerline of the swale, plus a minimum of four feet for required shoulders and a distance based on a 4:1 slope using the driveway's centerline elevation and the culvert's invert elevation as the vertical distance to compute the required horizontal distance.
- G. Mitered end sections with concrete collars having a broom finish and sod shall be used for all culverts, except for residential driveways on local roads or unless approved otherwise by the County engineer. The details for a mitered end section shall conform to the current edition of FDOT's Roadway and Traffic Design Standards.
- H. In areas where roadside swales are required, the right-of-way shall be graded a minimum of two inches below the design swale grades to allow for the placement of sod. Sod mowing shall be the responsibility of the permittee to ensure the design flow of water through the swale.
- I. Landscaping other than sodding will not be permitted in the right-of-way unless the applicant can demonstrate that the proposed landscaping complies with section 12.09.103, section F., clear visibility triangle at driveways, and section 12.11.100, landscaping and buffering standards of these regulations. Sodding in the right-of-way shall comply with the requirements of section 12.11.103 H. Sodding public rights-of-way, of these regulations.
- J. Existing access points which are not a part of the project's site plan shall be totally removed and the right-of-way shall be restored prior to issuance of the certificate of occupancy.

(Ord. No. 05-06-30, § 76)

Section 12.09.116. County's responsibility.

- A. Upon receipt of a driveway permit application and site plan, the County engineer's office will take the following action within five working days.
 - 1. Consult any existing water management district stormwater management plan or a County approved improvement plan for the site, as applicable, and review the driveway permit application for compliance with the existing plans and these regulations. Approval of a residential driveway permit application for a dwelling to be constructed on a lot of record, legally created as part of a recorded subdivision, for which the appropriate water management district has approved a stormwater management plan, or the County has approved an improvement plan, shall be conditioned upon compliance with previously approved plans.

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2. When the application and plan are found to be in noncompliance, return the application and plan for revision, noting any changes necessary to bring the plan and proposed construction into compliance with these regulations.
 3. When, either the original or revised application and plan are found to be in compliance, the County engineer or his designee shall make an inspection of the site and note driveway elevations and other requirements on the permit application. The County engineer shall issue a driveway permit authorizing construction of the driveway subject to such notes on the permit application, and will notify the applicant in writing.
- B. Within eight working days of notification of construction completion from the permittee, the County engineer shall make a final inspection of the driveway and lot grading prior to the issuance of the certificate of occupancy by the building official to ensure its compliance with the conditions of the driveway permit. The permittee will be notified when construction does not comply with the approved permit.

(Ord. No. 05-06-30, § 76)

Section 12.09.117. Optional County services.

For an additional fee as established by the BCC, paid in advance, an applicant for driveways described in section 12.09.110, section 12.09.111, and section 12.09.112 may request and receive the following services by the County engineer's office:

- A. Set grade stakes within the right-of-way or easement indicating the elevations of the inverts of a culvert.
- B. Inspect and approve the elevations of the driveway and culvert prior to concrete being placed.
- C. Every reinspection by the County engineer's office shall require an advance payment of a fee established by the BCC.

(Ord. No. 05-06-30, § 76)

Section 12.09.118. Land development regulation variances and appeals.

The County engineer shall have the authority to grant land development regulation variances from the terms of this section in accordance with section 12.11.113. When a land development regulation variance request is denied by the County engineer, the applicant may appeal the decision through the appeals process described in section 12.04.519.

(Ord. No. 05-06-30, § 76)

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ARTICLE 10.

OFF-STREET PARKING AND STORAGE

DIVISION 1.

PURPOSE INTENT AND MAINTENANCE

Section 12.10.100. Purpose and intent.

It is the intent of the BCC to assure that all land uses and their buildings hereafter erected or instituted, except for agricultural uses and their buildings, shall be provided with adequate off-street parking and loading facilities for the use of occupants, employees, visitors, vendors or patrons. Agricultural use and buildings means a lawfully operating and bona fide agricultural operation that is in business for the purpose of growing plants, crops, trees, silviculture, or other agricultural or forestry products or that is in business for the purpose of raising livestock, when the agricultural activity occurs on property owned or lawfully occupied by the person conducting said agricultural activity and said property is designated by the future land use map general agriculture. It is also the intent of this paragraph that the public interest, welfare and safety require that certain uses provide adequate off-street loading facilities. Further, it is the intent of the BCC that such off-street parking and loading facilities shall be maintained and continued as an accessory to the principal use they are intended to serve so long as such use is continued.

(Ord. No. 05-06-30, § 77)

Section 12.10.101. Applicability.

The provisions of this article shall apply to all development, redevelopment, or amendments to the existing development approvals, as follows:

- A. **Nonresidential development.** A change in use of a nonresidential property, building, or structure, or conversion of an existing residential use to a nonresidential use, shall require that the total parking requirement for the new use be established concurrent with the change in use. Any increase in total floor area of any building or structure shall require that the total parking requirement, for the aggregate sum of the additional floor area and the base floor area be provided concurrent with the additional floor area.
- B. **Residential development.** Changes to approved development plans that result in an increase in dwelling units shall include provisions on site for the total parking requirement of all resulting dwelling units.
- C. **Status of prior approvals.** Unexpired development plans approved prior to the effective date of these regulations shall comply with the parking requirements in effect at the time of the original development plan approval. Provided further, that should the unexpired development plan be amended, the total parking requirement, that is attributable to the amended plan pursuant to these regulations shall be met on site.

(Ord. No. 05-06-30, § 77)

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Section 12.10.102. Maintenance.

All off-street parking areas shall be constructed of dust free surfaces, be well maintained; free of potholes, debris, weeds, broken curbs, and broken wheel stops; clearly striped; and with all area lighting in working condition. Off-street parking areas may utilize porous paver blocks over a compacted subbase, with the approval of the County engineer, in lieu of asphaltic or concrete paving.

(Ord. No. 05-06-30, § 77)

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DIVISION 2.

PARKING LOTS AND SPACES

Section 12.10.200. Parking spaces required.

The following off-street parking spaces shall be provided and maintained in accordance with this table:

Note: GFA = gross floor area

| TABLE 3 - PARKING SPACES REQUIRED | |
|---|--|
| LAND USE OR ACTIVITY | REQUIRED OFF-STREET PARKING |
| 1. Residential/Lodging | |
| Single-family | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces |
| Town/Row House | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces |
| Manufactured Dwelling | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces |
| Mobile Home | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces, in addition Mobile Home-Park guest parking is required at 1 space per 4 units |
| Caretaker's Residence | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces |
| Accessory Dwelling | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces |
| Duplex | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2 spaces, in addition guest parking required at 1 space per every 4 units, efficiency or studio units = 1 bedroom, Where small-scale recreation facilities are accessory or subordinate in use to a project and where such facilities are intended only for the residents of that project, exclusive of golf courses and clubhouses, the recreation facilities may be computed at 25 percent of the normal parking requirements but no less than 8 spaces per facility. |
| Multi Family | 1 bedroom = 1 space, 2 bedrooms = 2 spaces, 3 bedrooms or more = 2.5 spaces, in addition guest parking required at 1 space per every 4 units, efficiency or studio units = 1 bedroom, Where small-scale recreation facilities are accessory or subordinate in use to a project and where such facilities are intended only for the residents of that project, exclusive of golf courses and clubhouses, the recreation facilities may be computed at 25 percent of the normal parking requirements but no less than 8 spaces per facility. |
| Boarding House, Rooming House, Bed and Breakfast Inn | 1 space per rentable room; plus 2 spaces for resident owner or manager's unit, plus 1 employee parking space minimum up to 5 rentable rooms (minimum of 1 space for employee parking). |
| Convalescent Home, Nursing Home, Extended Care Facility, Assisted Living Facility and Rehabilitation Facility | 1 space for every 2 beds/residents at capacity. |
| Senior Citizen Housing Development | Up to 50% reduction in standard single-family parking requirements upon approval, by County Engineer. |

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| Travel Trailer/Recreation Vehicle Park Campsite | 1 space per campsite or RV lot, 2 space for resident manager |
| Hotels, Motels, Suite Type Inns | 1 space per guest room, suite or sleeping quarters, plus 1 employee space for every 20 rooms. Accessory uses shall be computed as follows: 50 percent of normal requirements for restaurants, retail facilities, meeting rooms, ballrooms, convention rooms, lounges, bars and nightclubs. Plus 1 space per every 400 square foot gross floor area of administration and office area. |
| 2. Public and Private Places of Assembly | |
| Places of Worship and Sanctuaries | 1 space per 3 seats in chapel or assembly area. Plus 1 space for every 400 square feet of GFA of office and administration area. |
| Sports Arena, Theater, Cinema, Auditorium, Stadium, or Public Assembly Area not otherwise listed | 1 space per 3 fixed and secured seats (30 linear inches = 1 seat if bleacher type seating) within the main auditorium. 1 space per 35 sq. ft. within the main auditorium without fixed and secured seats. Plus sufficient area for parking and maneuvering of buses and coaches to be determined at predevelopment conference. |
| Private Organizational Club, Fraternal Club, or Lodge, Private Meeting Facility. | 1 space per 120 sq. ft. of hall or assembly area. All accessory uses to be individually computed at 50% of normal requirements for restaurants, meeting rooms, lounges, bars, and retail facilities. |
| 3. Public Buildings and Schools | |
| Government Administrative Offices, and Public Safety Buildings | 1 space per 400 sq. ft. GFA of office area. |
| Business School, Vocational School, College, or University | 2 spaces per 5 students (based on 75% classroom capacity) plus 1 space per classroom for faculty. 1 space per 400 sq. ft. GFA of administrative office area. Plus visitor parking required at 10% of student/faculty/staff parking, and Gymnasium, Auditorium, Stadium, etc. parking as required elsewhere in this table. |
| Elementary/Junior High School | 1 space per classroom for faculty, plus 1 space per 5 students (based on 50% classroom capacity), plus 1 space per 400 sq. ft. GFA of administrative office area. |
| Senior High School | 1 space per classroom for faculty, plus 1 space per 5 students (based on 75% classroom capacity) plus 1 space per 400 sq. ft. GFA of administrative office area. |
| 4. Cultural Facilities | |
| Art Gallery or Museum | 1 space per 400 square feet of GFA, plus 1 space for the curator. |
| Library, Community Recreation Facility | 1 space for each 300 square feet of GFA, plus 1 space for the librarian or director. |
| 5. Retail Uses | |
| Building Supplies/Lumberyard | (only for retail sales where the supplies are primarily stored outside) - 1 space per 400 square feet of inside retail/office area plus 1 space per 1,000 square feet of enclosed or roofed sales or storage area. |
| Convenience Store/Delicatessen/Take-out Prepared Food Store Beverage Center (with Drive-Through) | 1 space per 250 square feet of GFA, plus 5 stacking spaces (minimum of 120 feet) for drive-through facilities. |
| Equipment Rental Store | 1 space per 400 square feet of GFA. |
| Flea Market | 2 spaces per 120 square feet of GFA of rental spaces. |
| Furniture/Carpet Store/Major Appliance Store | 1 space per 500 square feet of GFA. |

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| Nursery, Plant (Retail) | 1 space per 400 square feet of roofed and/or enclosed building area plus 1 space per 2,000 square feet of outside display area open to the public and 1 space for each vehicle used by the facility. |
| Restaurant (Walk-up or Drive-through with walk-up window and/or outdoor seating). | 1 space per 50 square feet of dining/drinking GFA including outdoor eating areas. A stacking area of 120 feet minimum for the drive-through lane. |
| Restaurant (Drive-through with no walk-up window or outdoor eating) | 1 space per 50 square feet of dining/drinking GFA. A stacking area of 120 feet minimum for the drive-through lane. |
| Restaurant (Sit-Down) | 1 space per 50 square feet of dining/drinking GFA including outdoor eating areas. |
| Retail Shop or Store (not otherwise listed) and Department Stores | 1 space per 400 square feet of indoor/outdoor retail and office GFA. |
| Shopping Center | 1 space per 250 square feet for all centers with leasable areas less than 15,000 square feet. 1 space per 400 square feet of leasable area for centers with a GFA greater than 15,000 square feet but less than 400,000 square feet and not having significant cinemas/theaters. Rear Parking Requirements: When more than 10 percent of a shopping center's total parking requirement is placed in the rear of the shopping center, the center shall have convenient and well-lighted front and rear accesses for patrons and employees and the rear buildings shall be architecturally finished adjacent to rear accesses. |
| Supermarket | 1 space per 400 square feet of GFA for those not within a shopping center. For those within a shopping center the parking ratio shall be computed the same as for that shopping center. Supermarkets shall also meet the rear parking requirements as shown pursuant to shopping centers as set forth in this table. |
| 6. Services | |
| Bank or Financial Institution | 1 space per 400 square feet of GFA for each floor of the building. |
| Barbershop/Beauty Parlor/Hair Salon | 3 spaces per barber/beautician hair-cutting chair. |
| Child Care/Day Nursery/Kindergarten/Adult Day Care Centers | 1 space per employee, plus 1 space for every 10 children/adult patrons. In addition, adequate drop-off and pickup areas shall be provided. |
| Dance, Art, Music Studio | 1 space for every 250 square feet of GFA. |
| Funeral Homes/Crematoriums | 1 space for every 75 square feet of GFA for each room used for services and chapels and 1 space per 400 square feet GFA for administrative office area including 1 space for hearse or company vehicle. |
| Lounge, Bar, Nightclub, Pool Hall (Drinking Establishment) | 1 space per 50 square feet of indoor GFA plus 1 space for every 80 square feet of GFA for any outdoor eating/drinking areas. |
| Office | 1 space per 400 square feet GFA. |
| Office (Contractor's) | 1 space per 400 square feet GFA of office area and 1 space per each company vehicle. |
| Research Laboratory | 1 space per 400 square feet GFA of office area plus 1 space, per 500 square feet GFA of all other enclosed areas plus 3 spaces for visitors. |
| Television/Radio Station | 1 space per 400 square feet GFA plus 3 spaces for visitors. |
| 7. Medical/Hospital | |
| Medical/Dental Office or Clinic (Outpatient Care Facility)/Veterinarian | 1 space per 200 square feet of GFA. |
| Hospital | 2.25 spaces per bed at design capacity, plus 1 space for each emergency room aid station. |

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| 8. Recreational Uses | |
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| Boat Storage | (Only for dry storage on a site that has no water access for boats and those not associated with a self-service storage facility) - 1 space per 12 dry boat storage spaces. |
| Bowling Alley | 4 spaces per alley, plus 1 space for each activity manager plus 1 space for every 150 square feet of GFA for all other uses including offices, snack bars, lounges, game/pool rooms, and sales areas, excepting any additional lobby, seating, or locker room areas that are associated with the alley. |
| Golf Course | 4 spaces per hole plus 1 space for each managerial staff or activity manager plus 1 space per 200 square feet of GFA for office/lobby/pro shop/health club/clubhouse/lounge/snack bar/dining/meeting room areas and 50 percent of normal requirements for exterior recreation uses including: swimming pools, golf driving ranges and tennis courts. Golf cart, golf bag and equipment storage rooms; maintenance buildings and rooms for mechanical equipment shall be computed at 1 space per 1,000 square feet of GFA. |
| Golf Driving Range | 1 space per each driving tee plus 2 spaces for management and 3 spaces per each practice putting green. |
| Golf (Miniature) | 2 spaces per hole plus 1 space for management. |
| Recreation Facilities (Indoor) Sports, Exercise, Fitness, Aerobics, or Health Club/Skating Rink/Game Room | 1 space per 150 square feet of GFA. |
| Recreation Facilities (Outdoor) Tennis, Racquetball or Handball Courts | 2 spaces per court plus other uses as required. |
| Swimming Pools/Hot Tubs/Spas (Outdoor) | 1 space per 75 feet of water areas for the first 1,000 square feet and 1 space for each additional 125 square feet of water area. |
| 9. Transportation/Automotive Uses | |
| Airports (Civil) | Individually approved by the County Engineer. |
| Airports (General Aviation) Landing Field | 1 space per each 5 aircraft tie down/storage area and 1 space for each activity manager plus 1 space per 200 square feet of GFA of lobby space, restaurants, retail sales, and service areas. |
| Auto Service Station | 3 spaces per service bay plus 1 space per 400 square feet GFA of sales and administration area. |
| Auto/Truck/Trailer Leasing | 1 space per 500 square feet of GFA plus 1 space for every 2,000 square feet of paved outdoor vehicle storage area. These spaces shall not be used for the parking of rental vehicles. |
| Auto/Truck/Boat/Motorcycle/Recreational Vehicle Repair and Body Shop | 3 spaces per service bay plus 1 per 400 square feet GFA of sales and administrative office area. |
| Auto/Truck/Boat/Motorcycle/Recreational Vehicle Sales or Dealership | 1 space per 400 square feet GFA except service/body shop buildings which are 3 spaces per service bay plus 1 space per 2,000 square feet of outdoor sales/display area. |
| Self Service Auto/Truck Washing Facility | 1 space for management of self-service wash facilities and 1 space for automatic wash facilities. Minimum of 120 feet stacking for self-service wash bays and for automatic car wash bays. |
| Gasoline/Filling Station | 1 space per 250 square feet of GFA, parking spaces at gasoline pumps may be included in calculation. |
| Heliport, Helipad, Ultra Light Flight Park | 1 space per each helicopter tie down/storage area plus 1 space for every 5 ultra-light tie down/storage areas plus 1 space for the manager of each service area. |

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| 10. Industrial Uses | |
| Industrial Use/Activity (not otherwise listed) | 1 space per 600 square feet GFA. Office areas shall be computed at 1 space per 400 square feet GFA. |
| Junkyard, Salvage yard | 3 spaces per acre for the first 5 acres, of outside storage area, plus 1 space for each additional acre. |
| Warehouse, Wholesale Establishment | 1 space per 1,000 square feet GFA for the first 20,000 square feet. 1 space for each additional 2,000 square feet for the second 20,000 square feet. 1 space for each additional 4,000 square feet in excess of 40,000 square feet. Sales/office areas will require 1 space per 400 square feet GFA. |
| Recycling Center (Collection only) | 1 space per 300 square feet GFA of roofed storage/bins. 1 unloading space per 40 linear feet of receiving dock or curb. |
| 11. Miscellaneous | |
| Coin-Operated (laundry, Self-Service) | 1 space per each 2 washing machines. |
| Kennel | 1 space for every 400 square feet GFA, except for animal holding areas. In addition, 1 space for management. |
| Model Homes Sales Office/Center | 3 spaces for the first unit and 1.5 spaces for each additional unit. |
| Storage Facility (Self-Service) | 1 space per 20,000 square feet GFA of storage buildings plus 1 space 50 vehicle/boat storage spaces plus 1 space for every 400 square feet GFA of office areas. (Minimum 4 spaces). |
| Temporary Parking for Sports Events, Religious Events or Community Events | In the case of a church, community or sporting event which operates on an intermittent or seasonal basis, the required off-street parking may be provided on a temporary basis and need not be permanently designated, paved, drained, or landscaped, provided the use has been approved and issued by the zoning supervisor in accordance with applicable standards for the use. |
| 12. Terminal Uses | |
| Railroad Passenger & Freight Station | 2 spaces for management plus 1 space per 400 square feet GFA of office area plus sufficient off street parking for loading and unloading passengers and freight. As approved by the County engineer. |
| Commercial Bus & Charter Bus Sightseeing Terminals | 2 spaces for management plus 1 space per 400 square feet GFA of office area plus sufficient off street parking for loading and unloading passengers and freight. As approved by the County engineer. Plus one space for each company vehicle. |
| Truck Terminals | 1 space per 1,000 square feet GFA of warehouse area. In addition, 1 space per 400 square feet GFA of office areas, plus 1 space for each company vehicle used on the site. |

(Ord. No. 05-06-30, § 77)

Section 12.10.201. Uses not specifically mentioned.

Uses not specifically mentioned or annotated shall provide off street parking as provided for the use most similar to the one not mentioned.

(Ord. No. 05-06-30, § 77)

Section 12.10.202. Fractional measurements.

Any fraction equal to or greater than one-half of the required parking space shall require a full off-street parking space.

(Ord. No. 05-06-30, § 77)

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Section 12.10.203. Mixed uses.

For mixed uses, the total requirement for off-street parking shall be the sum of the requirements of each use computed separately, and off-street parking space for one use shall not be considered as providing the required off-street parking for any other use.

(Ord. No. 05-06-30, § 77)

Section 12.10.204. Computation of parking spaces measurement.

Gross floor area (GFA) means the gross floor area inside of the exterior walls. In hospitals, bassinets shall not count as beds. In stadiums, sports arenas, churches and other places of assembly in which occupants utilize benches, pews or other similar seating facilities, each 30 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

(Ord. No. 05-06-30, § 77)

Section 12.10.205. Parking lot design.

Parking lots shall be designed such that vehicles shall not utilize any portion of any public rights-of-way for site circulation, or for the maneuvering into or out of parking spaces. Parking spaces which require the backing into public rights-of-way are strictly prohibited. Parking lot design shall conform to the following standards:

A. Minimum aisle widths.

| Angle of Parking | Aisle Width (One Way) | Aisle Width (Two Way) |
|------------------|-----------------------|-----------------------|
| Parallel | 14 feet | 20 feet |
| 30 degrees | 14 feet | 22 feet |
| 45 degrees | 14 feet | 22 feet |
| 60 degrees | 18 feet | 24 feet |
| 90 degrees | 22 feet | 24 feet |

B. Minimum space size. Each parking space shall be a minimum of nine feet by 18 feet.

C. Minimum compact space size. Up to 20 percent of the required parking spaces may be designated as compact spaces with minimum dimensions of eight feet by 16 feet. Compact spaces will only be allowed in projects requiring 20 or more parking spaces. The compact spaces shall be clustered in one or more groups of spaces and dispersed throughout the site so that drivers using either compact or full-sized spaces have equal access to the most convenient parking locations. Compact spaces shall be designated by signs on every third space, painted Compact on each pavement space and double striped to indicate their status. Spaces provided in excess of the required number of spaces may all be compact spaces provided that compact spaces shall never exceed 33 percent of the total number of spaces provided.

D. Curb design. Installation of curbs, base, surface construction, and the like shall be as specified in the *Highlands County Technical Standards Manual*, current edition.

E. Parking lot. Details shall be shown on all final site plans and, where applicable, improvement plans.

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- F. **Exceptions.** Parking lot specifications shall be at a minimum six inches of shellrock base compacted to 95 percent density as per AASHTO T-180 with a one and one-half-inch S-I asphalt surface course, except as listed below:
1. Six inches of 3,000 psi concrete over well compacted soil may be substituted for shellrock and asphalt.
 2. For churches where parking needs are limited to one or two days per week, parking spaces may be grass. Aisles and circulation areas shall be paved. This exemption may be approved upon a finding by the County engineer that there would be no detrimental effect due to erosion or other degrading of the natural environment.
- G. **Parking lots that have grass parking spaces** shall not use such areas in calculations to meet minimum requirements for buffers, landscaping, or retention. However, retention area requirements shall be calculated based on the assumption that all spaces are paved. An allowable alternative is reservation of an area to accommodate additional retention capacity in the event of paving.
- H. **Where grass parking spaces are allowed**, all required handicap spaces shall be paved and meet the requirements of section 12.10.211.
- I. **Parking of vehicles in public rights-of-way** is strictly prohibited except in those instances whereby approval is granted by the BCC or for existing roadways incorporating such within the rights-of-way as of the date of adoption of these regulations.
- J. **Parking within the principal structure.** In instances where off-street parking is provided within the principal structure, the following shall apply:
1. The number of off-street parking spaces required by this article shall not be reduced; and
 2. For each off-street parking space permitted within the principal structure, 300 square feet of additional open space beyond that which is otherwise required by the open space system shall be provided. See section 12.11.112 of these regulations.

(Ord. No. 05-06-30, § 77)

Sections 12.10.206, 12.10.207. Reserved.

Section 12.10.208. Adjustments to requirements.

To avoid requiring more parking spaces than are actually needed to serve a proposed development, the County engineer may defer the provisions of a portion of the required off-street parking spaces, if the conditions and requirements of this section are satisfied. As a condition prior to seeking approval of partial deferral by the County engineer, the proposal shall meet the criteria of either A. or B. below.

- A. A signed and sealed parking study is prepared and submitted by a qualified professional traffic engineer that indicates that there is not a need for parking which would otherwise be required. The contents of and requirements for a parking study are described in section 12.10.210.

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- B. A signed and sealed transportation system management program is prepared by a qualified professional traffic engineer and submitted that shows that alternative means of access are or will be established which justify deferring the number of parking spaces sought to be deferred. Such transportation system management program is limited to:
1. Public transportation that satisfies transportation demands for a portion of the users of the facility corresponding to the amount of parking to be deferred;
 2. Ride sharing including private and public car pools or van pools; and/or
 3. Flexible work hour scheduling.
- C. If the proposal satisfies one or more of the requirements in this section, the County engineer may approve a deferred parking plan. The number of parking spaces deferred shall correspond to the estimated number of parking spaces that will not be needed because of the condition(s) established. The parking plan shall nevertheless contain sufficient spaces to meet the full parking requirement of this section; additionally, the proposal shall meet all of the following requirements listed herein.
1. The parking plan shall illustrate the layout of the full number of spaces and shall designate which are to be deferred.
 2. The parking plan shall not assign deferred spaces to areas required for landscaping, transition zones, setbacks or areas that would otherwise be unsuitable for parking spaces because of the physical characteristics of the lands or other requirements of these regulations.
 3. The landscaping plan for off street parking areas.
 4. The parking plan shall include an improvement agreement with the BCC, acceptable to the board attorney, that, after one year from the date of issuance of the certificate of occupancy, any deferred spaces shall be converted to parking spaces that conform to these regulations at the developer's expense should the BCC determine that additional parking spaces are needed.
 5. The parking plan shall include a written agreement that the developer shall defray the total cost to cover the expense of a parking study to be undertaken by Highlands County to determine the advisability of requiring the full parking requirement.
- D. If deferred parking was approved, following a preliminary finding that parking is not adequate (but not sooner than one year after the date of issuance of a certificate of occupancy for the development), the County may undertake a study to determine the need for fulfilling the parking demand.
- E. Based upon the study and recommendations of the County engineer, the BCC shall determine if the deferred spaces shall be converted to operable parking spaces by the developer or retained as deferred parking area.

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- F. The developer may at any time request that the County engineer approve a revised development plan to allow converting deferred spaces to operable parking spaces.

(Ord. No. 05-06-30, § 77)

Section 12.10.209. Reduction of mixed or joint use of parking spaces.

The County engineer may authorize a reduction in total number of required parking spaces for two or more uses jointly providing off-street parking when their respective hours of maximum parking do not normally overlap, and if the following conditions are met:

- A. The developer submits a parking study (see section 12.10.210) with sufficient data to demonstrate that hours of maximum demand for parking at the respective uses do not normally overlap; and
- B. The developer submits an improvement agreement, approved by the board attorney, between the owners of the said uses guaranteeing that joint use of the parking spaces shall be permitted until required parking is provided elsewhere in accordance with the provisions of these regulations.

(Ord. No. 05-06-30, § 77)

Section 12.10.210. Parking study requirements.

- A. **Applicability.** Proposed developments that meet one of the following criteria shall include a parking study with the applications for development approval:
1. A proposed use where the applicant asserts that the parking requirement resulting from the application of section 12.10.200 is greater than that actually needed to serve the development, and is making a request for a parking deferral as provided in section 12.10.208; or
 2. A proposed reduction in parking requirement is being made based on a mixed or joint use proposal as provided in section 12.10.209.
- B. **Contents of the parking study.** The parking study shall be designed to provide evidence of the actual parking requirement of the proposed development. The study shall be prepared, signed, and sealed by a qualified professional traffic engineer with documented traffic experience and shall include, but is not limited to, consideration of the following:
1. Estimates of parking requirements shall be based on recommendations in studies such as those from the Urban Land Institute (ULI) or the Institute of Transportation Engineers (ITE) based on data collected from uses or combinations of uses that are the same or comparable to the proposed use; comparability shall be determined by density, scale, bulk, area, type of activity, and location; the report shall document the source of data used to develop recommendations; and
 2. The extent to which a transportation system management program and use of alternative forms of transportation lessens the parking requirement.

(Ord. No. 05-06-30, § 77)

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Section 12.10.211. Handicapped access.

All uses shall be required to provide off street parking for handicapped persons in accordance with Florida Accessibility Code for Building Construction et seq., or the following if more restrictive:

A. Level parking spaces shall be reserved for physically handicapped persons according to the following requirements:

| Total Spaces Provided | Spaces Required to be Reserved |
|------------------------------|---------------------------------------|
| Up to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 to 300 | 7 |
| 301 to 400 | 8 |
| 401 to 500 | 9 |
| 501 to 1,000 | 2 percent of Total |
| over 1,000 | 20 plus 1 for each 100 over 1,000 |

B. Parking spaces reserved for physically handicapped persons shall meet the following design and location requirements as listed herein.

1. All spaces shall be accessible to curb ramp or curb cut, when necessary to allow access to building, structure, or use served, and shall be so located that users are not compelled to wheel behind parked vehicles.
2. Diagonal or perpendicular parking spaces shall be a minimum of 12 feet wide. All spaces shall have an adjacent access aisle 60 inches wide at a minimum. Parking access aisles shall be immediately accessible to the building or facility entrance.
3. Parallel parking spaces shall be located either at the beginning or end of a block or adjacent to an alley entrance. Curbs adjacent to such premises shall be of a height that will not interfere with opening and closing of motor vehicle doors.
4. Each such parking space shall be prominently outlined with blue paint and posted with a non-movable, above grade, fixed sign of a color and design approved by the FDOT bearing the internationally accepted wheelchair symbol and the caption "parking by disabled permit only" on two separate signs, or bearing both such symbol and caption on one sign. Such signs shall not be obscured by a vehicle parked in the space.

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- C. Curb cuts and ramps must meet the following design and location requirements as listed herein.
1. Ramps or curb cuts from parking areas to the walkway level shall be provided and shall be spaced at intervals of no more than 100 feet and shall be located as close as practical to main entrances and exits.
 2. The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12. Ramps 30 feet in length or longer shall have a maximum gradient of 1:20 or the ramps shall have a level platform at least 60 inches deep in the direction of the ramps at 30-foot intervals and at changes in direction over 15 degrees and shall be of a slope of no more than 1:12.
 3. The minimum width of a curb ramp shall be 44 inches, exclusive of flared sides. Ramps shall have a slip-resistant surface.
- D. In addition to the requirements of this section, all handicap spaces shall meet the requirements of the Florida Accessibility Code for Building Construction et seq. Where a conflict exists between these regulations and the accessibility code, the accessibility code shall prevail. The following statement shall be placed on all final site plans and, where applicable, improvement plans: "I hereby certify that the details of the handicap accessibility plan shown hereon are to the best of my knowledge and belief in full and complete compliance with the Florida Accessibility Code for Building Construction et seq."

(Ord. No. 05-06-30, § 77)

Section 12.10.212. Loading areas.

The off-street loading requirements are intended to provide minimum standards necessary for loading and unloading of goods for the uses permitted by these regulations, to protect the capacity of the County's street system, to avoid undue congestion resulting from loading and unloading activities, and to lessen unnecessary conflicts between trucks and other vehicles.

- A. These requirements section shall apply to all commercial and industrial development, whether new structures or alterations to existing structures off-street loading shall be available for use prior to issuance of any certificate of occupancy or occupational license and its continued maintenance shall be the obligation of the property owner and occupant as long as the use requiring loading facilities continues. No off-street loading shall be altered or discontinued except in accordance with these regulations.
- B. Every final site plan shall show details of the required loading area in compliance with this section.
- C. Loading spaces shall not be used for storage of vehicles and/or materials. Loading spaces shall not be used to meet off-street parking requirements.
- D. Each loading space shall be directly accessible from a street or alley without crossing or entering any other required off street loading space. Such loading space shall be accessible from the interior of the building it serves and shall be arranged for convenient and safe ingress and egress by motor truck and/or trailer combination.

(Ord. No. 05-06-30, § 77)

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Section 12.10.213. Off-street loading requirements.

Off-street loading spaces shall be provided and maintained as follows:

- A. Each retail store, storage warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use shall provide loading spaces in accordance with the following table:

| TABLE 4 | | |
|--|---------------------|----------------------|
| OFF-STREET LOADING REQUIREMENTS | | |
| Square Feet | Square Feet | No. of Spaces |
| Over 5,000 | but not over 25,000 | 1 |
| 25,000 | 60,000 | 2 |
| 60,000 | 120,000 | 3 |
| 120,000 | 200,000 | 4 |
| 200,000 | 290,000 | 5 |

plus for each additional 90,000 square feet over 290,000 square feet, or major fraction thereof, one additional loading space shall be provided;

- B. For each multiple dwelling, apartment, or hotel having at least 20 dwelling units but not over 50 dwelling units: one loading space.
- C. For each multiple dwelling unit, apartment, or hotel having over 50 dwelling units: one loading space for each additional 50 dwelling units or major fraction thereof.
- D. For each auditorium, convention hall, exhibition hall, museum, hotel, motel, office building, sports arena, stadium, hospital, sanitarium, welfare institution, or similar use which has a gross floor area (GFA) of over 10,000 square feet but not over 40,000 square feet one loading space; plus for each additional 60,000 square feet over 40,000 square feet or major fraction thereof: one loading space; and for any use not specifically mentioned, the requirements for off-street loading facilities for a use which is so mentioned and to which the unmentioned use is similar shall apply.
- E. All loading facilities shall be located on the same building site as the use they serve and outside of existing public rights-of-way and proposed right-of-way lines established by the future transportation circulation map plan.
- F. Loading areas shall be constructed in accordance with the requirements of this section.
- G. Loading spaces shall be clearly striped and marked to insure adequate reservation for all loading and unloading activities.

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- H. All loading spaces shall meet the minimum size requirements as follows:
1. When normal delivery of merchandise and materials is via trucks not exceeding two tons in load capacity--12 feet by 30 feet with an eight-foot vertical clearance.
 2. When normal delivery of merchandise and materials is via trucks exceeding two tons in load capacity--12 feet by 60 feet with a 12-foot vertical clearance.
 3. Where delivery of automobiles or trucks is by automotive transport carrier, a space 12 feet by 100 feet with an 18-foot vertical clearance shall be provided.

(Ord. No. 05-06-30, § 77)

Sections 12.10.214, 12.10.215. Reserved.

Section 12.10.216. Zoning district parking regulations.

Parking regulations are contained in the zoning district regulations, pursuant to Division 2 of Article 5 of this chapter.

| Code Section | Zoning District | Applicable Parking District Regulations |
|---------------------|--|--|
| 12.05.200 | AU Agricultural | 12.05.200 |
| 12.05.201 | Estate District | 12.05.201 |
| 12.05.210 | R-1A Residential District | 12.05.210 |
| 12.05.211 | R-1 Residential District | 12.05.211 |
| 12.05.212 | R-2 Two Family Dwelling District | 12.05.212 |
| 12.05.213 | R-3 Multiple Dwelling including Motel and Hotel District | 12.05.213 |
| 12.05.214 | R-3 NC Non-Commercial Multiple Dwelling | 12.05.214 |
| 12.05.220 | M-1 Mobile Home Subdivision District | 12.05.220 |
| 12.05.221 | M-1-S Mobile Home and Residential Subdivision District | 12.05.221 |
| 12.05.222 | M-2 Mobile Home Park District | 12.05.222 |
| 12.05.223 | RV Park (FUD) | 12.05.223 |
| 12.05.224 | CG-1 Campground District | 12.05.224 |
| 12.05.225 | CG-2 Campground District | 12.05.225 |
| 12.05.226 | CG-3 Campground District | 12.05.226 |
| 12.05.227 | Nonconforming Campground Uses | NA |
| 12.05.240 | B-1 Neighborhood Business District | 12.05.240 |
| 12.05.241 | B-2 Limited Business District | 12.05.241 |
| 12.05.242 | B-3 Business District | 12.05.242 |
| 12.05.243 | B-4 Business District | 12.05.243 |
| 12.05.244 | O Office District | 12.05.244 |
| 12.05.251 | I-1 Industrial District | 12.05.251 |
| 12.05.252 | I-2 Industrial District | 12.05.252 |
| 12.05.280 | P Public and Quasi-Public Lands District | 12.05.280 |

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| | | |
|-----------|---|-----------|
| 12.05.281 | PW Public Water Supply District | 12.05.281 |
| 12.05.282 | CM Conservation/Management Land District | 12.05.282 |
| 12.05.290 | PD Planned Development District | 12.05.290 |
| 12.05.291 | Flexible Residential Development (FUD) District | NA |
| 12.05.292 | Conditional Use Districts | NA |

(Ord. No. 05-06-30, § 77)

Section 12.10.217. Parking of commercial vehicles in residential districts.

A commercial vehicle of not over one ton rated capacity may be parked on a lot whose principal use is residential and where the commercial vehicle is used by a resident of the premises. A commercial vehicle of not over two tons rated capacity may be parked in an enclosed garage on a lot whose principal use is residential and where the commercial vehicle is used by a resident of the premises. Permitted nonresidential uses may utilize and park on their premises such commercial or other vehicles as may be necessary and customary for such uses, but this provision shall not be construed to permit the parking of school buses utilized by public, private or parochial schools.

(Ord. No. 05-06-30, § 77)

Section 12.10.218. Storage and parking of recreational vehicles, travel trailers and camping trailers.

A. **Definitions.** For the purpose of this section the term "recreational vehicle" shall include any recreational vehicle, auto camper, boat, boat trailer, camping trailer, horse or cattle trailer, house boat, motor home, mud buggy, swamp buggy, dune buggy, race car, truck camper, pickup coach or camper, utility trailer, and other related or similar equipment but does not include a "park trailer" pursuant to F.S. § 320.01(1)(b)7 (ANSI A-119.5 type units). (Ord. No. 07-08-32, § 17)

B. **Parking, storage of recreational vehicles in residential districts.** The parking and storage of recreational vehicles in residential zoning districts, and agricultural districts where the primary use of the district is for residential purposes, shall be permitted subject to the following conditions:

1. Recreational vehicles shall not be located in any front yard or nearer than seven and one-half feet to any side or rear lot line, except that one boat 18 feet or less in length and no more than six feet in average height and one utility trailer eight feet or less in length and no more than six feet in average height may be parked in a driveway not nearer than seven and one-half feet to any property line. On property where the rear lot line is questionable, i.e. corner lots, waterfront lots and nonconforming lots platted prior to January 1, 1971, the recreational vehicle shall be parked a minimum of 25 feet from all lot lines abutting a street and seven and one-half feet from all other lot lines.
2. Recreational vehicles shall be parked or stored only on property which is occupied, either temporarily or permanently, by the vehicle owner. Recreational vehicles shall not be parked or stored on vacant residentially zoned property unless such vacant residentially zoned property is contiguous to the property that is occupied by the vehicle owner, and under the same ownership as the property occupied by the vehicle owner.
3. The recreational vehicle shall be stored and maintained in a condition which would allow for its safe and effective use.

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4. Recreational vehicles may be parked anywhere on the property for a period of 24 hours for the purposes of loading and unloading the vehicle.
5. Recreational vehicles which are used and licensed as the primary means of transportation for the physically disabled may be parked or stored in any yard of a residential lot so long as it is not nearer than seven and one-half feet to any side or rear lot line.
6. Recreational vehicles may be parked in an enclosed structure. (Ord. No. 07-08-32, § 17)
7. A recreational vehicle shall not be used for living, sleeping or business purposes. However, a recreational vehicle may be used, on a temporary basis, for sleeping and living purposes for a period not to exceed one week in any 30-day period where the owner or occupant of the vehicle is a guest of the owner or occupant of the property involved.
8. Recreational vehicles shall not be connected to any utilities such as water, wastewater, electric, phone, etc., except that a temporary connection for the purposes of battery charging or repairs shall be permitted.
9. Recreational vehicles shall not be used as an accessory structure or utility building.
10. Recreational vehicles shall not be parked or stored on any right-of-way.

C. Parking, storing, and uses of recreational vehicles in other than residential districts.

1. The parking and storing of recreational vehicles shall be permitted in B-3 and less restrictive zoning districts.
2. The use of a recreational vehicle for living purposes shall be a permitted use only in campground and RV-FUD zoning districts.
3. Recreational vehicles shall not be used to house, either permanently or temporarily, a watchman, guard, or any other person for security purposes.

(Ord. No. 05-06-30, § 77; Ord. No. 07-08-32, § 17)

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ARTICLE 11.

LANDSCAPING STANDARDS

Section 12.11.100. Purpose and intent.

The BCC declares landscaping of development and buffering of incompatible land use is beneficial to all residents and businesses within the County and that further it is, as follows:

- A. An aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, and stormwater runoff retardation, while at the same time aiding in noise, glare and heat abatement;
- B. An assist in providing adequate light and air and in preventing overcrowding of land;
- C. Provides visual buffering and enhances the beautification of the County;
- D. Safeguards and enhances property values and protects public and private investment;
- E. Conserves energy;
- F. Provides habitat for living things that might not otherwise occur or be found in urban and suburban environs; and
- G. Promotes water conservation, especially on xeric uplands, by encouraging the use of native and drought tolerant vegetation and properly zoned irrigation systems through Xeriscape.

(Ord. No. 05-06-30, § 78)

Section 12.11.101. Application of landscaping requirements.

Except as otherwise provided, the landscaping requirements of this article shall apply to all, public and private land in unincorporated Highlands County. Unless provided otherwise by these regulations, final development orders shall not be issued until landscaping requirements of this article are complied with. These requirements shall not apply to the improvements or repairs to interior and exterior features of existing structures or buildings except as provided for section 12.11.105 of this article and linear facilities that provide essential public services.

- A. Applicants are encouraged to utilize the following seven principles of Xeriscape landscaping which, when used together, have proved to produce superior landscapes that enhance the environment while saving Water and reducing upkeep:
 - 1. Planning and design;
 - 2. Soil analysis;
 - 3. Appropriate plant selection, which may include saving and protecting existing trees;

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4. Practical turf areas;
 5. Efficient irrigation;
 6. Use of mulches; and
 7. Appropriate maintenance.
- B. The following categories are required to be landscaped:
1. Vehicular surface area;
 2. Front yards of shopping centers;
 3. Building perimeters;
 4. Littoral zones; and
 5. Transitional yards.
- C. Single-family, duplex, manufactured home dwellings on individual lots, and agriculture buildings where no paved parking is required are exempt from the requirements of this article, with the exception of the plant species listed in this article.
- (Ord. No. 05-06-30, § 78)

Section 12.11.102. Procedures.

- A. **Landscape plan.** Prior to the approval of any improvement plan or final site plan or issuance of a final development order, an applicant whose development is covered by the requirements of this article shall submit a landscape plan to the County engineer for approval.
1. The landscape plan shall:
 - a. Be drawn at a scale no smaller than one inch equals 30 feet on sheet size 24 inches by 36 inches, unless otherwise approved in advance by the County engineer, and include dimensions, north arrow, date, title, and project owner's name;
 - b. Delineate the existing and proposed parking, vehicular surface areas, buildings, access points, and roadways;
 - c. Show all utility lines and easements;
 - d. Show the location of existing and proposed planting areas and vegetation communities and designate them by species name;
 - e. Show the location of permanent vegetation protection devices, such as barricades, curbing, and tree wells;

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- f. Show the landscaping required by this article, and any additional landscaping;
 - g. Show location of any water bodies or water courses;
 - h. Include a chart indicating graphic plant symbol, botanical and common name, quantity, height, spread, spacing, native status, drought tolerance rating, and type of mulch that will be used;
 - i. Include calculations showing how the requirements for the vehicular surface areas and transitional protective yards have been determined;
 - j. Show the zoning classification of all adjoining property;
 - k. Include a dimensioned cross section of any proposed transitional protective yard showing proposed trees, shrubs, walls, berms, and any ground cover or erosion control;
 - l. Include a dimensioned cross section of any proposed vehicular surface planting area when a berm is used, showing slope, height, and crown width;
 - m. Show slope, height and crown width on berm cross sections, and show complete construction details on wall and fence cross sections; and
 - n. Contain the following certificate: "I hereby certify that the landscaping plan shown hereon is in substantial compliance with the *Highlands County Land Development Regulations* pertaining to landscaping."
- 2. The review fee for landscape plans shall be the same as that established by the Highlands County BCC for improvement plan review. This fee must accompany each plan submitted for review.
 - 3. The preparer shall submit an "as built" plan and a certificate of completion to the County engineer as a prerequisite to receiving a certificate of occupancy from the Highlands County Building Department.

B. Irrigation plan. Prior to the approval of any improvement plan or final site plan or issuance of the associated final development order, an applicant whose development is covered by the requirements of this section shall submit an irrigation plan to the County engineer.

- 1. The requirement for an irrigation system and an irrigation plan may be waived by the County engineer if xeric landscaping is provided and a water supply is available.
- 2. The irrigation plan shall:
 - a. Be drawn at a scale no smaller than one inch equals 30 feet on sheet size 24 inches by 36 inches, unless otherwise approved in advance by the County engineer, and include dimensions, north arrow, date, title, and project owner's name;

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- b. Show existing vegetation to remain;
 - c. Delineate existing and proposed buildings and other site improvements, parking spaces, aisles, and driveways;
 - d. Indicate main, valves, pump locations, pipe sizes and specifications, controller locations and specifications, back flow preventor and rain sensing devices;
 - e. Include a typical sprinkler zone plan indicating type, specifications and spacing, and coverage;
 - f. If proposed, drip irrigation or soaker hoses and their layout; and
 - g. Contain the following statement: "I hereby certify that the irrigation plan shown hereon is in substantial compliance with the *Highlands County Land Development Regulations* pertaining to irrigation system design."
3. The review fee for irrigation plans shall be the same as that established by the Highlands County BCC for improvement plan review. This fee must accompany each plan submitted for review.
 4. The preparer shall submit an "as built" plan and a certificate of completion to the County engineer as a prerequisite to receiving a certificate of occupancy from the Highlands County Building Department or as a prerequisite to recording a final plat.
 5. Irrigation systems shall be designed to avoid impacts with existing vegetation and field changes may be made to avoid disturbance of such vegetation, such as line routing, sprinkler head placement and spray direction adjustments.
- C. **Existing plant communities.** Preservation and protection of existing native species of plant material is strongly encouraged. Existing native species and natural cover should be retained wherever possible. Where planting requirements, for landscaped areas, result in the need for additional trees or shrubs in an existing natural area, there shall be minimum disturbance to native species. Xeriscape principles utilizing drought resistant plants and horticultural methods are encouraged. Where existing plant communities and ecosystems are being maintained in a natural state, irrigation shall not be required. Native plant areas that are supplements to an existing plant community or newly installed by the developer shall be irrigated on temporary basis only during the period of establishment using a temporary irrigation system, water truck, or by hand watering.
- D. **Cultivated landscapes.** Cultivated landscape areas shall be provided with an automatic irrigation system.
1. Sprinkler heads irrigating lawns or other high water demand areas shall be circuited so that they are on a separate zone (or zones) from those irrigating trees, shrubbery, ground cover, flowers, or other reduced water requirement areas. Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of watering high water requirement areas at

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different frequencies and durations than low water requirement areas. Landscaping shall be watered on an "as needed" basis only, or as allowed by the rules of the appropriate water management district.

2. Irrigation systems shall be designed for the zoning of high and low water use areas and 100 percent head to head coverage or the equivalent for porous pipe systems. These requirements may be adjusted for retention areas. The irrigation system shall be designed and installed in accordance with the Florida Irrigation Society, Standards and Specifications for Turf and Landscape Irrigation Systems (as amended). Irrigation systems utilizing well water should be designed and maintained in a manner which eliminates staining of the buildings, walks, walls and other site improvements. All systems shall be designed to eliminate the application of water to impervious areas.
3. All new commercial and industrial developments shall be irrigated by the use of an automatic irrigation system with controller set to apply water in a manner consistent with water conservation methods and practices.

- E. **Completion of landscaping and irrigation.** Except as provided in this section prior to the issuance of any certificate of occupancy or the recording of any plat for a use required to provide landscaping and irrigation in accordance with this article, all required landscaping and irrigation shall be installed and in place as set out in the plans approved under section 12.11.102 of this article. All plant materials must be installed in accordance with accepted landscape practices and meet the plant material standards contained in section 12.11.103 of this article. Plant materials shall be installed in soil conditions that are conducive to the proper growth of the plant material. A plant's growth habit shall be considered in advance of conflicts which might arise (i.e., views, signage, overhead power lines, lighting, circulation, etc.). Trees shall not be placed where they interfere with site drainage, subsurface utilities, or overhead utility lines or where they shall require frequent pruning in order to avoid interferences with overhead power lines. Trees shall not be planted in areas that retain excessive quantities of water or will require excessive amounts of fill placed over the root system that will affect the health of the tree species. Required landscaping shall not be placed within easements without written approval from all entities claiming an interest under said easement.
- F. **Security for plat recording and issuing a certificate of occupancy.** All required landscaping and irrigation shall be installed in accordance with plans prepared and approved pursuant to this article. In the event that the applicant desires to record a final plat or secure a certificate of occupancy prior to the completion of the landscaping and irrigation improvements, the procedure described in section 12.04.515, guarantees, sureties, improvements completion, and maintenance, of these regulations shall be followed.
- G. **Pruning.** Vegetation required by this article shall only be pruned to promote healthy, uniform, natural growth of the vegetation in accordance with Pruning Standards of the National Arborist Association. Trees and shrubs shall not be severely pruned in order to permanently maintain growth at a reduced height or spread. Pruning shall not interfere with the design intent of the original installation.
- H. **Maintenance.** The responsible entity for maintaining all required plant material in good health shall be designated on the landscape and irrigation plans. Any dead, unhealthy or missing plants must be

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replaced with locally adapted vegetation which conforms with the initial planting standards of these regulations. In the event that plant material is severely damaged due to an unusual weather occurrence or other act of God, the responsible entity shall have one year to replant. Failure to maintain plantings and other features of a required landscaped area in an attractive and healthy state shall be considered a violation of these regulations and subject to enforcement as provided for herein.

- I. **Water conservation measures.** When ever climatic drought conditions occur in the County which result in the applicable water management district declaring special precautionary directives for the limited use of water for the irrigation of newly planted vegetation, the following measures may be utilized in order to contribute to water conservation while those special precautionary directives are in effect:
1. Subject to the requirements of this chapter, planting of vegetation after site construction has been completed may be postponed at the owner's request until those special precautionary directives are no longer in effect.
 2. Subject to the requirements of this chapter, installation of irrigation systems required by this part may be postponed at the owner's request until the vegetation is planted.
 3. Security for completion of the planting of the vegetation and installation of the irrigation systems postponed pursuant to this subsection shall be provided pursuant to subsection F. of this section.
 4. Planting of the vegetation and installation of the irrigation systems required by this section shall not be postponed for more than four months pursuant to this section unless an extension is granted, in writing, by the County engineer for a specific period of time, not to exceed four months.

(Ord. No. 05-06-30, § 78)

Section 12.11.103. Plant material standards and installation standards.

- A. **Quality.** All vegetation to be planted shall meet the following standards listed in this Article.
1. All plants should be Florida Grade No. 1 or better in accordance with the most recent edition of Grades and Standards for Nursery Plants (GSNP), published by the State of Florida, Department of Agriculture and Consumer Services. Nursery stock shall meet minimum requirements of the American Standards for Nursery Stock (ASNS), published by the American Association of Nurserymen, Inc.
 2. Plants shall be sound, healthy, vigorous, free from mutilation, plant diseases, insect pests or their eggs, and fungus and shall have healthy, normal root systems. Plants shall be nursery grown stock in containers or freshly dug, balled, and burlapped.
 3. Caliper measurement, height measurement, height relation to caliper spread, bare foot and ball dimensions, number of canes, types of vines and groundcovers, etc., shall conform to the applicable standards given in the ASNS.

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- 4. Vines shall be of a size reasonably expected to become a minimum of 30 inches high one year after planting. Vines may be used in conjunction with walls and fences to meet the minimum screening requirements of reduced width transitional yards.

B. **Xeriscape landscaping.** Xeriscape landscaping maximizes the conservation of water by the use of site-appropriate plants and efficient water systems and is highly recommended for landscaping on the xeric uplands in Highlands County. When the Xeriscape method is to be employed, use of plants in the following lists is recommended:

- 1. Xeriscape™ Plant Guide
South Florida Water Management District
P. O. Box 24680
West Palm Beach, Florida 33416-4680
Telephone No. 1-800-432-2045
- 2. Plant Guide
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 34609-6899
Telephone No. 1-800-423-1476

C. **Canopy trees for commercial/industrial development.** All required new individual canopy shall be species having an average mature spread or crown of greater than 20 feet in the Highlands County area and having trunk(s) which can be maintained in clean condition over five feet of clear wood. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of 20 foot crown spread. Clustering of three or more palms shall equal one canopy tree, but palms shall not be utilized in fulfilling more than 30 percent of the requirements of this Article. For trees required by this Article, at least 50 percent of the trees at the time of installation shall be a minimum of ten feet in height, have two-inch caliper (at 12 inches above the ground) and a four-foot spread. The remaining required trees, at the time of installation shall be least eight feet in height and have a one and three-quarter-inch caliper (at 12 inches above the ground) and a three-foot spread. A minimum of 70 percent of the required trees shall be canopy trees. All new trees, excluding palms, shall be of a species having an average height of 15 feet or greater at maturity.

- 1. **Recommended trees.** The following trees are recommended for use in landscaped areas and where tree replacement is required:

| Common Name | Scientific Name |
|----------------------|--------------------------------|
| Weeping elm | Ulmus parvifolia |
| Southern red cedar | Juniperus silicicola |
| Cherry laurel | Prunus caroliniana |
| Bald cypress | Taxodium distichum |
| Florida elm | Ulmus americana var. floridana |
| Winged elm | Ulmus alata |
| "East Palatka" holly | Ilex opaca "East Palatka" |
| American holly | Ilex opaca |

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|-------------------|-------------------------------------|
| Dahoon holly | Ilex cassine |
| Loblolly bay | Cordia lasianthus |
| Southern magnolia | Magnolia grandiflora |
| Red maple | Acer rubrum |
| Laurel oak | Quercus laurifolia |
| Live oak | Quercus virginiana |
| Cabbage palm | Sabal palmetto |
| Pindo palm | Butia capitata |
| Washington palm | Washingtonia robusta |
| Sweet gum | Liquidambar styraciflua |
| Sycamore | Platanus occidentalis |
| Sweetbay magnolia | Magnolia virginiana |
| Red oak | Quercus shumardii |
| Queen palm | Syagrus (Arecastrum) romanzoffianum |
| Savannah holly | Ilex attenuata "Savannah" |

- Where Xeriscape Landscaping is to be employed, it is recommended that the trees be chosen from the lists described in subsection B of this section.

D. **Shrubs and hedges.** Shrubs shall be a minimum of 12 to 18 inches in height above the adjacent pavement surface required to be buffered and/or screened when measured at time of planting, grown in a three-gallon container and be spaced 18 to 36 inches on center. They shall be at least 36 inches in height within 12 months of time of planting and shall be maintained at a height of no less than 36 inches above the adjacent pavement required to be buffered and/or screened in perpetuity, except for visibility at intersections and where pedestrian access is provided. Hedges, where required, shall be planted in double staggered rows and maintained so as to form a continuous, unbroken, solid visual screen within one year after time of planting. Where buffering and/or screening is required, shrubs shall be planted and maintained at a height as specified in this subsection.

- Recommended shrubs.** The following shrubs are recommended for use in landscaped areas where shrub planting is required:

| Common Name | Scientific Name |
|-----------------------------|----------------------------|
| India hybrid azalea | Rhododendron sp. |
| Kurume hybrid azalea | Rhododendron sp. |
| Cherry laurel * | Prunus caroliniana |
| Crape myrtle | Lagerstroemia indica |
| Elaeagnus, silverberry | Elaeagnus pungens |
| Ink gallberry * | Ilex glabra |
| Japanese privet | Ligustrum japonicum |
| Chinese (Variegated) privet | Ligustrum sinensis |
| Camellia | Camellia japonica |
| Chinese holly | Ilex cornuta |
| Burford holly | Ilex cornuta "Burfordii" |
| "Schelling" holly | Ilex vomitoria "Schelling" |
| Yaupon holly * | Ilex vomitoria |

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|---------------------------|------------------------|
| Anise * | Illicium sp. |
| Junipers | Juniperus sp. |
| Nandina | Nandina domestica |
| Native azalea * | Rhododendron viscosum |
| Pampas grass | cordateria selloana |
| Photina (red-tip) | Photina Frazerii. |
| Pittosporum | Pittosporum tobira |
| Podocarpus (Japanese yew) | Podocarpus macropylla |
| Sandankua viburnum | Viburnum suspensum |
| Gardenia | Gardenia jasminoides |
| Saw Palmetto * | Serenoa repens |
| Southern wax myrtle * | Myrica cerifera |
| Sweet viburnum | Viburnum odoratissimum |
| India hawthorn | Raphiolepis indica |

* = Indigenous

2. Where xeriscape landscaping is to be employed, it is recommended that the shrubs be chosen from the referenced material cited in subsection B. of this section.
- E. **Organic mulch requirements.** A two-minimum inch layer after watering-in, of organic mulch and a maximum layer of no more than three inches in depth shall be placed and maintained around all newly installed trees, shrubs, and ground cover planting. Mounding or pyramiding of mulch shall be discouraged. The tree trunk shall be **kept dry and open to the air by keeping it free from direct contact with mulch.**
- F. **Ground cover.** Ground cover, other than grass, shall be installed in a manner which presents a finished appearance and reasonably complete coverage within one year after planting. Stone, gravel, or any artificial cover shall not be utilized for more than 20 percent of the landscaped area. Use of native ground cover is encouraged.
- G. **Lawn grass.** Grassed areas shall be planted with species normally grown in permanent lawns common to the Highlands County area. Grassed areas may be sodded, plugged, or seeded provided solid sod shall be used in swales or other areas subject to erosion and provided further, in areas where other than solid sod or grass seed is used, nurse-grass seed shall be sown for immediate ground coverage until permanent coverage is achieved. The use of drought tolerant species is encouraged.
- H. **Sodding public rights-of-way.** All areas in a public right-of-way disturbed by development construction shall be completely sodded with like kind and variety of sod.
- I. **Site specific plant material.** Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. The County engineer shall review and approve landscape plans based on the following criteria. Required plants used in landscape design shall:
1. Be appropriate to the conditions in which they are to be planted (including drought and cold tolerance);

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2. Have non-invasive growth habits;
3. Encourage low maintenance; and
4. Be otherwise consistent with the intent of this article.

J. **Importation, planting of certain plant species prohibited.**

1. **Use of prohibited plant species.** The following plant species are prohibited from use as live landscaping materials, and the importation, transportation, sale, propagation and planting of these plant materials in the County is a violation of these regulations:
2. **List of non-native plants, which are commonly known as invasive, exotic invasive, noxious weeds, alien pests.**

| Common Name | Scientific Name |
|------------------------------------|--|
| Aeginetia | Aeginetia (all species) |
| African boxthorn | Lycium ferocissimum |
| African conch-grass (finger-grass) | Digitaria scalarum and D. abyssinica |
| African elodea (oxygen weed) | Lagarosiphon (all species) |
| African feathergrass | Pennisetum macrourum |
| Air Potato | Dioscorea bulbifera |
| Alectra | Alectra (all species) |
| Alligator weed | Alternanthera philoxeroides |
| Ambulia | Limnophila sessiliflora |
| Animated oak (Wild oak) | Avena sterilis and A. budoviciana |
| Arrowhead weed | Sagittaria sagittifolia |
| Asian sprangletop | Leptochloa chinensis |
| Australian pine (sheoak) | Casuarina species (all) |
| Australian pine | Casuarina litorea |
| Scaly-bark beefwood | Casuarina glauca |
| Beefwood | Casuarina cunninghamiana |
| Benghal dayflower | Commelina benghalensis |
| Broadleaf buttonweed | Spermacoce alata or Borreria alata |
| Bramble blackberry | Rubus fruticosus |
| Brazilian pepper-tree | Schinus terebinthifolius |
| Brazilian satintail | Imperata brasiliensis |
| Broomrape | Orobanche (all species except O. uniflora, one-flowered broomrape) |
| Burma reed | Neyraudia reynaudiana |
| Cape tulip | Homeria (all species) |
| Carrotwood | Cupaniopsis anacardioides |
| Cattail grass | Setaria pallide-fusca |
| Caulerpa, Mediterranean clone | Caulerpa taxifolia |
| Chinaberry | Melia axedarach |
| Chinese tallow tree | Sapium sebiferum |

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|--|--|
| Climbing hempweed | <i>Mikania micrantha</i> |
| Coat buttons | <i>Tridax procumbens</i> |
| Cogon grass | <i>Impereata cylindrica</i> |
| Common crupina | <i>Crupina vulgaris</i> |
| Crofton weed | <i>Ageratina adenophora</i> |
| Devil's thorn | <i>Emex spinosa</i> |
| Dodder vine | <i>Cuscuta</i> (all except the native Florida species) |
| Downy rose myrtle | <i>Rhodomyrtus tomentosa</i> |
| Duck lettuce | <i>Ottellia alismoides</i> |
| Eurasian water milfoil | <i>Myriophyllum spicatum</i> |
| Exotic bur-reed | <i>Sparganium erectum</i> |
| Giant hogweed | <i>Heracleum mantegassianum</i> |
| Giant salvinia | <i>Salvinia</i> (all species except <i>S. rotundifolia</i> (minima)) |
| Giant sensitive plant and Cat-claw mimosa | <i>Mimosa invisa</i> & <i>Mimosa pigra</i> |
| Goat's rue | <i>Galega officinalis</i> |
| Hippo grass | <i>Vossia cuspidata</i> |
| Hydrilla | <i>Hydrilla verticillato</i> |
| Hygro (Miramar weed) | <i>Hygrophila polysperma</i> |
| Indian rhododendron | <i>Melastoma malabathricum</i> |
| Itchgrass | <i>Rottboellia cochinchinensis</i> |
| Japanese climbing fern | <i>Lygodium japonicum</i> |
| Jointed prickly pear | <i>Opuntia aurantiaca</i> |
| Kikuyu grass | <i>Pennisetum clandestinum</i> |
| Kodo-millet | <i>Paspalum scrobiculatum</i> |
| Kudzu | <i>Pueraria montana</i> |
| Kyasuma grass | <i>Pennisetum pedicellatum</i> |
| Lightning weed (alfombrilla) | <i>Drymaria arenarioides</i> |
| Liverseed grass | <i>Urochloa panicoides</i> |
| Melaleuca (Cajeput, Punk tree, Paper bark) | <i>Melaleuca quinquenervia</i> |
| Mile-a-minute | <i>Mikania cordata</i> |
| Mission-grass (thin napier-grass) | <i>Pennisetum pollystachyon</i> |
| Monochoria (pickerelweed) | <i>Monochoria hastata</i> , <i>Monochoria vaginalis</i> |
| Morning glory (Aiea, little bell) | <i>Ipomoea triloba</i> |
| Mosquito fern (water velvet) | <i>Azolla pinnata</i> |
| Murain-grass | <i>Ischaemum rugosum</i> |
| Old World (Small-leaved) climbing fern | <i>Lygodium microphyllum</i> |
| Onionweed | <i>Asphodelus fistulosus</i> |
| Painted euphorbia | <i>Euphorbia prunifolia</i> |
| Pilipiliula | <i>Chrysopogon aciculatus</i> |
| Mesquites | <i>Prosopis</i> (all species) |
| Purple loosestrife | <i>Lythrum salicaria</i> |
| Red rice | <i>Oryza longistaminata</i> and <i>O. punctata</i> |
| Sawah-flowering rush | <i>Limnocharis flava</i> |
| Serrated tussock | <i>Nassella trichotoma</i> |
| Sessile joyweed | <i>Alternanthers sessilis</i> |
| Sewer vine | <i>Paederia cruddasiana</i> |

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|---|---|
| Silk Oak* | Grevillea robusta |
| Skunk vine | Paederia foetida |
| Swamp stonecrop | Crassula helmsii |
| Three-cornered jack | Emex australis |
| Tropical Pickerelweed | Pontederia rotundifolia |
| Turkey-berry | Solanum torvum |
| Velvet finger-grass (annual conch-grass) | Digitaria velutina |
| Water chestnut (not Chinese water chestnut) | Trapa (all species) |
| Water hyacinth | Eichhornia (allspecies); Eichhornia crassipes; Eichornia azurea |
| Water lettuce | Pistia stratiotes |
| Water soldier | Stratiotes aloides |
| Water spinach | Ipomoea aquatica & Ipomoea fistulosa |
| Wetland nightshade | Solanum tampicense |
| Soda Apple | Solanum viarum |
| Wild raspberry | Rubus moluccanus |
| Wild red rice | Oryza rufipogon |
| Wild safflower | Carthamus oxyacantha |
| Wild sugarcane | Saccharum spontaneum |
| Winged yam (white yam) | Dioscorea alata |
| Witchweeds | Striga (all species) |
| Wormleaf salsola | Salsola vermiculata |

*Silk Oak is not invasive but listed as prohibited in Highlands County because it breaks easily and drops limbs. *Cupaniopsis anacardioides* (carrotwood) Propagation prohibited effective 7/1/99; sale or distribution prohibited 1/1/2001

Sources:

- a. **Department of Environmental Protection.** Rules Chapter 62C-52.011-- Prohibited Aquatic Plants. Authority: 369.25, 369.251 F.S. History: New 8-11-86, amended 6-13-93. Formerly 16C-52.011. Class I plants: Plants that may not be possessed, collected, transported, cultivated, or imported without a special permit. Class II plants: Plants that can be cultured in-state for out-of-state sales only, but may not be imported or collected from the wild.
- b. **Florida Department of Agriculture and Consumer Services.** Rules Chapter 5B-007 Noxious Weed List. List divided into Parasitic Weeds and Terrestrial Weeds. Specific Authority 570.07 (13), (23) FS. law Implemented 581.031 (4), (5), (6), 581.083, 581.091 FS. History -- New 7-27-93, Amended 2/28/94, 6/30/96, 7-6-99.
- c. **Federal List From:** USDA/APHIS/PPQ, Section 2814 of Federal Noxious Weed Act, Part 360 -- Noxious Weed Regulations, Authority: 7 U.S.C. 2803 and 2809; 7 CFR 2.17, 2.51 and 371.2(C). List divided into Aquatic/Wetland, Parasitic and Terrestrial.

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3. **Definitions:**

- a. Importation shall mean the conveyance, by any means, of plants into the County.
- b. Planting shall mean the placing on or setting into the ground of live plant material.
- c. Propagation shall mean the act of transferring or conveying plants to a purchaser for consideration.
- d. Sale shall mean the act of transferring or conveying plants from one place to another for the purpose of sale, planting, importation or propagation.
- e. Transportation shall mean the act of carrying or conveying plants from one place to another for the purpose of sale, planting, importation or propagation.

K. **Existing plant material.**

1. In meeting the requirements of landscaping, the County engineer may permit the use of healthy native plant material existing on site. In so doing, the County engineer may adjust the application of the standards of these regulations to allow credit for such existing plant material, provided, he may not permit the reduction of required percentages of a landscaped area or reduction in numbers of trees or shrubs required, unless otherwise allowed pursuant to this section. Removal of vegetation is subject to obtaining environmental clearance and a land clearing permit pursuant to section 12.12.603 of these regulations.
2. All new development shall retain existing native vegetation to the maximum extent practical. Existing native vegetation shall be retained unless stormwater management design, necessary grade changes, required infrastructure or approved construction footprints necessitate its removal. The need to remove existing vegetation shall be demonstrated by the applicant as a part of the site/improvement plan review process. Areas of retained vegetation shall be preserved in their entirety with all trees, understory, and ground covers left intact and undisturbed except that prohibited plant materials as listed in section 12.11.103.C.8. of this article are to be removed.
3. During construction, all reasonable steps necessary to prevent the destruction or damaging of existing vegetation shall be taken. No excess soil, additional fill, equipment, liquids, or construction debris, shall be placed within the drip line of any vegetation that is required to be preserved, or that will be credited towards the required landscaping.
4. Protective barriers shall be installed and maintained beyond the drip line of the existing trees or of the trees being retained, and shall remain in place for the duration of the construction process phase.

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L. **Tree preservation credits.** Existing trees within areas of the property for which trees are required by these regulations, may be credited towards meeting the minimum tree planting requirements according to the formula in the following table. Fractional measurements shall be attributed to the next lowest category.

| TABLE 5 | | | | |
|--|----|------------------------------------|---|-------------------|
| CALCULATION OF TREE PRESERVATION CREDITS | | | | |
| Existing Crown Spread Of Preserved Trees Natural Grade | or | Diameter of Tree at 4.5 feet above | = | Number of Credits |
| 50 feet or greater | or | 26" or greater | = | 6 |
| 40 to 49 feet | or | 20" to 25" | = | 5 |
| 30 to 39 feet | or | 13" to 19" | = | 4 |
| 20 to 29 feet | or | 8" to 12" | = | 3 |
| 10 to 19 feet | or | 2" to 7" | = | 2 |
| less than 10 feet | or | 1 1/2" to 2" | = | 1 |

M. **Trees excluded from preservation credit.** No credit shall be given for preserved trees which:

1. Are not located within the areas of the property for which trees are required by these regulations;
2. Are located in required natural preservation areas indicated on an approved master land use plan, site plan, or plat;
3. Are prohibited species identified in this article;
4. Are dead, dying, diseased, or infested with harmful insects;
5. Are located in recreation tracts, golf courses or similar sub-areas within planned developments which are not intended to be developed for residential, commercial or industrial use (unless abutting said use, and the required buffer width is dedicated on the plat as a landscape buffer easement); or
6. Are not located within the boundaries of the parcel.

N. **Safe sight distance triangles at intersection and access points.** Landscaping shall not obstruct the view of motorists using any street, driveway, private parking aisle or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety upon any such street, driveway, parking aisle, or street intersection. Landscaping shall comply with requirements of this section concerning clear visibility triangles.

O. **Landscape berms.** All transitional protective yard berms shall meet the requirements of this article. All interior vehicular surface area berms, when grassed, shall have side slopes no greater than 4:1. Interior berms planted with groundcover and landscaping shall have side slopes no greater than 3:1. Existing native vegetation shall be incorporated into the berms with all slopes fully stabilized and landscaped

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with trees, shrubs, and groundcover. Landscape berms shall not be placed within easements without written approval from all entities claiming an interest under said easement.

(Ord. No. 05-06-30, § 78)

Section 12.11.104. Vehicular surface area landscape regulations-Intent, purpose and application.

- A. It is the intent of this section to modify and reduce the deleterious visual, environmental and aesthetic effects of existing and proposed vehicular surface areas. The landscape requirements herein have been developed to: filter and reduce the glare of headlights and reflected sunlight from parked automobiles onto the public street rights-of-way; separate the public from the ill effects of fumes and dust; visually modify the appearance of parking areas and vehicular surface areas, to encourage the construction of such necessary areas in a manner that more closely follows the existing natural contours of the land; distribute planting areas around and within the parking area; modify the rate of stormwater runoff and increase the capability of groundwater recharge in urban areas; provide shade, noise attenuation, filtering the air of particulate and gaseous pollutants and other beneficial environmental effects to the micro-climate; prevent the overcrowding of land; and break the visual blight created by large expanses of vehicular surface areas.
- B. **Applicability.** The provisions of this section shall apply to all new off-street parking or other vehicular surface areas. Existing landscaping which does not comply with the provisions of these regulations shall be brought into conformity to the maximum extent possible when:
1. The vehicular surface area is altered or expanded, not to include re-stripping of parking lots and/or drives; or
 2. The building square footage is changed.

(Ord. No. 05-06-30, § 78)

Section 12.11.105. Landscaping required in interior of vehicular surface areas.

- A. Vehicular surface area, as used herein, includes any driveway, parking aisle, parking space, or vehicular display area without regard to type of construction material or surface.
- B. Interior landscaped planting areas shall be located either within or adjacent to the parking area as tree islands, at the end of parking bays, or between rows of cars. The number, size and shape of landscaped planting areas shall be at the discretion of the applicant provided the landscaping meets all requirements of this article. Landscaped areas, wall structures, and walks shall require protection from vehicular encroachment through appropriate wheel stops, curbs, or other structures.
- C. The total onsite interior landscape area shall equal or exceed ten percent of the total vehicular surface area as defined by this subsection. The width of all curbing shall be excluded when calculating the required landscape area. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs or other landscape treatment and provided with an automatically controlled irrigation system meeting the requirements of this article. On an overall average, one tree shall be provided for every 250 square feet of required interior landscaped area, (excluding the parking island requirements,) and eight shrubs shall be provided for every required tree, to be used in some manner for screening the parked vehicles.

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- D. All rows of parking spaces shall contain no more than ten parking spaces within each parking bay and parking bays in sequence shall be interrupted by a required landscaped island which shall be a minimum of eight feet in width and the full depth of the parking space, excluding curbs, and at least 144 square feet in area. At least one tree shall be planted in each island for each bay, and two trees shall be planted within the extended island when parking bays are opposite one another. These tree requirements shall be met with existing native trees whenever such trees are located within the parking area and may be feasibly incorporated into the landscaping. In no instance shall a parking stall be farther than 50 feet from a tree, measured to the tree trunk. Interior landscaping areas shall serve to divide and break up the expanse of paving at strategic points and to provide adequate shading of the paved area. Building perimeter landscaping shall not be credited toward interior landscaping. (See Figures # 8 and # 9)
- E. **Vehicular overhang of landscaped areas.** The front of a vehicle may overhang any landscaped area a maximum of two feet, provided the landscaped area is protected by motor vehicle wheel stops or curbing. Two feet of such landscaped area or walkway may be part of the required depth of each abutting parking space. Walkways shall be a minimum of seven feet in width if a vehicle is to overhang the walkway. Whenever a planting area is created by using a continuous curb as a wheel stop, an additional three feet (or 5 feet overall) will be required for the width of the planting area to accommodate planting space against a fence and an additional five feet (seven feet overall) against a building. If there is an opposite parking bay, three additional feet of space (seven feet overall) is required to accommodate several additional trees, equally spaced, to be located between the islands located at the ends of each parking bay. (See Figures # 8 and # 9)

Landscape incentive: In the event the option to use a continuous curb for a wheel stop, and an opposite parking bay is included, the subsequent width of the planting area connecting the islands must be a minimum of seven feet, to accommodate equally spaced trees between the islands. (See Figures # 8 and # 9)

This option for a double bay of 20 parking spaces, will withdraw another 300 square feet (three feet by 100 feet) from the total impervious parking area, and increase the planting area by 300 feet square feet, three parking spaces may be reduced from the total parking space requirement. This will reduce the impervious or paved area by 486 square feet. (nine feet by 18 feet = 162 feet × three = 486 feet)
(Ord. No. 05-06-30, § 78)

Section 12.11.106. Green space requirements in shopping centers and freestanding retail establishments with floor areas of 40,000 square feet or greater.

An area that is at least seven percent of the size of the vehicular surface areas shall be developed as green space within the front yard(s) or courtyards of shopping centers and freestanding retail establishments with floor areas of 40,000 square feet or greater, and shall be in addition to the building perimeter planting area requirements. The courtyards shall only be located in areas that are likely to be used by pedestrians visiting the shopping center and retail establishment. The seven percent green space area shall be in addition to other landscaping requirements of this article, and may be used to meet the open space requirements of section 12.10.502.J. It shall be labeled green space on all improvement plans and site plans. The interior landscape requirements of these projects shall be reduced to an amount equal to five percent of the vehicular surface area on site. Green space shall be considered as areas designed for environmental, scenic or non-commercial recreation purposes and shall be pedestrian-friendly and aesthetically appealing. Green space may only include the following: lawns, mulch, decorative planting, non-prohibited exotic trees, walkways within the interior of

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the green space area not used for shopping, fountains, manmade water courses (but not water retention areas), wooded areas, park benches, site lighting, sculptures, gazebos, and any other similar items that the County engineer deems appropriate. Green space shall include: walkways within the interior of the green space area not used for shopping, a minimum of one foot of park bench per 1,000 square feet of building area, and a minimum of one tree for each 250 square feet of green space area. The green space area shall use existing trees where possible and tree preservation credits will be allowed as governed by section 12.11.103.L. of this article. The green space areas shall be located in areas that are in close proximity to the retail shopping area. Benches may also be located in interior landscaped areas and 75 percent of the benches may be located adjacent to the building envelope along paths, walkways and within arcades or malls.

(Ord. No. 05-06-30, § 78)

Section 12.11.107. Building perimeter planting.

The developers of all commercial buildings for which preliminary and final site plans are required, shall include in the landscape plan building perimeter planting in the amount of ten square feet per 1,000 square feet of proposed building gross floor area. These planting areas shall be located adjacent to the building and shall consist of landscape areas, raised planters, or planter boxes placed around the perimeter of the structure.

(Ord. No. 05-06-30, § 78; Ord. No. 07-08-32, § 18)

Section 12.11.108. Littoral zone planting.

All developments that create lake areas shall provide littoral zone planting of emergent, aquatic vegetation in accordance with SWFWMD or SFWMD regulations.

(Ord. No. 05-06-30, § 78)

Section 12.11.109. Transitional protective yard landscape regulations--Intent.

A. This section requires transitional protective yards to be provided and maintained when certain land use categories adjoin each other in order to protect uses from the traffic, noise, glare, trash, activity, vibration, odor, visual disorder, and other harmful or noxious effects likely to be emitted by or associated with a more intensive use. Transitional protective yard regulations are also required to prevent adverse community appearance, to protect the character of the area and to conserve the values of buildings and land and to provide adequate light and air. Transitional protective yards of different widths and planting densities are required depending upon the combination of land use categories and the adverse effects which the uses have.

B. **Applicability.** The provisions of this section shall apply to all new development. Existing landscaping which does not comply with the provisions of these regulations shall be brought into conformity to the maximum extent possible when:

1. The vehicular surface area is altered or expanded, not to include re-striping of parking lots and/or drives; or
2. The building square footage is changed.

(Ord. No. 05-06-30, § 78)

Section 12.11.110. Reserved.

Section 12.11.111. Types of transitional protective yards.

Transitional protective yard Types A, B, and C are dependent upon the land use categories of both the property being developed and the adjoining property. See Table 6, Transitional Protective Yard Type Chart, and Table 7, Optional Protective Yard Width Chart to determine the minimum width of the required transitional protective yard for a project. See transitional Protective Yard Types A, B, and C, respectively, for minimum widths and planting material amounts. Transitional Protective Yard Type D is described in subsection D. of this section, and is used only along and adjacent to roads and streets.

- A. **Transitional protective yard Type A.** This transitional protective yard is required to buffer an industrial land use category from all other land use categories. It consists of either a 40-foot yard with ten trees and 120 shrubs per 100 linear feet or a 100-foot yard with six trees and 76 shrubs per 100 linear feet.

- B. **Transitional protective yard Type B.** This transitional protective yard is required to buffer a commercial land use category from all other land use categories except industrial where a Type A is required. If agriculture land use category or zoning is adjacent to commercial land use category or zoning, then a Type B buffer shall be required. It consists of either a 30 foot yard with eight trees and 100 shrubs per 100 linear feet or a 100-foot yard with five trees and 47 shrubs per 100 linear feet.

- C. **Transitional protective yard Type C.** This transitional protective yard is required to buffer a high density residential land use category from all other residential land use categories, and to buffer a public/quasi-public land use category or a conservation/management category from all residential land use categories. It consists of either a 20-foot yard with six trees and 80 shrubs per 100 linear feet or a 50-foot yard with five trees and 54 shrubs per 100 linear feet.

- D. **Transitional protective yard Type D.** This transitional protective yard is required as a landscape buffer adjacent to any road right-of-way, external to the development project. The minimum width of the perimeter landscape buffer shall vary according to the ultimate width of the abutting right-of-way. Where the ultimate width of the right-of-way is zero to 99 feet, the corresponding landscape buffer shall measure at least ten feet in width. Where the ultimate width of the right-of-way is 100 or more feet, the corresponding landscape buffer shall measure at least 15 feet in width. Developments of 15 acres or more shall provide perimeter landscape buffers of at least 20 feet in width regardless of the width of the right-of-way.
 - 1. Trees shall be spaced no more than 30 feet on center in the landscape buffer abutting a right-of-way.

 - 2. A hedge at least 12 to 18 inches in height at the time of planting shall be required in the landscape buffer where vehicular areas are adjacent to the road right-of-way, pursuant to section 12.11.103.C.2. of this article.

 - 3. The remaining area of the landscape buffer shall consist of existing native vegetation, grass, ground cover, or other landscape treatment. Landscaping within a right-of-way shall not be applied to meet the requirements of this article. Every effort should be made to retain and incorporate the existing native vegetation in these areas.

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- E. **Native vegetation.** Where the incorporation of existing native vegetation in transitional yards is shown by the applicant as being equivalent to or in excess of the intent of these regulations, the County engineer may waive the planting requirements of this article.
- F. **Water management systems.** Water management systems, which shall include retention and detention areas, swales, and subsurface installations, shall be permitted within a required transitional protective yard provided they are consistent with accepted engineering and landscaping practice and the following criteria:
1. Water management systems shall not utilize more than 50 percent of the square footage of any required side, rear or front yard landscape buffer;
 2. Water management systems shall not exceed, at any location within the required side, rear, or front transitional protective yard, 70 percent of the required yard width; and
 3. Exceptions to these standards may be granted by the County engineer on a case by case basis, evaluated on the following criteria:
 - a. Water management systems, in the form of dry retention, may utilize an area greater than 50 percent of the transitional protective yard when native vegetation is retained at natural grade
 - b. For lots of record 10,000 square feet or less in size, water management areas may utilize an area greater than 50 percent of the required side and rear yard buffers; a level planting area of at least three feet in width shall be provided in these yards.
- G. **Sidewalks and other impervious areas.** These shall not occupy any part of a required Type A, B, C, or D transitional protective yard. However, driveways and sidewalks constructed perpendicular to the yard and providing direct access across the yard to a parcel will be allowed.
- H. **Setbacks.** Transitional protective yard setbacks are measured beginning at the property line of the property to be screened (or at the zoning line when the property lies in more than one land use category) to vehicular surface areas, buildings, and loading, display, storage, and service areas. Where property has more than one zoning classification, the transitional protective yard type shall be determined by the requirements of this section, as though the land use category line were a property line. In no case will that part of the property having a different land use category classification be considered a buffer to allow a less stringent regulation to control the type of transitional protective yard.
1. A transitional protective yard will not be required at a land use category line in the interior of a building site for the purpose of meeting the requirements of this section. When a transitional protective yard at the land use category line would bisect the property and limit its use, the transitional protective yard may be constructed at the property line as if the land use category line were at the property line. The more stringent of these regulations as to type of transitional protective yard required shall govern at the property line, based on either the interior land use category line or the property line.

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2. Transitional protective yards may overlay other yard areas but yard areas used as transitional protective yards must comply with the requirements of this section. Nothing contained in this section shall reduce minimum requirements of any other yards required by these regulations. Single and multi-family dwellings on individual buildable lots shall not be required to provide any transitional protective yard.
3. No transitional yard will be required adjacent to a stream, lake or wetland.
4. When property has frontage on a golf course, no transitional yard will be required to separate the property from the golf course, regardless of the land use category of either of the properties.

I. **Planting materials in transitional yards.**

1. **Canopy trees** as defined and listed in section 12.11.103.C. of this article shall be distributed throughout the transitional protective yards so that there are no horizontal gaps between trees greater than 30 feet as measured along the property line and no required tree is closer than 20 feet to any other required tree. The trees shall be chosen from the list referenced in section 12.11.103.B. of this article when xeriscape landscaping is to be employed. Transitional yard "D" fronts on public rights-of-way and all trees shall be canopy trees. Clustering of three or more palm trees shall equal one canopy tree. Palms shall not be used to fulfill more than 30 percent of the requirement of this section. Trees within side transitional yards are also to be canopy trees, with the exception of multi-stemmed Ligustrum species or Lagerstroemia species, which may be used, that are equivalent to 45 gallons or ten feet in height at the time of installation.
2. **Shrubs** as defined and listed in section 12.11.103.D. of this article shall be planted in such a way as to form a continuous staggered double row. Shrubs planted must attain at least 36 inches in height after 12 months. The shrubs shall be chosen from the lists referenced in section 12.11.103.B. of this article, when xeriscape landscaping is to be employed.
3. **Amounts.** In the required transitional protective yard, shrubs and trees shall be planted in the amounts shown in Figure 2, following this section. Where walls and fences, are employed, planting shall be according to section 12.11.103.K., of this section. All required planting shall be contained completely within the transitional protective yard. No vegetative screening or fencing required by this section shall be located inside utility and drainage easements, excluding overhead easements, without the consent of the County engineer and the easement holder. If plants or fences inside utility and drainage easements are allowed, then these plants and fences shall be planted or constructed and maintained in accordance with guidelines as set out herein.

J. **Fences and walls.**

1. A closed fence or solid wall may be used to meet the requirements of this Article if justified for noise abatement purposes or in circumstances where physical constraints of the building site dictate that the width of the transitional protective yard be reduced. Wall or fence height shall be six feet unless otherwise prohibited or regulated by these regulations. If a closed six-foot fence or

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solid wall is erected, the width of the transitional protective yard and the planting material amounts may both be reduced by one-half.

2. Where a closed eight-foot high fence or solid wall meeting the requirements of this article is utilized, the width of the transitional protective yard and the planting material amounts may both be reduced by three-quarters, provided such reduction shall not result in a transitional protective yard width of less than a minimum seven and one-half feet.
3. Closed fences and solid walls constructed within transitional yards shall be of the same or compatible with, in terms of texture and quality, the material and color of the principal building. The improvement plan or final site plan shall contain a cross section, plan view, and construction details of the fence or wall, including material, finish and color, both interior and exterior, and an explanation of the compatibility determination. Where no buildings exist and none are proposed at the time of design and erection of the fence or wall, the design of the fence or wall shall be compatible with buildings most likely to be constructed on either side.
4. Figure 1 shows the chart to determine the minimum width of a reduced width transitional protective yard.

K. Transitional protective yard types.

1. Transitional protective yard type chart used to determine the required transitional protective yard type for a proposed project or development;
2. Optional protective yard width chart which demonstrates reduced width yards as described in this article;
3. Transitional protective yard Type A which demonstrates the yard width and number and placement of trees and shrubs as described in this article;
4. Transitional protective yard Type B which demonstrates the yard width and number and placement of trees and shrubs as described in this article; and
5. Transitional protective yard Type C which demonstrates the yard width and number and placement of trees and shrubs as described in this article.

| TABLE 6 | | | | | | | | | | |
|-----------------------------------|---|------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| TRANSITIONAL PROTECTIVE YARD TYPE | | | | | | | | | | |
| Principal Property's Category | | Adjacent Property's Category | | | | | | | | |
| | | <u>1.</u> | <u>2.</u> | <u>3.</u> | <u>4.</u> | <u>5.</u> | <u>6.</u> | <u>7.</u> | <u>8.</u> | <u>9.</u> |
| 1. | Agriculture (AU, RR, FUD & PD) | - | - | - | - | C | B | A | - | D |
| 2. | Public Water Supply (PW) | - | - | C | C | B | B | B | - | D |
| 3. | Low Density Residential (EU, M1-S, FUD& PD) | - | - | - | - | C | B | A | C | D |
| 4. | Medium Density Residential (R-1, R-1A, R-2, M-1-S, M-1, M-2, R-3, FUD & PD) | - | - | - | - | C | B | A | C | D |

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| | | | | | | | | | | |
|----|---|-----|---|---|---|---|---|---|---|---|
| 5. | High Density Residential (R-3, R3-NC, RV-FUD, CG-1, CG-2, CG-3, FUD& PD) | C | C | C | C | - | B | A | C | D |
| 6. | Commercial (O-1, B-1, B-2, B-3, B-4, A-1, FUD & PD) & Commercial/Industrial Mixed Use* | B** | B | B | B | B | - | A | B | D |
| 7. | Industrial (I-1, I-2, A-1, BC-1, BC-2, FUD & PD) | A | A | A | A | A | A | - | A | D |
| 8. | Public/Quasi-Public & Institutional (PQ), & Conservation Management Lands (CM, A-1) | - | - | C | C | C | B | A | - | D |
| 9. | Vehicular Right-of-Way | D | D | D | D | D | D | D | D | - |

The letter listed under *Adjacent Property's Category* shall be the transitional protective yard type required for a proposed project. The "-" symbol indicates that no transitional protective yard is required.

The County engineer may approve use of optional transitional protective yards described previously when such optional yards have been determined by use of professionally accepted standards to be equivalent to or in excess of the intent of these regulations.

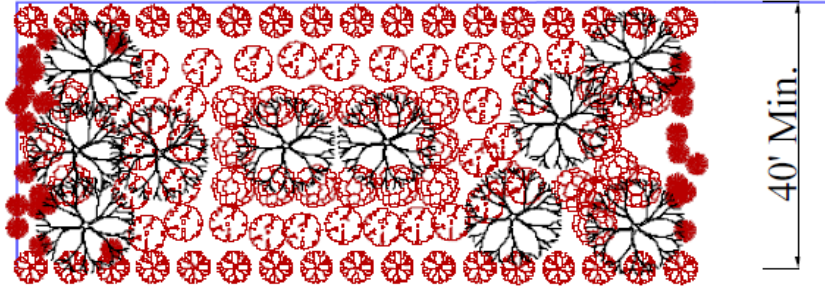
*Transitional protective yards for a commercial/industrial mixed use development will always be the same as that required for a commercial development.

**Transitional protective yard Type B: If general agriculture land use category or zoning district is adjacent to commercial land use category or zoning district, then a Type B buffer shall be required.

| TABLE 7 | | | |
|---------------------------------------|---------------|---------------|---------------|
| OPTIONAL PROTECTIVE YARD WIDTH | | | |
| LANDSCAPE OPTION | YARD A | YARD B | YARD C |
| 8-Foot Wall | 10 feet | 7.5 feet | 7.5 feet |
| 6-Foot Wall | 20 feet | 15 feet | 10 feet |

FIGURE 10: FIGURES OF TRANSITIONAL PROTECTIVE YARD TYPES:

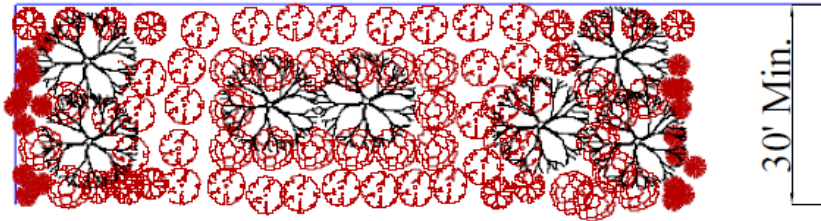
TRANSITIONAL PROTECTIVE YARD TYPE A



Minimum Width 40 Feet

Planting Material Amounts:
10 Trees/100 Linear Feet
120 Shrubs/100 Linear Feet

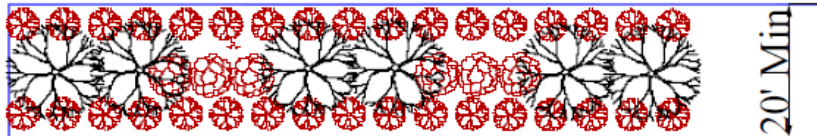
TRANSITIONAL PROTECTIVE YARD TYPE B



Minimum Width 30 Feet

Planting Material Amounts:
8 Trees/100 Linear Feet
100 Shrubs/100 Linear Feet

TRANSITIONAL PROTECTIVE YARD TYPE C



Minimum Width 20 Feet

Planting Material Amounts:
6 Trees/100 Linear Feet
80 Shrubs/100 Linear Feet

(Ord. No. 05-06-30, § 78)

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Section 12.11.112. Open space system.

This section creates an open space system for Highlands County and establishes open space requirements and standards for both residential and nonresidential development.

- A. **Usable open space requirements.** Usable open space shall include active and passive recreation areas such as playgrounds, golf courses, beach frontage, waterways, lagoons, floodplains, wetlands, stormwater retention areas, nature trails, and other similar open spaces. Open space areas shall also include those areas set aside for preservation of native vegetation and landscaped areas. Open water area beyond the perimeter of the site, street rights-of-way, driveways, off-street parking areas, and off-street loading areas shall not be counted in determining usable open space.
- B. **Special habitat areas.** Wherever possible, special habitat areas identified in the County's conservation overlay district map shall be treated as usable open space in any development plan for the parcel containing them, and these areas will count toward the open space area requirement for the development or parcel.
- C. **Residential development.** In residential development, at least 30 percent of the gross area shall be devoted to usable open space. The 30 percent open space requirement can be partially met by including, in addition to that described in A. and B. of this section, the usable open space required on individual lots and for the purposes of these regulations is calculated as the difference between the lot area and the maximum allowable site coverage as follows:
1. **Low density residential:** 50 percent.
 2. **Medium density residential:** 60 percent.
 3. **High density residential:** 70 percent.
- D. **Nonresidential developments.** In nonresidential development, at least 20 percent of the gross area shall be devoted to usable open space. The 20 percent open space requirement can be partially met by including, in addition to that described in A. and B. of this section, the usable open space required on individual lots and parcels and for the purposes of these regulations is calculated as the difference between the lot or parcel area and the maximum allowable site coverage as follows:
1. **Agriculture.** 20 percent for properties that are 40 acres or less, ten percent for properties that are 40+ to 160 acres, five percent for properties that are 160+ acres in size;
 2. **Public/quasi-public facility lands:** 75 percent;
 3. **Public conservation/management lands:** Five percent;
 4. **Commercial:** 80 percent;
 5. **Commercial/industrial mixed use:** 80 percent; and

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6. **Industrial:** 70 percent.

Section 12.11.113. Land development regulation variances and appeals.

Any person desiring to undertake development without fully complying with the requirements of this article may apply for a variance as provided for in section 12.04.520 of these regulations, and may appeal any decision of staff as provided for in that same section.

Section 12.11.114. Requirement for certificate of occupancy.

A qualified person shall certify compliance with the requirements of this article pertaining to both landscaping and irrigation as a prerequisite for issuing a certificate of occupancy for any commercial building. Where a conflict exists between the strict application of this article and requirements for the number of off-street parking spaces or area of off-street loading facilities, the requirements of this article shall apply.

(Ord. No. 05-06-30, § 78)

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ARTICLE 12.

RESOURCE PROTECTION STANDARDS

DIVISION 1.

GENERAL

Section 12.12.100. General resource protection standards.

The purpose of this article is to insure that future growth, development, and redevelopment in Highlands County conforms to certain minimum criteria. These criteria are provided for the express purpose of achieving the goals of the County as stated in its comprehensive plan as well as implementing objectives and policies adopted to insure fulfillment of those goals. The design standards and criteria contained in this section are provided to protect the general health, safety, and welfare of the County and its citizens; to insure the beneficial impacts of growth and guard against negative impacts of growth; and to protect neighboring properties as well as the general public from potential adverse impacts from a proposed use.

The standards and criteria provided in this article are mandatory and apply to all properties in the unincorporated area of Highlands County unless exempted elsewhere in these regulations. These standards describe minimum acceptable design and development standards that must be met as a prerequisite to obtaining a final development order for a proposed development.

It should be noted that County approval of standards in these regulations does not invalidate deed restrictions nor restrictive covenants, nor does the County enforce such private contractual agreements.
(Ord. No. 05-06-30, § 79)

Section 12.12.101. Purpose and intent.

This article is intended to provide those standards and regulations necessary to protect important resources of the County and to insure for current and future citizens clean and plentiful water; protection from flood damage; protection of wetlands and habitats; and to protect the health, safety, and general welfare of the public. It is specifically the intent of the County to protect against potentially adverse impacts of urbanization that may threaten the natural character, scenic beauty, and quality of resources in Highlands County.
(Ord. No. 05-06-30, § 79)

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DIVISION 2.

SURFACE WATER QUALITY AND WETLANDS PROTECTION

Section 12.12.200. Surface water quality and wetlands protection and improvement--Purpose and intent.

The purpose of this division is to describe requirements for the protection of surface water quality and to insure both the safety and aesthetic appeal of water bodies in Highlands County for present and future residents and visitors. This division also provides for protection of wetlands and their beneficial functions while also protecting the rights of property owners. Specifically, it is the intent of this division to protect wetland systems and their ecological functions to ensure their long term, economic, environmental, and recreational value and encourage restoration of wetland systems to a functional condition. Highlands County finds that protection of wetlands promotes the well being of the people and of the natural resources of Highlands County. It is further found that wetlands serve many beneficial functions, as listed below:

- A. Wetlands provide natural storage and conveyance of flood waters and minimize erosion and sedimentation by reducing flood flows and the velocity of flood waters.
- B. Wetlands adjoining larger lakes and rivers protect wildlife and the shoreline from destructive wave action.
- C. Wetlands assimilate, filter, and help decompose sediments, nutrients, and other natural and manmade pollutants that would otherwise degrade surface and ground waters.
- D. Wetlands support commercial and recreational fishing by providing habitat, essential nutrients, and hatcheries for aquatic life.
- E. Wetlands provide habitat for rare and endangered species as well as essential breeding and protective habitats for waterfowl, other birds, mammals, reptiles, amphibians, and fish.
- F. Wetlands constitute an important surface water site and filtering mechanism.
(Ord. No. 05-06-30, § 79)

Section 12.12.201. Determination of wetlands boundary.

- A. **Cutthroatgrass seep.** For the purpose of these regulations, the term cutthroatgrass seep shall be defined as any area of land supporting cutthroatgrass (*Panicum abscissum* Swallen) as the dominant plant species. As pertains to this definition, the term dominant plant species shall apply to any area where the greatest percent cover of any individual herbaceous species is that of cutthroatgrass.
- B. **Wetlands.** For the purpose of these regulations, the term wetlands shall mean those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances do or would support, a prevalence of vegetative or aquatic life that requires a saturated or seasonally saturated soil condition for growth or reproduction, such as swamps, marshes, bayheads, cypress ponds, naturally formed sloughs, wet prairies, wet meadows, river overflows, mud flats, and natural ponds.

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- C. **Determination of wetlands boundary.** Any determination of wetland areas within the project boundary must be performed by an environmental consultant or contained in an approved permit pursuant to relevant state or federal wetlands regulations. A report of findings by the consultant must be submitted to the County prior to the issuance of a building and or land clearing permit. The consultant's report must include a description of the site and a map showing delineated wetlands and or cutthroatgrass seeps. Should SWFWMD or SFWMD, FDEP, USACOE, and/or NRCS jurisdiction(s) apply within the project boundary, said agency approval will be required before issuance of a building and or land clearing permit.

(Ord. No. 05-06-30, § 79; Ord. No. 06-07-04, § 21A)

Section 12.12.202. Standards for protection.

- A. In addition to other provisions of this division, Highlands County is committed to the protection of ecological functions of wetland systems through certain actions listed here. When development is proposed in any of these areas, the developer shall, where feasible, design the project so as to cooperate with the County in meeting these commitments by, among other measures, protecting the natural functions and hydrology of all wetland systems, including cutthroatgrass seeps, by buffering against incompatible land uses and by mitigating development impacts to the system in accordance with applicable natural resource policies.
- B. Where the presence of jurisdictional wetlands or cutthroat grass seeps is known to be within the project development boundaries, and the proposed development will impact these jurisdictional areas, all final development orders and/or land clearing permits shall be conditioned upon the issuance of a wetlands permit by the Army Corps of Engineers, the Florida Department of Environmental Protection, and/or the South or Southwest Florida Water Management Districts, as their jurisdictions may apply. The County shall require such permits to be obtained as a condition of approval for the project's final development order or land clearing permit and shall issue the appropriate environmental clearance determination upon issuance of such permit. In addition to an approved permit or an approved simplified ECR, pursuant to section 12.12.201 at the time of development approval, the landowner shall sign an affidavit stating that they understand that wetlands may be impacted by land clearing or development on their property and that they must comply with state and federal regulations.
- C. Any wetland or cutthroatgrass area which is used for mitigation purposes to gain approval of a County final development order shall be recorded as a conservation easement prior to issuance of the applicable final development order. These conservation easements shall be recorded as separate instruments in the Official Records of Highlands County, or where possible, delineated on the final plats at the time of recording.
- D. Unless specifically permitted or exempted by the provisions of this division, no development activity shall be undertaken in a wetlands area.

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- E. **Exemption.** For purposes of implementing Division 6, so long as landowners comply with state and/or federal regulations in areas of natural resources, including wetlands and cutthroatgrass seeps, where environmental clearance would otherwise be required, the County shall exempt the following from environmental clearance upon payment of an environmental mitigation fee to be set by the BCC:
1. Up to one-half acre for land clearing or construction of commercial, industrial, single-family, duplex, and manufactured home residential dwelling units and accessory structures on individual lots of record established prior to September 15, 1993;
 2. Up to two acres on land for development with urban zoning and urban FLUM designation; and,
 3. Up to two acres for residential development (one single-family home) on legal lots with agricultural land use and agricultural zoning.

All environmental mitigation fees shall be placed in the County's conservation trust fund. This provision does not exempt the applicant from the requirement to obtain all applicable FDEP, ACOE and SWFWMD or SWFWMD permits, as required in subsection B. above.

(Ord. No. 05-06-30, § 79; Ord. No. 06-07-04, § 21B)

Section 12.12.203. Setback from natural surface water bodies and wetlands.

- A. **Setback standards.** In the absence of state or federal setback requirements and except as otherwise provided in these regulations and/or the adopted comprehensive plan, all dwellings, commercial buildings, and industrial buildings shall be set back the lesser of 50 feet or 40 percent of the average depth of the site from a natural surface water body and an identified wetland (including cutthroat seeps and bayheads)perpendicularly measured from the seasonal high water line (SHWL) and the boundary of the wetland. As used herein, the term seasonal high water line means the line or elevation to which the ground or surface water can be expected to rise due to a normal wet season. That setback area lying between the SHWL and a line being the lesser of 50 feet or 40 percent of the average depth of the site perpendicularly measured from the SHWL and the boundary of the wetland shall be shown on the approved final site plan or final plat as a public or private conservation easement.
- B. **Exceptions.** In lieu of the above, for lots and parcels lawfully created and in existence on September 15, 1993, the setbacks otherwise required by these regulations, and state and federal laws and regulations shall apply.
- C. **Septic tanks.** A septic tank system for all development shall be set back a minimum distance of 75 feet from the seasonal high water line of a lake, river, creek, and from the boundary of an identified wetland (including cutthroat grass seeps and bayheads). The Florida Department of Environmental Protection may require even greater setback distances for some systems.
- D. **Use of conservation easements.** Provided all requirements of sections 12.12.201.C. and 12.12.204 of this division are observed, conservation easements contained on an individual lot or parcel may be used, either wholly or partially, to meet zoning requirements of these regulations pertaining to yard setbacks.

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- E. **Implementation.** For the purpose of implementing wetland setbacks, the County shall allow:
1. Density attributable to any wetland setback area to be transferred to the build-able portions of the site;
 2. Flood control improvements within the setback area which are necessary for the protection of life and property;
 3. The right to maintain existing or to construct new hiking and equestrian trails within the setback area;
 4. The right to use existing grazing, pasture, and crop lands within the setback area for agricultural purposes;
 5. The right-of-way over or to a wetland, subject to obtaining all required permits from jurisdictional agencies; and
 6. Crossings by linear facilities that provide essential public services, subject to obtaining all required permits from jurisdictional agencies.

(Ord. No. 05-06-30, § 79)

Section 12.12.204. Conditions of approval.

- A. Except as otherwise provided for in these regulations and/or the County's adopted comprehensive plan, the following conditions of approval must be adhered to whenever construction is proposed in the vicinity of a natural surface water body or wetland. The County shall require the applicant to provide adequate evidence and assurances that these conditions will be met during construction.
1. That construction or construction activities shall not encroach into the setbacks or conservation easements described by section 12.12.203 of this division.
 2. That, if required by state permits or environmental clearance report conclusions as they may apply to the development proposal, existing topography and vegetation shall be retained within the setbacks or conservation easement.
 3. That site preparation and/or land clearing shall not commence prior to the County's issuing a final development order and a land clearing permit, when applicable, pursuant to the provisions in Division 6 of these regulations.
 4. That whenever clearing or grading of the construction site is proposed, silt screens shall be placed between the construction and the surface water body and wetland;
 5. That acceptable erosion control measures shall be provided during construction.
 6. That acceptable dust control measures shall be provided during construction.

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7. That the setback or conservation easement line shall be marked and posted prior to the commencement of construction activities at the development site.
 8. That vegetation within the setback or conservation easement shall be retained or be reestablished if damaged during construction, as appropriate, so as to stabilize soil conditions along the boundary of development, to minimize siltation from eroded soils, and to control stormwater runoff from the developed area.
- B. **No requirements beyond mandated state or federal requirements for wetlands or cutthroatgrass seeps.** In accordance with F.S. § 163.3184(6)(c), Highlands County will not impose any requirements for wetlands and cutthroatgrass seeps in addition to those required by either the Florida Department of Environmental Protection or the applicable water management district. No development in wetlands regulated by the State of Florida will be permitted by Highlands County except as permitted by state law.
- C. **Water quality standards.** In addition to the design standards of drainage system design and construction standards, of the *Highlands County Technical Standards Manual*, current edition, all developments adjacent to wetlands and/or water bodies shall meet the water quality standards of the receiving wetlands/water bodies for storm-water discharge pursuant to Chapter 62-25, FAC (FDEP Requirement).
- D. **Vegetation removal.** Except for maintaining existing lots where lake vegetation has been removed, removal of xeric upland vegetation along lake frontages shall be limited to the minimum necessary to achieve reasonable access to the lake. A note to this effect shall appear on all final site plans, and improvement plans where development is proposed adjacent to water bodies.
- E. **Damaged wetlands.** Any wetlands area damaged during construction shall be completely restored. Complete restoration means that the restored area shall function equivalently to the wetland prior to damage.
- F. **Allowable uses for conservation easements.** The following shall be allowed within resource protection easements:
1. Flood control improvements which are necessary for the protection of life and property.
 2. Existing or new hiking and equestrian trails.
 3. Continued grazing, use of existing pasture, and use of crop lands for agricultural purposes.
 4. The right-of-way over or to a surface water body, subject to obtaining all required permits from jurisdictional agencies.
 5. Existing or new docks and boat ramps, subject to obtaining all required permits from jurisdictional agencies.
 6. Crossings by linear facilities that provide essential public services.

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G. **Deposition of fill.** Where a development proposal includes provisions for deposition of fill, shores resulting from such deposition shall not exceed a slope of 6:1.

H. **Shoreline slopes.** Shorelines with existing slopes steeper than 10:1 shall be protected by shallow filter or spreader berms.

(Ord. No. 05-06-30, § 79)

Section 12.12.205. Restoration of degraded wetland systems.

A. Where a parcel of land is to be developed, and the parcel contains degraded or damaged jurisdictional wetlands, the developer may elect to restore such wetland area to a higher functional condition under the provisions of this section rather than destroy and mitigate for such wetlands, or leave them in their present condition. By restoring the wetland area, the developer will be allowed to transfer density from those restored wetlands under the developer's ownership or control to other areas of the contiguous property under development and/or to offsite development. Both contiguous property and offsite property may be developed at a density as high as the top of the land use density range, but in no case higher than the top of this density range as established by the comprehensive plan and these regulations.

B. The transferable density of the restored wetland will be based on the land use category to which it is being assigned at a rate as follows:

| Table 8 | |
|---|---|
| Transferable Density Allowed for Restored Wetlands | |
| Land Use Category | Dwelling Units for Each Acre of Restored Wetland |
| Agriculture | 0.4 |
| Low Density Residential | 2.0 |
| Medium Density Residential | 6.0 |
| High Density Residential | 2.0 |

C. **Density credits.** The development services director or designee shall reference and include in the environmental clearance final report, the developer-proposed plans and details for wetlands restoration. Any unused density credits that the developer has earned through restoration of wetlands will be available to the original developer or his assignee for future use.

D. **Restored wetlands size.** There is no minimum size for the restoration of a wetland. The density credit calculation will always be rounded up to the nearest whole number, thereby assuring at least one transferable density credit for a restored wetland.

E. **Plan submittal.** In order to receive credit for restored wetlands, the developer or owner must submit a plan for restoring and maintaining the restored area. This plan must be prepared by a County-approved environmental consultant and reviewed and approved by the appropriate agency(ies) having jurisdiction over the restored wetland. Prior to issuance of a final development order for the development involving density transfers, a surety acceptable to the County engineer and the board attorney to guarantee the implementation, maintenance and monitoring of the plan shall be approved and accepted by the BCC. A restored wetland shall be dedicated as a wetland conservation easement. (Ord. No. 05-06-30, § 79)

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Section 12.12.206. Major drainage projects.

Major drainage projects, such as channelization of streams and rivers (not including maintenance activities which are consistent with previously permitted projects) or construction of canals not associated with a surface water management system approved by the appropriate water management district, shall not be permitted in proposed development or redevelopment unless the drainage projects are clearly in the public interest as determined by the public interest test described below. Development proposals containing such major drainage projects must first obtain environmental clearance pursuant to these regulations.

After receipt of such clearance, the applicant shall submit permit review fees along with nine sets of plans prepared, signed, and sealed by a Florida registered professional engineer, together with copies of required permits as identified by the environmental clearance report. Upon review by County staff of the plans and upon the project's compliance with the requirements of the public interest test described below, a final development order may be issued by the BCC.

A. **Public interest test.** The public interest test requires the drainage project to demonstrate clear and specific proof of public benefit. Determination of such public benefit shall be based upon the need of such projects for one or more of the following:

1. Flood control;
2. Water conservation;
3. Water quality protection;
4. Habitat conservation;
5. Cultural resources protection.

B. **Description of public interest test** where a major drainage project is proposed, the design engineer shall submit for staff approval along with the improvement plan for the project, a narrative explaining in detail why, in his opinion, the project passes the public interest test and qualifies for approval.

(Ord. No. 05-06-30, § 79)

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DIVISION 3.

GROUNDWATER AND WELLHEAD PROTECTION

Section 12.12.300. Groundwater and wellhead protection.

- A. **Purpose and intent.** Groundwater protection standards are intended to safeguard the health, safety, and welfare of the citizens of Highlands County. Availability of adequate dependable sources of good quality water for domestic, agricultural, and industrial use is of primary concern to the future development of the County. Therefore, standards are described in this division with the intent of protecting both quantity and quality of groundwater supply. It is further the intent of this division to control development in and adjacent to designated wellhead protection zones (WHPZs) to protect groundwater supplies from potential contamination.
- B. **The following types of wells shall be exempt from the requirements of this division:**
1. Wells for nonpotable water use.
 2. Wells regulated by H.R.S. under Chapter 64E-8, F.A.C.

(Ord. No. 05-06-30, § 79)

Section 12.12.301. General regulations.

- A. **Well head protection zones (WHPZs) established.** All public potable water wells shall have WHPZs established around them, with new public potable water wells constructed after the adoption of these regulations being positioned so that the WHPZs are contained entirely within the property where such wells are located including property subject to easements consistent with the requirements for WHPZs. For the purposes of this division, a public potable water well shall mean any well connected to a public or private potable water supply system that provides piped water for human consumption to 15 or more service connections, or regularly serves a minimum of 25 persons daily at least 60 days per year as defined by Chapter 62-550, F.A.C.
- B. **Wellhead protection zones (setbacks)** shall consist of two concentric circular zones centered on an individual wellhead. The first, a zone of exclusion, with a radius of 200 feet in which only specified land uses and activities shall be allowed, shall be established to protect wells from unexpected contaminant releases. The second, a zone of control, with a radius of 600 feet in which certain land uses and activities are prohibited, shall also be established. The zone of control shall include that area between the outer limits of the 200-foot radius zone of exclusion and the outer limits of the 600-foot radius circle.
1. **Zone of exclusion.** Only the following future land uses and development activities are allowed in the zone of exclusion:
 - a. Uses functionally related to the water supply system;
 - b. Open space, parks, playgrounds, playing courts, open air shelters, and other similar recreation facilities;

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- c. One single-family dwelling unit per parcel, tract, or lot that may be entirely or partially within the zone of exclusion, provided that the parcel, tract, or lot was created on or before September 27, 1993, and provided that the residence cannot feasibly or practicably be located outside this zone; and
 - d. No parking areas, structures, or impervious surfaces, except for those listed above or accessory to residential uses, shall be allowed within the zone of exclusion.
2. **Zone of control, prohibited land uses.** The following land uses and activities shall be prohibited in the zone of control:
- a. The bulk storage, mixing, processing, production, or disposal of:
 - (1) Offsite generated hazardous waste;
 - (2) Special solid waste (as defined by County ordinance);
 - (3) Medical waste;
 - (4) Any pesticide for which an area of groundwater contamination has been delineated by the Florida Department of Environmental Protection within Highlands County under Chapter 62-524 F.A.C.;
 - (5) Sewage and sludge;
 - (6) Substances listed in the federal Comprehensive Environmental Response Compensation Liability Act (CERCLA) in 40 CFR Part 302, Table 302.4 which is known to pollute or contaminate groundwater.
 - b. Sanitary wastewater system lift stations, wastewater treatment plants, percolation ponds, and sludge or septic land application sites;
 - c. Landfills, landfill operations, open dumps, junkyards, and the processing or disposal of solid waste which is not generated at the site;
 - d. Mines and mining operations which intersect or disturb the groundwater table;
 - e. The bulk storage or disposal of pesticide containers;
 - f. Agricultural and industrial processing plants;
 - g. Feed lots or other concentrated livestock yards or facilities;

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- h. The application of fertilizers, except if done in accordance with application rates recommended by IFAS, or in accordance with those Best Management Practices published by IFAS, whenever applicable.

Health department review: The health department shall review plans for apparent land use or activity all items listed in this section and the final development order for a development shall restate zone of control prohibitions.

- 3. **Zone of control, restricted activities.** In addition to the prohibited land uses and activities described in 2., of this subsection, the following materials shall be restricted in the zone of control as shown:

- a. **Gasoline**--Use, reporting, and disposal shall be done in accordance with the regulatory requirements as determined by the Florida Department of Environmental Protection and/or the Florida Department of Community Affairs' Sara Title III Program.
- b. **Motor oils/lubricants**--Use, reporting, and disposal shall be done in accordance with the regulatory requirements as determined by the Florida Department of Environmental Protection and/or the Florida Department of Community Affairs' Sara Title III Program.
- c. **Solvents**--Use, reporting, and disposal shall be done in accordance with the regulatory requirements as determined by the Florida Department of Environmental Protection and/or the Florida Department of Community Affairs' Sara Title III Program.
- d. **Lead acid batteries**--Use, reporting, and disposal shall be done in accordance with the regulatory requirements as determined by the Florida Department of Environmental Protection and/or the Florida Department of Community Affairs' Sara Title III Program.
- e. **Pesticides**--Use, reporting, and disposal shall be done in accordance with the labeling and regulatory requirements as determined by the Florida Department of Agriculture and Consumer Services and/or the Florida Department of Community Affairs' Sara Title III Program.

Health department review: The health department shall review plans for apparent activity items 3.a., b., c., d., and e. of this subsection, and the final development order for a development shall restate zone of control restricted activities.

Section 12.12.302. Non-conforming land uses and activities.

Setback standards referenced in section 12.12.301 above, along with the allowed and prohibited land uses and activities within WHPZs, shall not apply to existing land uses and activities. For the purposes of this section existing shall mean existing prior to the effective date of these regulations January 1, 1995. Where existing land uses or activities within a WHPZ area change status after the effective date of these regulations, said setback standards along with the allowed and prohibited land uses and activities shall apply henceforth to the property.

(Ord. No. 05-06-30, § 79)

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Section 12.12.303. Change of setback standards.

The setback standards expressed in this division may be increased or decreased on the basis of specific hydrological data which supports an expansion or a reduction of the area encompassed by a wellhead protection zone.

- A. Any changes to the setback standards based on such data shall require approval of the health department prior to the County issuing a final development order for a project involving construction of a new public potable water well.
- B. Furthermore, these setback standards may be reduced or increased in specific instances where:
 - 1. The governing regulations of state permitting agencies prescribe a setback distance from the wellhead; or
 - 2. In the case of pesticide applications, the label requires that applications not be done within a certain distance from a drinking water well.

(Ord. No. 05-06-30, § 79)

Section 12.12.304. Standards.

- A. Areas designated as WHPZs shall be identified by reference to United States Geological Survey Seven and One-Half Minute Quadrangle Maps and, after it becomes available, by an official map of the County available at the County engineer's office showing the location of wellheads and their wellhead protection zones.
- B. Delineation of the radius of any new WHPZ shall be the responsibility of the person making application for a public supply well construction permit. Documentation of the wellhead location, specifications, rates, and distances shall be certified by a Florida registered professional engineer or hydrogeologist responsible for the project. If the requirements of this division are not completely met, or if the use of the modified setback requirements of section 12.12.303 is elected, a complete explanation and justification shall be included with the application for a final development order.
- C. An applicant must provide evidence of ownership of the entire WHPZ or easements consistent with the requirements for a WHPZ.
- D. No County agency shall approve a development order for any development that is located, wholly or in part, within a WHPZ without clearance and approval of County staff. The County may defer to the permitting authority of any state or regional agency having jurisdiction over and regulating discharges of contaminants.

(Ord. No. 05-06-30, § 79)

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DIVISION 4.

STORMWATER MANAGEMENT

Section 12.12.400. Stormwater management.

- A. **Purpose and intent.** This division is intended and shall be interpreted to protect, maintain, and enhance both the immediate and long-term health, safety, and general welfare of the citizens of Highlands County through the following:
1. Preventing activities that adversely affect ground and surface waters.
 2. Encouraging construction of stormwater management systems that aesthetically and functionally approximate natural systems, consistent with regulatory agency requirements.
 3. Protecting natural drainage systems.
 4. Minimizing runoff pollution of ground and surface waters.
 5. Minimizing erosion and sedimentation of receiving waters.
- B. **General provisions.** In addition to meeting the requirements of this division, the design and performance of all stormwater management systems shall comply with applicable State regulations (Chapter 62-25, F.A.C.), requirements of SWFWMD (Chapters 40D-4 and 40D-40, F.A.C.), or SFWMD (Chapters 40E-4 and 40E-40), and shall meet the design and construction requirements of these regulations.
- C. **Exemption.** Action taken under emergency conditions to prevent imminent harm or danger to persons, or to protect property from imminent fire, violent storms, hurricanes, or other hazards shall be exempt from the requirements of this article. However, a report of the emergency action shall be made to the County engineer as soon as practicable.
- D. **Single-family residential, duplex, and manufactured home.** County's residential driveway permit application shall be submitted to the County engineer in compliance with section 12.09.106 and include the information described in section 12.09.114.

(Ord. No. 05-06-30, § 79)

Section 12.12.401. Stormwater management systems applicability.

Submittal of plans and materials required by section 12.12.402 and section 12.12.403 of this division shall be used to satisfy the requirements of the following:

- A. **Drainage, grading, and water retention plan for commercial structures.** This plan is required by section 12.04.107.C.4. of these regulations as a component of the final site plan required for commercial building structures agricultural structures within an approved surface water management permit are exempt from these requirements.

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- B. **Master drainage plan for subdivisions.** This plan is required by section 12.04.111.D. 4.b. of these regulations as a component of the improvement plan required for subdivisions, manufactured home parks, planned unit developments, and cluster/PUD developments, more completely described in section 12.04.11.A. of these regulations. (Ord. No. 05-06-30, § 79)

Section 12.12.402. Standards for stormwater management systems.

- A. The proposed development and development activity shall not violate the water quality standards as set forth in Chapter 62-302, F.A.C.
- B. Detention and retention systems shall be designed in conformance with the drainage system design and construction standards described in the *Highlands County Technical Standards Manual*, current edition.
- C. The design and construction of the proposed stormwater management system shall be certified as meeting the requirements of these regulations by a professional engineer registered in the State of Florida.
- D. No surface water shall be channeled or directed into sanitary wastewater systems or sinkholes.
- E. The proposed stormwater management system shall be compatible with the drainage systems or drainage ways of surrounding properties or streets.
- F. In phased developments, stormwater management systems for each integrated stage of completion shall be capable of functioning independently.
- G. All detention and retention basins, except natural water bodies used for this purpose, shall be freely accessible for maintenance.
- H. Methods to calculate runoff shall be as specified in section 12.12.400.B. of this division.
- I. The characteristics of stormwater conveyed from the site should approximate the rate, volume, quality, and timing that occurred on the site under conditions preceding the proposed development.

(Ord. No. 05-06-30, § 79)

Section 12.12.403. Stormwater management plan.

Unless otherwise exempted by these regulations, a stormwater management plan shall be submitted as a part of all final site plans and improvement plans. The stormwater management plan shall contain sufficient information to allow County staff to determine whether the proposed plan meets the requirements of these regulations. The *Highlands County Technical Standards Manual*, current edition describes stormwater management drainage system design and construction standards.

- A. The following specific background information shall be submitted or a note as to why the information is not applicable.
1. A recent aerial photograph encompassing the project area and total land areas; (the scale shall be no smaller than one inch equals 200 feet; photo copies are not acceptable);

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2. A topographic map of the site clearly showing the location, identification, and elevation of bench marks, with at least one bench mark for each major water control structure; (the contour interval of the topographic map shall be not greater than one foot);
 3. An overall project area map showing existing hydrography and runoff patterns and the size, location, topography, and land use of any off-site areas that drain onto, through, or from the project area;
 4. A soils map of the site (existing USDA Natural Resource Conservation Service (NRCS) soil survey maps are acceptable);
 5. Seasonal high water table elevations and information describing the method used in determining them;
 6. A map of vegetative cover only if wetlands are present (information may be shown on the aerial or soils map);
 7. A map showing the locations of any soil borings or percolation tests percolation tests representative of design conditions shall be performed if the stormwater management system will use percolation (retention), or exfiltration (detention with filtration) designs;
 8. Grading plans specifically describing the interface between the proposed development and abutting properties;
 9. A structure, road, and paving plan showing the location, dimensions, and specifications of roads and buildings including ground or slab elevations;
 10. An erosion and sedimentation control plan describing the type and location of control measures, the stage of development at which they will be put into place or used, and maintenance
- B. A description of the proposed stormwater management system shall be provided including the following information and plans or a note as to why the information is not applicable:
1. Proposed channel, direction, flow rate, flow arrows, and volume of stormwater that will be conveyed from the site with a comparison to natural or existing conditions;
 2. Detention and retention areas (including plans for discharge of contained waters), maintenance plans, and a statement of expected surface water quality changes;
 3. Areas of the site to be used or reserved for percolation including an assessment of the impact on groundwater quality where the proposed development is near water wells within a wellhead protection zone;

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4. Location of all water bodies (natural and artificial) to be included in the surface water management system with details of hydrography, side slopes, depths, and water surface elevations or hydrographs;
 5. Where development is proposed adjacent to a body of water, a note stating "except for maintaining existing lots where lake vegetation has been removed, removal of xeric upland vegetation along lake frontages shall be limited to the minimum necessary to achieve reasonable access to the water body";
 6. Drainage basin or watershed boundaries identifying locations of routes of off-site waters onto, through, or around the project;
 7. Any off-site rights-of-way or easements required for proper functioning of the system;
 8. Rights-of-way and easements for the system including locations and a statement of the nature of the reservation of all areas to be reserved as part of the stormwater management system;
 9. Location of off-site water resource facilities such as surface water management systems, wells, or well fields that might be affected by the proposed project, listing the names and addresses of the owners of the facilities;
 10. The entity or agency responsible for operation and maintenance of the stormwater management system.
- C. Review fees for stormwater management plans shall be as described in section 12.04.101, of these regulations and shall accompany the plan upon first submittal. (Ord. No. 05-06-30, § 79)

Section 12.12.404. Review fees.

Review fees for stormwater management plans shall be as described in section 12.04.101.H. of these regulations and shall accompany the plan upon first submittal. (Ord. No. 05-06-30, § 79)

Section 12.12.405. Right of entry.

Whenever it becomes necessary to enter upon private property to make an inspection to enforce any of the articles of these regulations, the County engineer may enter such private building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the County engineer by these regulations, provided that if such building or premises is occupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such an entry request. If entry is refused, the County engineer shall have recourse to every remedy provided by law to secure entry. (Ord. No. 05-06-30, § 79)

Section 12.12.406. Powers and duties of the County engineer.

Where it pertains to the enforcement of the articles listed in section 12.12.405 above, the County engineer shall have the same authority as that granted to the building official in section 12.16.202, powers and duties of the building official, of these regulations. (Ord. No. 05-06-30, § 79)

DIVISION 5.

FLOOD HAZARD PROTECTION

Section 12.12.500. Floodplain protection.

A. Findings of fact.

1. The flood hazard areas of Highlands County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused in part by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

B. Purpose and intent. It is the purpose of this division to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion, or in flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
4. Control filling, grading, dredging and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

C. Objectives. The objectives of this division are:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

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4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
7. To insure that potential home buyers are notified that property is in a flood area;
8. To maintain the County's eligibility in the National Flood Insurance Program and comply with FEMA standards;
9. To insure that the County continues to regulate construction in the floodplain pursuant to the requirements of the Federal Emergency Flood Management program; Natural Resources Element Objective 11;
10. To institute measures to protect the natural functions of floodplains and flood prone areas from the negative impacts of new development and redevelopment, with design emphasis on:
 - a. Stormwater quality and quantity outputs;
 - b. Maintaining flood-carrying and flood-storage capacities;
 - c. Flood control improvements for flood prone lands;
 - d. The incorporation of open space to maintain the natural character of riverine systems.

D. **Lands to which this division applies.** This division shall apply to all areas of special flood hazard within the jurisdiction of the BCC.

E. **Basis for establishing the areas of special flood hazard.** The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study for the BCC, dated August 16, 1982, with accompanying maps and other supporting data, and any revision, thereto, are adopted by reference and declared to be a part of these regulations.

F. **Definitions.** Unless specifically defined below, words or phrases used in this paragraph shall be interpreted so as to give them the meaning they have in common usage and to give this paragraph its most reasonable application.

1. **Accessory structure (appurtenant structure):** A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and must be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

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2. **Addition (to an existing building):** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load - bearing wall other than a firewall. Any walled and roofed addition, which is connected by a fire wall or is separated by independent perimeter load bearing walls, is new construction.
3. **Appeal:** A request for a review of the floodplain management administrator's interpretation of any provision of this paragraph or a request for a land development regulation variance.
4. **Area of shallow flooding:** A designated AO or AH Zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
5. **Area of special flood hazard:** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
6. **Base flood:** The flood having a one percent chance of being equaled or exceeded in any given year.
7. **Base flood elevation:** The highest water-surface elevation associated with the base flood.
8. **Basement:** That portion of a building having its floor sub-grade (below ground level) on all sides.
9. **Breakaway wall:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
10. **[Building:]** Has the same definition as structure.
11. **Critical facility:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
12. **Development:** Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.
13. **Elevated building:** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

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14. **Encroachment:** The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
15. **Existing construction:** Any structure for which the "start of construction" commenced before February 16, 1983.
16. **Existing manufactured home park or subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before February 16, 1983.
17. **Expansion to an existing manufactured home park or subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
18. **Flood or flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters;
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
19. **Flood boundary and floodway map (FBFM):** The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.
20. **Flood hazard area, special:** (SFHA) (See area of special flood hazard and special flood hazard area, definitions)
21. **Flood hazard boundary map (FHBM):** An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.
22. **Flood insurance rate map (FIRM):** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
23. **Flood insurance study (FIS):** The official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.
24. **Floodplain:** The area calculated to be inundated or the actual area that is inundated during a 100-year storm event, as generally identified by the National Flood Insurance Program as an A Zone

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or V Zone on flood insurance rate maps or flood hazard boundary maps. Floodplain as used in this paragraph has substantially the same meaning as area of special flood hazard.

25. **Floodplain management:** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
26. **Floodplain management administrator:** The individual appointed to administer and enforce the floodplain management regulations.
27. **Floodplain management regulations:** This paragraph and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes Federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
28. **Flood prone area:** An area bounded by the 100-year storm event boundaries established on the FEMA maps or the calculated 25-year storm event for a specific property, whichever applies.
29. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
30. **Floodway fringe:** That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.
31. **Functionally dependent facility:** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
32. **Hardship (as related to variances of this division):** The exceptional hardship that would result from a failure to grant the requested variance. The BCC requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
33. **Highest adjacent grade:** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a building.

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34. **Historic structure:** Any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:
 - c. Individually listed on a state inventory of historic places if the Florida historic preservation program has been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:
 - 1) By an approved state program as determined by the Secretary of the Interior, or
 - 2) Directly by the Secretary of the Interior in states without approved programs.
35. **Increased cost of construction (ICC):** The cost to repair a substantially damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. ICC insurance coverage is provided in a standard (NFIP) flood insurance policy.
36. **Lowest adjacent grade:** The lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.
37. **Lowest floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the nonelevation design standards of this paragraph.
38. **Manufactured home:** A building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.
39. **Manufactured home park or subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
40. **Manufactured home park or subdivision, existing:** (See "Existing to existing manufactured home park or subdivision")

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41. **Manufactured home park or subdivision, expansion to existing park or subdivision:** (See expansion to existing manufactured home park or subdivision.")
42. **Manufactured home park or subdivision, new:** (See "new manufactured home park or subdivision.")
43. **Mean sea level:** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this division, the term is synonymous with National Geodetic Vertical Datum (NGVD).
44. **National Geodetic Vertical Datum (NGVD) as corrected in 1929:** A vertical control used as a reference for establishing varying elevations within the floodplain.
45. **New construction:** Any structures for which the "start of construction" commenced on or after the effective date of this division.
46. **New manufactured home park or subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after floodplain regulations adopted by a community.
47. **Obstruction:** Obstruction includes, but is not limited to, any dam, wall, wharf, embankment levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
48. **Public safety and nuisance:** Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
49. **Recreational vehicle:** A vehicle that is:
 - a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

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50. **Regulatory floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
51. **Repetitive loss:** Flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.
52. **Special flood hazard area:** (SFHA) (see Area of Special Flood Hazard) means an area having special flood hazard and shown on a FHBM or FIRM as Zone A, AO, A1--A30, AE, A99, or AH.
53. **Start of construction:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
54. **Structure:** A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.
55. **Substantial damage:** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its-before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.
56. **Substantially improved existing manufactured home parks or subdivisions:** Is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
57. **Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work

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performed. This includes any combination of repairs, reconstruction, alteration, or improvements to A building taking place during the life of the building in which the cumulative cost equals or exceeds 50 percent of the market value of the building either:

- a. Before the improvement or repair is started; or,
- b. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred "substantial damage" and are "repetitive loss," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code violations which have been identified prior to permit issuance by the code enforcement official and which are solely necessary to assure safe living conditions; or,
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

58. **Variance, flood hazard protection** is a grant of relief from the requirements of Division 5, Flood Hazard Protection of Article 12 of Chapter 12, which permits construction in a manner otherwise prohibited by that division where specific enforcement would result in unnecessary hardship and will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.
59. **Violation:** The failure of a structure or other development to be fully compliant with this division. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this division is presumed to be in violation until such time as that documentation is provided.
60. **Watercourse:** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
61. **Water surface elevation:** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 05-06-30, § 79)

Section 12.12.501. Kissimmee River floodplain.

- A. **Purpose and intent.** This division implements special measures for flood control protection within the Kissimmee River's 100-year floodplain according to the applicable objectives and policies expressed in the natural resources element of the County's adopted comprehensive plan and this division. Measures to conserve water, protect water quality, conserve habitat, and protect cultural resources in the Kissimmee River's 100-year floodplain are implemented in other divisions of these regulations. This division also insures that proposed land use activities within the Kissimmee River's 100-year floodplain are not inconsistent with the stated goals of the resource management plan for the Lower Kissimmee River and Taylor Creek Drainage Basins, adopted August 21, 1985, and prepared pursuant to F.S. Ch. 380.
- B. **Measures supporting Kissimmee River Resource Management Plan.** Where development is proposed within the Kissimmee River's 100-year floodplain, the developer should examine certain pertinent facts concerning such development as a part of his or her initial planning process. Foremost for consideration is the County's establishment of urban growth areas outside of the river floodplain where development can be more easily accomplished, and the developer is encouraged to consider such sites. Furthermore, because the County has stated its intention to support the Kissimmee River Resource Management Plan and its objectives, all development in the Kissimmee River's 100-year floodplain will be reviewed subject to its ability to:
1. Maintain, at a minimum, the present water quality conditions, but enhance or improve water quality where possible and practical
 2. Provide assurance that the economic development is in an appropriate area with further assurance that future development does not interfere with protection of the area's critical resources
 3. Ensure reasonable level of flood control and water conservation, thereby preventing excessive damage to the areas' critical resources, both natural and manmade
 4. Maintain or enhance the Kissimmee River's riverine system to ensure the continuation of indigenous fish and wildlife, the river's aesthetic appeal, boating, recreation, and other benefits
 5. Provide protection for as many of the archaeological, historical, and distinctive cultural features as possible.
- C. **Development requirements for Kissimmee floodplain.** All new development, redevelopment, and land clearing proposals within the Kissimmee River's 100-year floodplain shall comply with the following as they might apply:
1. The establishment of a planned unit development zoning district on the site prior to submitting a site plan or plat.
 2. The application of stormwater treatment techniques and the use of mandatory stormwater retention to bring post-development outputs to acceptable water quality/quantity standards prior to discharge into the Kissimmee River.

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3. The inclusion of proposed flood control mitigation and design specifications in the proposal.
 4. The inclusion of erosion control specifications in final site plans and improvement plan for development.
 5. The incorporation of open space buffers, land set asides, and setbacks pursuant to the policies of the County's adopted comprehensive plan and these regulations in the proposal.
- D. **Low density within Kissimmee floodplain.** Within the Kissimmee River's 100-year floodplain, all unvested residential development or subdivision shall be according to agricultural densities at one dwelling unit per ten gross acres. Clustered development or lot configurations space/riparian easements shall be encouraged. Natural Resources Element, Policy 11.7.
- E. **Best Management Practices for Kissimmee floodplain.** All development orders for agricultural operations located within the Kissimmee River's 100-year floodplain shall be conditioned upon the application of Best Management Practices.

(Ord. No. 05-06-30, § 79; Ord. No. 06-07-04, § 22)

Section 12.12.502. Clearinghouse procedures when developing Kissimmee areas.

- A. The County shall generally support restoration of the Kissimmee River's 100-year floodplain as it reviews proposals for new development, redevelopment, and land clearing proposals for consistency with the plans and programs of the following agencies:
1. The U.S. Army Corps of Engineers pursuant to the Kissimmee River Restoration Plan when it is completed and approved by the Congress and the Florida Legislature.
 2. The Florida Department of Environmental Protection pursuant to the resource management plan for the Lower Kissimmee River and Taylor Creek Drainage Basin adopted on August 21, 1985, by the Kissimmee River Resource Planning and Management Committee.
 3. The Florida Department of Community Affairs pursuant to the cited Resource Management Plan for the Lower Kissimmee River.
 4. The South Florida Water Management District pursuant to the Save Our Rivers 1991 5-year Plan, the Surface Water Improvement and Management (SWIM) program, and the Kissimmee River Restoration Plan cited above.
 5. The Central Florida Regional Planning Council pursuant to the resource management plan for the Lower Kissimmee River cited above, and the Regional Policy Plan then in effect.

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- B. In addition to the requirements of section 12.12.503 of this division, when a developer contemplates new development, redevelopment, or land clearing in the Kissimmee River's 100-year floodplain the following action by the developer shall be required:
1. **Proof of notification.** All applications for flood hazard development permits within the Kissimmee River's 100-year floodplain shall include proof of notification to the agencies listed in section 12.12.502.A. of this division and the Highlands County Natural Resources Advisory Committee (NRAC). Transmitted information to the various agencies and NRAC shall include copies of the application for a final development order including all attachments and the flood hazard development permit application. This proof of notification shall be in the form of copies of transmittal letters to the various agencies, and a signed and sealed certificate prepared by the project engineer noting the date that the copies were forwarded. The transmittal letter as required by section 12.12.614.D. and shown in the *Highlands County Technical Standards Manual*, current edition which asks the agencies and NRAC to respond directly to Highlands County shall be used.
 2. **Other requirements and recommendations.** Requirements of any agency's permits which are communicated back to the County within 45 days shall be incorporated into the County's final development order for the project. Other recommendations for development and mitigation received from NRAC or these agencies may, at the discretion of the BCC, also be applied as conditions of approval for the County's final development order.
- C. Requirements of this section shall only apply to final development orders for lands over 20 acres in size or the clearing of undisturbed native vegetation on tracts of land over ten acres in size. Final development orders to construct one single-family home, one accessory dwelling, and attendant accessory structures shall be exempt from this section regardless of lot size.

(Ord. No. 05-06-30, § 79)

Section 12.12.503. Establishment of flood hazard development permit.

A Flood hazard development permit is hereby established and shall be required prior to development in an area of special flood hazard as identified in section 12.12.500.E. of this division.

- A. **Subdivisions, manufactured home parks, and seasonal parks.** When required by this section, an application for a flood hazard development permit shall be submitted to the County engineer concurrently with the improvement plan for a development requiring the recording of a final plat, and this application must receive approval prior to approval of the improvement plan and issuance of a final development order for construction of the improvements.
- B. **Structures.** When required by this section, an application for a flood hazard development permit shall be submitted to the County engineer concurrently with the final site plan for a structure not exempted by section 12.12.503.C. below, and this application must receive approval prior to approval of the final site plan and issuance of a final development order for construction of the improvements. However, a structure shall not require a flood hazard development permit where the construction is proposed on property for which an overall flood hazard development permit has been issued by virtue of the review and approval of the improvement plan and subsequent recording of a subdivision, mobile home park, or seasonal park.

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- C. **Single-family, duplex, and manufactured home dwellings exemption.** An elevation certificate, rather than a flood hazard development permit, will be required for single-family, duplex, and manufactured home dwellings proposed for construction on existing lots or parcels.
- D. **Compliance.** No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this division and other applicable regulations.
- E. **Abrogation and greater restrictions.** This division is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division and another division of these regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. **Interpretation.** In the interpretation and application of this division all provisions shall be:
1. Considered as minimum requirements.
 2. Liberally construed in favor of Highlands County.
 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- G. **Warning and disclaimer of liability.** The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This division shall not create liability on the part of the BCC or by any officer or employee thereof for any flood damage that results from reliance on this division or any administrative decision lawfully made there under.

(Ord. No. 05-06-30, § 79)

Section 12.12.504. Flood hazard development permitting procedure.

- A. **Flood hazard development permit.** When required, as described in section 12.12.503 of this division, three copies of an application for a flood hazard development permit shall be submitted to the County engineer on forms furnished by the County, and this application shall receive approval prior to approval of the improvement plan or final site plan and issuance of a final development order for construction. The application shall include, but not be limited to, the following:
1. Plans drawn to the same scale as that of the improvement plan or final site plan for the project, prepared, signed, and sealed by an engineer registered in Florida, and showing:
 - a. The nature, location, dimensions, and elevations of the area to be developed.
 - b. Existing and proposed structures.
 - c. Any required fill.
 - d. Any proposed or existing storage of materials.

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- e. Drainage facilities.
 - f. Location of any wetlands and/or watercourses and waterbodies.
 - g. The following certificate by the engineer: "I hereby certify that to the best of my knowledge and belief, the design of this project complies with the requirements of the *Highlands County Land Development Regulations* pertaining to development within a floodplain as defined by the regulations".
2. The application form containing:
- a. Developer/owner's name and current address.
 - b. Name and address of engineer preparing application, plans, and supporting documents.
 - c. Project location.
 - d. Legal description of property.
 - e. FIRM designation of property.
 - f. Type of construction, i.e., structure (excluding single-family, duplex, or manufactured home dwelling), subdivision, manufactured home park, or seasonal park.
 - g. Total land area of the project in acres.
 - h. Total land area of the project in acres lying within a floodplain as defined by these regulations.
 - i. Amount of site alteration within wetlands.
 - j. Amount of impervious surface within the project boundary lying within the floodplain.
 - k. Lowest existing floor elevation.
 - l. Base flood elevation and method of establishment.
 - m. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - n. The following statement by the owner: The undersigned applicant hereby binds and obligates himself to conform to the project description, information, sketches and development plans associated with this project, and to comply with all requirements of the *Highlands County Land Development Regulations* pertaining to development within a floodplain as defined by the regulations.

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- o. Signature and seal of the engineer, and signature of the owner/developer.
 3. A narrative, prepared by the registered engineer, describing base flood elevation and method used for determination, existing conditions, proposed construction, the lowest proposed elevation for roads and first floors of structures, and methods that will be used to assure that construction within the floodplain, when required, will be floodproofed; the narrative should explain the benefits of the project to the owner and public, and why such construction in a floodplain is needed.
 4. A soils map and a soils analysis prepared by a registered professional engineer or a soil scientist with the Natural Resource Conservation Service, delineating the upland, pine flatwood, and wetland soils classifications with respect to the property in question.
 5. Copies of any other required governmental or private permits for construction within a floodplain.
 6. The plan review fee as established by the BCC and described in section 12.04.101.H. of these regulations.
- B. **Elevation certificate.** Highlands County hereby adopts the elevation certificate, FEMA Form 81-31, as it may be amended or superseded, and provided by the Federal Emergency Management Agency, as its means of complying with FEMA's requirement that the County "obtain the elevation of the lowest floor (including basement) of all new and substantially improved structures, and maintain a record of all such information." This is in keeping with section 12.12.500.C.8. Of this division and the County's objective to maintain eligibility in the National Flood Insurance Program and comply with FEMA requirements. These elevation certificates shall be filed as follows:
1. **For single-family, duplex and manufactured home dwellings.** elevation certificates shall be filed with the building official concurrently with the application for a building permit.
 2. **For structures other than single-family, duplex and manufactured home dwellings.** Elevation certificates shall be filed with the County engineer concurrently with the submittal of the final site plan for review.
 3. **Filing procedure.** The elevation certificate shall be completed by a professional land surveyor, registered engineer, or architect in compliance with FEMA instructions included with the elevation certificate.
 - a. Section A., property information, section B., flood insurance rate map (FIRM) information, and section C., building elevation information shall be completed and submitted to either the County engineer or building official as described in section 12.12.504.B.1. and 2. of this division.
 - b. Section D., community information shall be completed by a professional land surveyor, registered engineer, or architect when it is determined that the "reference level" elevation,

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as described in the FEMA instructions, is different from the "lowest floor" elevation. The lowest floor" elevation in relation to the NGVD shall be recorded.

- c. Section E., certification shall be completed, signed, and sealed by a professional land surveyor, registered engineer, or architect upon placement of the lowest floor or upon placement of the horizontal structural members of the lowest floor, whichever is applicable.
 - d. Floodproofing certificate: Where floodproofing is employed in lieu of the structure being elevated as described in section 12.12.508.B.2., of this division, a registered professional engineer or architect shall certify that the requirements of this section have been satisfied. The certification shall be submitted to the County engineer.
4. The building official and/or the County engineer shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. No. 05-06-30, § 79)

Section 12.12.505. Duties and responsibilities of the County engineer.

The duties of the County engineer in implementing Division 5 of this article shall include, but not be limited to:

- A. Review applications for and issue all flood hazard development permits upon assurance that the permit requirements of these regulations have been satisfied.
- B. Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permit applications be provided and maintained on file with the flood hazard development permit.
- C. Notify adjacent communities and the Central Florida Regional Planning Council prior to any known alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. For all structures except single-family, duplex, and manufactured home dwellings, verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with section 12.12.504.B. of this division.
- F. When flood-proofing is utilized for a particular structure except single-family, duplex, and manufactured home dwellings, the County engineer shall obtain certification from a registered professional engineer or architect, in accordance with section 12.12.508.B.2. of this division.

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- G. For all structures except single-family, duplex, and manufactured home dwellings, where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the County engineer shall make the necessary interpretation; any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 12.12.507 of this division.
- H. For all structures except single-family, duplex, and manufactured home dwellings, when base flood elevation data or floodway data have not been provided in accordance with section 12.12.500.E. of this division, then the County engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of section 12.12.508 of this division.
- I. All records pertaining to flood hazard development permits or elevation certificates approved and/or issued by the County engineer shall be maintained in that office and shall be open for public inspection.
(Ord. No. 05-06-30, § 79)

Section 12.12.506. Duties and responsibilities of the building official.

The duties of the building official in implementing Division 5 of this article shall include, but not be limited to:

- A. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with section 12.12.504.B. of this division.
- B. For single-family, duplex, and manufactured home dwellings, where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building official shall make the necessary interpretation; any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 12.12.507 of this division.
- C. For single-family, duplex, and manufactured home dwellings, when base flood elevation data or floodway data have not been provided in accordance with section 12.12.500.E. of this division, then the building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of section 12.12.508 of this division.
- D. All records pertaining to elevation certificates approved and/or issued by the building official shall be maintained in that office and shall be open for public inspection.
(Ord. No. 05-06-30, § 79)

Section 12.12.507. Land development regulation variances and appeals.

- A. **Land development regulation variances.** Any person desiring to undertake a development activity not in conformance with the requirements of Division 5 of this article may apply to the County engineer for a variance to such requirements as provided in section 12.04.118 of these regulations.

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- B. **National Register of Historic Places.** Upon approval by the building official and the historic preservation commission, the County engineer may issue variances for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, variances and appeals, except for items D.1. and F.) of this section, and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.
- C. **Required findings.** In addition to the required findings listed in section 12.04.118.C., County staff shall consider the following physical properties, most of which are peculiar to flood hazard areas:
1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as wastewater, gas, electrical, and water systems, and streets and bridges.
- D. **Special conditions for variances in special flood hazard areas.**
1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

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2. Variances shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. **Notice to applicant.** Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- F. **Records.** The County engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- G. **Appeals.** Pursuant to section 12.04.119 the BOA shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by County staff in the enforcement or administration of these regulations.

(Ord. No. 05-06-30, § 79)

Section 12.12.508. Provisions for flood hazard reduction.

- A. **General standards.** In all areas of special flood hazard the following provisions are required:
1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 2. All manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement; methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors; this standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 3. All manufactured homes placed or substantially improved within A1--30, AH, and AE Zones, which meet one of the following location criteria, shall be elevated such that the lowest floor is at or above the BFE and shall be securely anchored:
 - a. Outside a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision;
 - d. On a site in an existing park on which a manufactured home has incurred substantial damage as a result of a flood.

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4. All recreational vehicles being placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready;
5. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
6. New construction or substantial improvements shall be constructed by methods and practice that minimize flood damage;
7. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
8. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
9. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
10. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and
11. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this division, shall meet the requirements of "new construction" as contained in this division.

B. **Specific standards.** In all areas of special flood hazard where base flood elevation data have been provided, as set forth in section 12.12.500.E, section 12.12.505.G., and section 12.12.506.B. of this division, the following provisions are required:

1. **Residential construction.** New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 12.12.508.B.3., of this division.
2. **Non-residential construction.** New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than two feet above the level of the base flood elevation. Structures located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 12.12.504.B. of this division.

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3. **Elevated buildings.** New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (2) The bottom of all openings shall be no higher than one foot above grade;
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both direction.
 - b. Electrical, plumbing, and other utility connections are prohibited below the base flood elevation.
 - c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
4. **Floodways.** Located within areas of special flood hazard established in section 12.12.500.E. of this division, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
 - a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
 - b. If section 12.12.508.B.4.a. of this division is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 12.12.508 of this division; and
 - c. Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision; a replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of section 12.12.508.A.2. of this division and the

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elevation standards of Subparagraph v.2).a) section 12.12.508.B.1. of this division are met.

C. **Standards for streams without established base flood elevation and/or floodways.** Located within the areas of special flood hazard established in section 12.12.500.E. of this division are areas where small streams exist but where no base flood data have been provided or where no floodways have been provided. In these areas the following provisions apply:

1. No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to one times the width of the stream at the top of bank or 20 feet each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. New construction or substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with section 12.12.505.H. and 12.12.506.C. of this division.

D. **Standards for subdivision proposals.**

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as wastewater, gas, electrical and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of 50 lots or five acres.

E. **Standards for areas of shallow flooding (AO Zones).** Located within the areas of special flood hazard established in section 12.12.500.E. of this division are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade; if no depth number is specified, the lowest floor, including basement, shall be elevated, at least two feet above the highest adjacent grade, and;
2. All new construction and substantial improvements of non-residential structures shall:
 - a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade; if no depth number is

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specified, the lowest floor, including basement shall be elevated at least two feet above the highest adjacent grade; or

- b. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Ord. No. 05-06-30, § 79)

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DIVISION 6.

ENVIRONMENTAL CLEARANCE

Section 12.12.600. Endangered and threatened species and habitat protection.

- A. **Purpose and intent.** The most common cause of wildlife population reduction in Highlands County is alteration of the natural habitat to which a species has adapted, thereby destroying the natural balance of the ecological communities to a level where it can no longer support the survival of the dependent wildlife species. It is the purpose of this division to provide standards to identify, protect, acquire, and preserve the native vegetative communities which are endemic to Central Florida and Highlands County, and to restrict activities known to adversely affect the endangered and threatened species and their habitat, including those of special concern. It is further the purpose of this division to describe a procedure for protecting all endangered and threatened species including species of special concern that have been designated as such by state or federal law. Protection of all species or habitat, so designated, if found to exist on a proposed development site, or if shown on the County's adopted conservation overlay map, shall be addressed in the environmental clearance report required by these regulations.
- B. **Protection of imperiled scrub vegetative habitat.** While protection of all endangered species, including those of special concern, is an integral part of the County's species and habitat protection policy, this division places special emphasis on the protection of the ridge land scrub found in Highlands County and the plant and animal species that are supported by this habitat. Subsection C. below contains a list of species that can be expected to be found in the scrub land area on the Lake Wales Ridge in Highlands County, and every environmental clearance report (ECR) prepared by an environmental professional shall address the existence or absence of these species on the proposed development site. This list will be amended as new information is made available. The environmental professional shall also certify that to the best of his or her knowledge, none of these species exist onsite except for the ones included in the report.
- C. **Endangered and threatened species endemic to Highlands County Xeric Uplands.** The following species, endemic to xeric uplands found in Highlands County, have either been designated endangered, threatened, or of special concern by the federal Endangered Species Act of 1973, as amended, Pub. L. No. 93-205 (87 Stat. 884), the Florida Statutes, and/or the Florida Administrative Code. Some of the plants have not been found anywhere else in North America.

| Common Name | Scientific Name | Designation |
|---------------------------|---------------------------------|----------------------------|
| Florida scrub jay | <i>Aphelocoma coerulescens</i> | Threatened |
| Blue-tailed mole skink | <i>Eumeces egregius lividus</i> | Threatened |
| Gopher tortoise | <i>Gopherus polyphemus</i> | Species of Special Concern |
| Sand skink | <i>Neoseps reynoldsi</i> | Threatened |
| Florida bonamia | <i>Bonamia grandiflora</i> | Threatened |
| Pygmy fringe tree | <i>Chionanthus pygmaeus</i> | Endangered |
| Garrett's mint | <i>Dicerandra christmanii</i> | Endangered |
| Scrub mint | <i>Dicerandra cornutissima</i> | Threatened |
| a snakeroot | <i>Eryngium cuneifolium</i> | Endangered |
| Highlands scrub hypericum | <i>Hypericum cumulicola</i> | Endangered |

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| | | |
|-----------------------------------|--|--------------------------|
| Scrub blazing star | <i>Liatrix ohlingerae</i> | Endangered |
| Papery whitlow-wort a wireweed | <i>Paronychia characea</i> <i>Polygonella basiramia</i> | Threatened Endangered |
| Scrub plum | <i>Prunus geniculata</i> | Endangered |
| Carter's mustard | <i>Warea carteri</i> | Endangered |
| Florida ziziphus | <i>Ziziphus celata</i> | Endangered |

D. **Other species and habitat.** The following species, while not endemic exclusively to Highlands County, are either designated endangered or threatened, and, if found onsite, must be included in the environmental clearance report required by section 12.12.603. The professional preparing the report shall certify that to the best of his or her knowledge, none of these species exist except for the ones included in the report.

| Common Name | Scientific Name | Designation |
|-----------------------------|---|--------------------|
| Florida grasshopper sparrow | <i>Ammodramus savannarum floridanus</i> | Endangered |
| Bald eagle | <i>Haliaeetus leucocephalus</i> | Threatened |
| Red-cockaded woodpecker | <i>Picoides borealis</i> | Endangered |
| Audubon's crested caracara | <i>Polyborus plancus audubonii</i> | Threatened |
| Eastern indigo snake | <i>Drymarchon corais couperi</i> | Threatened |

E. **Additional endangered species.** Every required ECR shall first address the species listed in this division. In addition, any other endangered or threatened species including species of special concern, listed in the following documents and not included in this division, shall be included in the ECR. These three documents list all endangered or threatened species including species of special concern required to be addressed by these regulations. As these lists are amended by state or federal laws, the amended lists shall supersede the lists adopted by these regulations. The documents are:

1. The Federal Endangered Species Act of 1973, as amended, Pub. L. No. 93-205 (87 Stat. 884).
2. Chapter 5B-40, F.A.C., Preservation of Native Flora of Florida.
3. Chapter 39-27, F.A.C., Rules Relating to Endangered or Threatened Species.

(Ord. No. 05-06-05)

Section 12.12.601. Environmental conservation.

The purpose of this section is to provide incentives for certain development to set aside land for conservation purposes and to establish guidelines and requirements for making such transfers. Conservation land under consideration in this section is limited to habitat which preserves and avoids impact to endangered or threatened species including species of special concern, and includes, but is not limited to, scrub and xeric uplands.

A. **Conservation land.** Where a parcel of land is to be developed, clustering of lots as a means of concentrating the development on land not otherwise known to be conservation lands is allowed as follows:

Clustering with a transfer of density from conservation lands, including that which is provided over and beyond the minimum required by state and federal permit requirements, to land not otherwise known to

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be conservation land will be allowed at the maximum density. A transfer of development rights easement in favor of the County would be placed on the property from which density was transferred. Proposals for transfer of density on those conservation lands above and beyond the minimum required will be examined on a case by case basis, and in many cases an arrangement of this type will facilitate additional saleable lots for the developer at a lower development cost, while at the same time providing additional conservation land.

- B. **Release of development rights easements.** The transfer of development rights Easement which will be placed on property from which density is transferred will remain on the property until additional development rights are restored to that property through a comprehensive plan amendment or through the acquisition of development rights transferred from another property.

(Ord. No. 05-06-05)

Section 12.12.602. Environmental clearance purpose and intent.

It is the intent of Highlands County to protect natural resources or to mitigate any potential negative impact that development or land clearing may pose to protected natural resources. These regulations are designed to ensure that certain natural resources will be adequately protected and their viability will be reasonably assured by establishing administrative procedures for:

- A. Obtaining environmental clearance for any affected development orders;
- B. Identifying the presence of natural resources on properties in the unincorporated area of Highlands County;
- C. Determining when an environmental clearance report is required, how it is prepared, reviewed, and approved; and
- D. Establishing a development review process which coordinates local, state, and federal agencies' regulatory activities involving the protection of endangered or threatened species, protection of wetlands, wellhead protection areas, and recharge areas.

(Ord. No. 05-06-05)

Section 12.12.603. Environmental clearance report (ECR) required.

- A. Whenever a proposed development site contains xeric uplands, wetlands, cutthroatgrass seeps, or wellhead protection zones, or aquifer recharge areas, or if any of those resources are otherwise known to occur on the property, a environmental professional, pursuant to the requirements of this division is required to prepare an environmental clearance report (ECR). For purposes of this section, the term "known to occur" means any information received from an environmental professional, a government agency with appropriate jurisdiction, any scientific study, or any reference material contained in the comprehensive plan or the base documents that supported development of the comprehensive plan. The development services director is responsible for reviewing applications for and issuing environmental clearance and land clearing permits as required by this division.

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- B. Environmental clearance reports and review are required (unless otherwise exempted or an appropriate substitute as allowed) for:
1. Large scale comprehensive plan amendments.
 2. Re-zones, site plans and plats consisting of an area greater than ten acres or 50 lots or more, regardless of the acres.
 3. Building permits and land clearing permits for any land clearing of an area greater than two acres. (Ord No. 06-07-04 § 23)
- C. All projects proposing any use that poses a significant potential to diminish existing air quality must prepare an environmental clearance report that provides acceptable mitigation measures to assure the maintenance of on-site and off-site air quality and prohibits activities that will negatively impact the ambient air quality of nearby residential areas.
- D. Typical projects that are required to prepare an ECR include but are not limited to incinerators, including commercial open air incinerator facilities, asphalt plants, paper mills, and fuel burning generation facilities. Exemptions to this requirement include controlled burns related to agriculture activities and the management of land, and all exemptions included in the definition of land clearing.
(Ord. No. 05-06-05; Ord. No. 06-07-04, § 23)

Section 12.12.604. Environmental mitigation fee for existing lots and small sites.

- A. **Environmental mitigation fee.** For purposes of implementing this division, where landowners comply with state or federal regulations, the County shall exempt the following from environmental clearance upon payment of an environmental mitigation fee to be set by the BCC:
1. Up to one-half acre for land clearing and construction on individual lots of record established prior to September 15, 1993;
 2. Up to two acres on land for development with urban zoning and urban FLUM designations; and
 3. Up to two acres on land for residential development (one single-family home) on legal lots with agricultural land use and agricultural zoning.

All environmental mitigation fees shall be placed in the County's conservation trust fund.

- B. Other environmental mitigation fee exemptions. No environmental mitigation fee will be collected or building permits to replace existing mobile homes, recreational vehicles, and residential dwellings at their existing location; construction of accessory or unoccupied structures; remodeling or adding to existing structures, pursuant to section 12.12.605.C. of this division; and recreational vehicles, as defined by Florida Statutes.

(Ord. No. 05-06-05)

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Section 12.12.605. Environmental clearance not required.

- A. The development services director shall make the environmental clearance determination without further review whenever a particular site is not in an area where the conservation overlay map shows the listed natural resources. The development services director shall have five working days to respond to the applicant.
- B. **Other exemptions from Highlands County environmental clearance requirements.** The County shall exempt the following from the environmental clearance process for land clearing or construction:
1. All development on lots legally recorded on or after September 15, 1993, where the lot previously received environmental clearance: Where a structure is to be constructed on a lot in a subdivision for which environmental clearance has previously been granted by the County, no additional environmental clearance will be required.
 2. **Previously mitigated DRI or binding letter.** A lot or parcel situated in a subdivision or development which has obtained a development of regional impact or a binding letter of vested rights determination from the Florida Department of Community Affairs is fully mitigated for a protected natural resources in accordance with the specific terms and conditions of the particular Florida Department of Community Affairs order issued to the subdivision or to a part of the subdivision, pursuant to F.S. Ch. 380, except where:
 - a. Substantial deviations are sought for a DRI development order, and then, these regulations shall apply only to those portions of the development for which the deviation is sought.
 - b. The County can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the application of these regulations to the development order is clearly established to be essential to the public health, safety and welfare.
 3. **Remodeling and/or reconstruction.** Development authorized by building permits issued solely for remodeling, reconstruction, or restoration of residential units or nonresidential units are exempt from the environmental clearance and land clearing permit requirements provided that the building permits do not authorize an increase in the number of permanent dwelling units, or an increase in the square-footage of nonresidential use, or an increase in the environmental impacts of the development.
 4. No physical alteration of land, or actions that are ministerial or legislative. environmental clearance provisions do not apply to development order actions that do not directly result in land clearing, or that are ministerial or legislative in their effect, such as comprehensive plan amendments and rezones, except as required in section 12.12.603.B.

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5. **Bona-fide agriculture.** Land clearing for purposes of agriculture is exempted from environmental clearance, pursuant to section 12.12.620.F. of this division. Evidence of a bona fide agricultural operation is the County property appraiser's determination.
6. Property which has been cleared of vegetation prior to the May 2, 1994, effective compliance date of the Highlands County Comprehensive Plan, and has been maintained in the cleared condition so that xeric habitat has not recovered. The April 1993 aerial maps and subsequent aerial maps, or a field investigation may be used to confirm that the proposed development site was cleared of vegetation.

(Ord. No. 05-06-05)

Section 12.12.606. Relationship of this division to archaeological and historical resource clearance.

Whenever a proposed development site is shown on the conservation overlay map to contain historical or archaeological resources, or if the site is otherwise known to contain historical or archaeological resources, the applicant shall comply with the requirements of Article 15, Division 1, Historic Preservation, and/or Article 15, Division 2, Archaeological Resources.

(Ord. No. 05-06-05)

Section 12.12.607. County review process.

The County's application and review procedure for environmental clearance described in this division is similar to that described in review procedure for special habitats (Central Florida Regional Planning Council (CFRPC), May 17, 1991). The environmental professional preparing an ECR may find it beneficial to consult this document which may be examined at the planning department office or obtained from the CFRPC. Both the County's procedure and that of the CFRPC coordinate regulatory authority with local, state, and federal agencies. This process is intended to ensure that protection is provided for the protected natural resources listed in section 12.12.600, 12.12.603, and 12.12.611 of this division.

(Ord. No. 05-06-05)

Section 12.12.608. County action upon receipt of a development application.

Prior to the issuance of a County land clearing permit or building permit, the development services director shall have five working days to use the conservation overlay map, as amended, or any information received from an environmental professional, a government agency with appropriate jurisdiction, any scientific study, or any reference material contained in the comprehensive plan or the base documents that supported development of the comprehensive plan to make the following determination:

- A. **Protected natural resources do not exist.** Whenever a particular site is not in an area where the natural resources listed in section 12.12.600, 12.12.603 and 12.12.611 of this division are mapped on the conservation overlay map or are otherwise known to occur, no ECR will be required, and the development services director shall have five working days from the date of application to make the environmental clearance determination without further review.
- B. **Protected natural resources may exist.** Whenever a particular site is in an area where natural resources listed in section 12.12.600, 12.12.603 and 12.12.611 of this division are mapped on the conservation overlay map or are otherwise known to occur, and the applicant submits to the planning department a

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simplified ECR pursuant to section 12.12.612 or a simplified ECR report pursuant to section 12.12.201 which has been prepared by an environmental professional, firm, government agency, or institution which establishes that none of the natural resources listed in section 12.12.600, 12.12.603 and 12.12.611 of this division actually exist on site, the environmental clearance determination shall be made by the development services director without further review. The development services director shall have five working days to respond to the applicant.

- C. **Protected natural resources do exist.** Whenever a particular site is in an area where the natural resources listed in section 12.12.600, 12.12.603 and 12.12.611 of this division are mapped on the conservation overlay map or otherwise are known to occur the applicant shall submit an ECR to the planning department, which shall review and make an environmental clearance determination pursuant to the requirements of this article. If the consultant's report pursuant to section 12.12.201 has wetlands, then the applicant must apply for and receive a permit from DEP or grant assurances to the County that construction shall take place outside the wetlands and required wetland setbacks pursuant to section 12.12.203 (setback from natural surface water bodies and wetlands).

(Ord. No. 05-06-05; Ord. No. 06-07-04, § 21C)

Section 12.12.609. Conservation overlay map.

The conservation overlay map is adopted as a general indicator to determine if environmental clearance is required. The conservation overlay map series consists of the following: Soil Survey of Highlands County (base document - USDA/SCS, Soil Survey of Highlands County, Florida, July, 1989); Conservation Overlay Map (base maps are USGS Quadrangle Maps - United States Geologic Survey); Map 600 - Highlands County, Florida Wetlands (US Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory); Archaeological Resource Map; Historic Preservation Resource Map; and, Wellhead Protection Zone Map.

(Ord. No. 05-06-05)

Section 12.12.610. Reserved.

Section 12.12.611. References to be used in ECRs.

If more recent editions of the information or documents exist, then those more recent editions must be used.

- A. The following applicable source documents shall be used to identify endangered or threatened species, including species of special concern by the preparing professional for the ECR:
1. United States Fish and Wildlife Service memorandum listing endangered and threatened species in Highlands County, Florida, dated September 20, 1991;
 2. F.S. § 581.185(2) and (3), Endangered Plant List and Threatened Plant List;
 3. The Florida Natural Areas Inventory and Florida Department of Natural Resources, "The Guide to Natural Communities of Florida", 1990;
 4. Florida Division of Forestry publication F89G46 entitled "Forest Trees of Florida", 16th Edition dated June 1989;

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5. Florida Game and Fresh Water Fish Commission publication entitled "Florida's Endangered Species, Threatened Species and Species of Special Concern Official Lists" dated 1 August 1997.
- B. The following documents shall be used as references for establishing mitigation, on-site protection, and remedial actions for the protection of habitats and listed species by the preparing professional for ECRs:
1. Office of Environmental Services of the Florida Game and Fresh Water Fish Commission's Non-game Wildlife Program Technical Report:
 - a. No. 4 entitled "Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*); Populations Found on Lands Slated for Large-Scale Development in Florida" dated December 1987;
 - b. No. 8 entitled "Ecology and Development-Related Habitat Requirements of the Florida Scrub Jay (*Aphelocoma coerulescens*)" dated April 1991;
 2. Chapter 39-27.002(4), Florida Administrative Code, which establishes regulations and enforcement for the protection of species of special concern.
 3. U.S. Fish and Wildlife Service publication entitled "Habitat Management Guidelines for the Bald Eagle in the Southeast Region," Third Revision dated January 1987.
 4. "Multi-Species Recovery Plan for South Florida," U.S. Fish and Wildlife Service, 1999.

(Ord. No. 05-06-05)

Section 12.12.612. Simplified ECR.

An applicant may submit a simplified ECR whenever a proposed development site is shown on the conservation overlay map to contain one or more of the protected natural resources pursuant to section 12.12.600, 12.12.603 and 12.12.611 of this division, but the protected natural resources do not exist on the site. The simplified ECR has to be prepared by an environmental professional, firm, agency, or institution. If this simplified ECR finds that any of the listed resources exist on site, an ECR will be required. The simplified ECR will include the information required pursuant to section 12.12.614 of this division with the comment "not applicable" or "no impacted species located," as appropriate.

When wetlands or when cutthroatgrass seeps exist or known to occur for a single-family dwelling lot, the contents of simplified ECR may be pursuant to section 12.12.201 and 12.12.202. The development services director shall issue environmental clearance after the receipt of:

- A. The report indicating no wetlands or cutthroat seep; or
- B. The relevant agency permit; or

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C. Assurances that all development takes place outside the wetlands and required wetland setback pursuant to section 12.12.203.

(Ord. No. 05-06-05; Ord. No. 06-07-04, § 21D)

Section 12.12.613. Reserved.

Section 12.12.614. Environmental clearance report (ECR).

The ECR will contain the basic information upon which the County shall condition its environmental clearance. The report shall be prepared by an environmental professional, firm, agency, or institution pursuant to the requirements of this division, and shall be submitted to the planning department along with an initial ECR review fee determined from time to time by the BCC. An application for environmental clearance shall be made using an official form available from the planning department.

A. **Minimum contents.** An environmental clearance report shall contain, at a minimum, the following:

1. The County strap number(s) and the most recent scale aerial photographic print of the site; scale no smaller than one inch equals 400 feet);
2. Scale excerpt of published soil survey covering the site;
3. Scale excerpt of most recently updated USGS Topographic Series maps covering the site;
4. Listed animal species surveys: Pursuant to section 12.12.611 of this division, for each mapped vegetation association describe the survey methodology used to determine the presence or absence of each of the listed species which may be expected to utilize the area (approved Florida Fish and Wildlife Conservation Commission survey protocols required if applicable), including an explanation for the absence of expected listed species;
5. Vascular plant surveys: Pursuant to section 12.12.611 of this division, describe the survey methodology used to determine the presence or absence of the listed plant species for each mapped vegetation association. Address special survey conditions or timing for particular species as appropriate;
6. A photographic record of the site;
7. Maps and a description of natural vegetative communities occurring on a proposed development site shall include an evaluation in terms of their habitat functions and the significance thereof;
8. A map(s) of those protected natural resources listed in sections 12.12.600, 12.12.603, and 12.12.611 of this division which occur on the site. Describe the current condition or status of these resources as they exist on the site. This requirement may be combined with subsections 4. and 5. above, as long as it is clear that it is being addressed.
9. An assessment of potential impacts which would be sustained by those protected natural resources listed in sections 12.12.600, 12.12.603, and 12.12.611 of this division, as a result of the proposed development. Locate the specific site(s) of the impacts on an appropriate map. Include

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the location of all grading and all land clearing and a description how that land clearing or grading will impact the natural resources. For xeric uplands, cutthroat grass seep and wetlands include the number of acres for each, before and after development;

10. A map showing the location of all grading and all land clearing and a description how that land clearing or grading will impact the natural resources. This map may be combined with the map in subsection 7. above.
11. An evaluation of water quality inputs and outputs;
12. Proposed measures for appropriate mitigation and on-site protection of the natural resources;
13. Proposed land maintenance and management procedures to assure the continued viability and function of the protected natural resources after development;
14. A list of agencies which may have permit requirements pertaining to the proposed development, and attest/document that the ECR has been submitted to each of these agencies for review and comment (see section 12.12.614.D. below);
15. Where development is proposed in an aquifer recharge area and the impacts of a proposed use may have reasonable potential to deplete or degrade the aquifer, include the collection of site specific hydro-geologic data (including soil borings or difference in the potentiometric head pressure of the aquifers involved);
16. Proposed measures to prohibit activities that will negatively impact the ambient air quality of nearby residential areas;
17. An evaluation of existing wetlands according to current ranking criteria identifying them according to their type, value, function, size, condition and location, pursuant to NRE Policy 4.3,
 - a. The wetland rapid assessment procedure (WRAP) established by the FDEP, ACOE and WMDs may be used;
 - b. Include a ranking of their disposition as to critical, partially critical or not critical for preservation consistent with the practices of the afore mentioned agencies;
 - c. As described in NRE Policy 4.3.A, identify each wetland according to location criteria:
 - (1) **Priority A:** Wetlands that are located within existing and proposed (lands earmarked for public acquisition) conservation/management lands (C.A.R.L. and other public conservation lands);
 - (2) **Priority B:** Wetlands that are part of a wetland system (functioning hydrologically, i.e., perennial streams/creeks that are non-seasonal) that impacts existing and proposed conservation/management lands, or

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- (3) **Priority C:** Wetlands that are isolated and not related to existing and proposed conservation/management lands, especially those adjacent to native upland systems.
- d. The following wetland types, abstracted from Florida Land Use, Cover Forms Classification System (FLUCCS) shall be identified and mapped within the above priority areas:
- (1) Stream and lake swamps (river, creek and lake floodplain or overflow areas);
 - (2) Inland ponds and sloughs (area depressions and drainage areas not associated with streams or lakes);
 - (3) Bay heads and cypress domes (dominant trees include bay varieties and pond or bald cypress);
 - (4) Lake shorelines (includes all freshwater marshes and emergent aquatic vegetation);
 - (5) Wet prairies (dominantly grassy vegetation on wet soils having less water than marshes); and
 - (6) Mixed forest wetlands (includes hardwoods and conifers mixed with either being dominant.)
18. Identify adjacent or nearby (within 500 feet) conservation/management lands and likely impacts to these lands from the proposed development. Include opportunities for cooperative natural resource management.
19. When a plant, animal or boundary survey is required in order to complete the environmental clearance report, lines shall be cut using either a machete or a chain saw. No heavy equipment shall be used. The width of survey lines shall not exceed three feet.

(Ord. No. 05-06-05; Ord. No. 05-06-30, § 80; Ord. No. 06-07-04, § 24)

Section 12.12.615. Options for waiver of ECR requirement.

- A. **Approved permit for wetlands or cutthroat-grass seeps exempts applicant from ECR requirement.** Whenever a particular site having wetlands or cutthroat-grass seeps has received a permit from the state or federal agency charged with reviewing and approving the applicable permit, the development services director shall make the environmental clearance determination without further review as to activities allowed by that state or federal permit by incorporating the terms and conditions of that state or federal permit in the County land clearing permit, building permit, or other final development order. This does not exempt the applicant from ECR requirements for xeric uplands or other protected natural resources listed in section 12.12.600, 12.12.603 and 12.12.611 of this division unless the permit application and permit conditions address their presence. The development services director shall have five working days to respond to the applicant.

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- B. **Other approved permits exempts applicant from ECR requirement.** Other permits by state and federal agencies not covered in section 12.12.615.A. Above that deal with environmental impacts to protected natural resources listed in section 12.12.600, 12.12.603 and 12.12.611 of this division shall be prima facie evidence of satisfaction of environmental mitigation for those particular species. The development services director shall make the environmental clearance determination without further review as to activities allowed by that state or federal permit by incorporating the terms and conditions of that state or federal permit in the County land clearing permit, building permit, or other final development order. The development services director shall have five working days to respond to the applicant.
- C. **Satisfactory completion of mitigation option exempts applicant from ECR requirement.** Satisfactory completion of a mitigation option listed in section 12.12.617 can eliminate the requirement to complete an ECR, pursuant to sections 12.12.600, 12.12.603, 12.12.611, 12.12.614, 12.12.617 and other requirements of this division, if:
1. A simplified ECR is prepared and submitted pursuant to sections 12.12.610, 12.12.611 and 12.12.612; and,
 2. The parcel to be developed does not exceed the maximum density or intensity allowed under the future land use category applicable to that parcel or the zoning district regulations applicable to that parcel;
 3. When land is preserved, the environmental quality of the land to be preserved is equal to or greater in quality than the land impacted, as established by an approved permit from an appropriate federal or state agency, where applicable, and a simplified ECR;
 4. Satisfactory completion of mitigation option listed as section 12.12.617.A. and B. of this division will eliminate the requirement to complete an ECR for xeric upland or cutthroat grass seep that is not a wetland, only when the quantity of land impacted or developed is less than ten percent of the parcel, the balance of which is preserved or mitigated, as established by a simplified ECR;
 5. Satisfactory completion of mitigation option listed as section 12.12.617.C. of this division will eliminate the requirement to complete an ECR when the contribution to the County's conservation trust fund for the payment in-lieu for preserving or mitigating either on-site or off site will fund the total costs of acquiring comparable property, identified prior to exemption from the ECR as a site suitable for acquisition by the natural resource director/district conservationist;
 6. Satisfactory completion of mitigation option listed as section 12.12.617.D. of this division will eliminate the requirement to complete an ECR. This option can only be used when: (a) the quantity of land impacted or developed is less than ten percent of the parcel, the balance of which is preserved or mitigated; and (b) the environmental quality of land preserved is equal to or greater in quality than the land impacted, as established by an approved permit from an appropriate federal or state agency, where applicable, and a simplified ECR.

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- D. **Incorporation of permit conditions in development orders.** The conditions of the applicable state or federal clearance or permit will be incorporated into development orders by County staff, pursuant to section 12.12.619.

(Ord. No. 05-06-05)

Section 12.12.616. Natural resource conservation service (NRCS) and NRAC review of ECRs.

- A. **ECR transmitted to NRCS and NRAC.** Prior to issuing a land clearing permit or local development order for affected projects, the County shall present the ECR to NRCS and/or NRAC in accordance with section 12.12.614. NRCS and/or NRAC shall prepare comments and recommendations and shall transmit them to the development services director within the time frame established in section 12.12.614.D. of this division.
- B. **NRAC recommendations.** Prior to taking action on a development order that is on part or all of a parcel that has been subject to the large-scale ECR review process, NRAC shall outline specific reasons in support of actions to incorporate or not incorporate the recommendations in the ECR into the development order. These reasons in support of recommendations may include, but not be limited to, the following benefits to the County:
1. Protect and preserve the water quality or natural functions of floodplains and drainageways, potable water wells, and wetlands;
 2. Protect and preserve the function of native vegetative communities endemic to Central Florida or the habitats of endangered species, threatened species, or species of special concern;
 3. Preserve and protect historical and archaeological resources;
 4. Establish measures to protect life and property from flood hazards;
 5. Establish land maintenance and management procedures for the natural resource to assure its continued viability or function after development.
- C. **Basis for NRCS and/or NRAC recommendation.** NRCSs and/or NRACs recommendations are to be based on the adequate avoidance, preservation and mitigation or remedial actions for the protection of environmental resources identified in this division and in the comprehensive plan, and shall be consistent with the wetlands, floodplain, aquifer recharge, water quality, and cultural resource protection measures set forth within the policies framework of the comprehensive plan. In the environmental clearance application review, extra weight will be assigned to the environmental professional's successful attempt to preserve any protected natural resource on site. Other types of compliance such as mitigation and providing off-site replacement natural resources will carry secondary weight.

(Ord. No. 05-06-05)

Section 12.12.617. Mitigation options for environmental clearance.

In accordance with the preservation priorities established by comprehensive plan NRE Policy 3.3B, the preparing professional, NRCS, NRAC, and the County staff shall consider the following options when

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developing their decisions or recommendations for all affected developments. The use of these options will require the approval of the BCC:

- A. **On-site option.** Provision of the required acreage as a public or private conservation/open space easement;
- B. **Off-site option.** Provision of the required acreage at an approved off-site location;
- C. **In-lieu option.** Contribution to the County's conservation trust fund amounting to the fair market value for comparable acreage;
- D. Sale to the federal, state, or local government, or a not for profit corporation purchasing for conservation purposes; or
- E. A combination of the above options.
(Ord. No. 05-06-05)

Section 12.12.618. Reserved.

Section 12.12.619. Environmental clearance and development order approval.

- A. **Environmental clearance required prior to issuance of a final development order.** Unless exempted or otherwise modified in this division, environmental clearance shall be required prior to the issuance of a Highlands County development order whenever land clearing will result from that development order and whenever the protected natural resources listed in sections 12.12.600, 12.12.603 and 12.12.611 of this division, occur on an affected unincorporated property in Highlands County.
- B. **Environmental clearance approval.** Approval of the ECR reports and recommendations or conditions by NRCS, NRAC or by staff will be transmitted to the decision making authority for the appropriate development order. All conditions will be considered for incorporation into development orders, as appropriate. A final determination by the development services director will constitute environmental clearance. Environmental clearance must provide reasonable assurance that recommendations and permitting requirements can be combined to accomplish the following:
 - 1. Protect and preserve the water quality or natural functions of floodplains and drainageways, potable water wells, and wetlands;
 - 2. Protect and preserve the function of native vegetative communities which are endemic to Central Florida or the habitats of endangered species, threatened species, or species of special concern;
 - 3. Establish measures to protect life and property from flood hazards;
 - 4. Establish land maintenance and management procedures for the natural resource to assure its continued viability or function after development;

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5. Provide acceptable mitigation measures to assure the maintenance of on-site and off-site air quality and, prohibit activities that will negatively impact the ambient air quality of nearby residential areas.
- C. On the basis of the above reasonable assurances, environmental clearance for approval of a building permit or land clearing permit shall be issued with conditions or denied by the development services director, or the BCC, as applicable.
- D. **Use of resource protection standards.** The development and design standards mandated by Article 12, Divisions 1 through 7, Resource Protection Standards of these regulations are utilized as minimum standards for the protection or mitigation measures that are conditions for the issuance of a County development order. However, these standards may be exceeded with more rigorous standards imposed by an ECR for the protection of a natural resource.
- E. **Incorporation of ECR and NRAC/NRCS conditions and findings into all development orders and notification of applicable agencies.** Prior to taking action on an application on any development order, all County departments shall incorporate the mandated conditions and findings of the environmental clearance determination into the applicable development order. In addition, all applicable agencies shall be notified of the conditions and findings of the environmental clearance determination by the County planning department to ensure that any County approval does not violate the permitting requirements of jurisdictional agencies that have responded.
- F. **No requirements beyond mandated state or federal requirements for wetlands or cutthroat grass seeps.** In accordance with F.S. § 163.3184(6)(c), Highlands County will not impose any requirements for wetlands and cutthroat grass seeps in addition to those required by either the Florida Department of Environmental Protection or the applicable water management district. No development in wetlands regulated by the State of Florida will be permitted by Highlands County except as permitted by state law.
- G. **Property owner's responsibility to notify appropriate state or federal agencies.** Individual property owners or developers are responsible for obtaining state or federal permits or authorizations prior to clearing land when a resource is located on site.
- H. **Final development order conditioned upon obtaining all required permits.** The County shall require that, in addition to the protection requirements of the Code, the necessary federal, state and local permits be obtained as a condition of the project's final development order.
- I. **Delivery to the building department an affidavit accepting responsibility for complying with federal or state laws concerning threatened or endangered species or habitat prior to issuance of building permits.** All applicants for building permits for properties that have received environmental clearance under this division shall be required to deliver to the building department a signed acknowledgment that their property may contain habitat or species that are protected under state or federal law and that the receipt of a building permit does not absolve the owner or builder of responsibility for complying with all requirements of federal or state law when clearing land or building structures.

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J. **Appeal process.**

1. An appeal for reconsideration of an environmental clearance determination or development order conditions can be made to the NRAC and BCC. The form of appeal shall be in a letter and contain specific reasons why the decision should be reconsidered; (1) that the decision was based on erroneous information or; (2) that more suitable alternatives were not considered. NRAC may recommend upholding the determination or provide recommendations for alternative development order conditions. The final decision rests with the BCC.
2. A property owner or authorized agent desiring to appeal the determination of the NRAC or County staff shall file a verified notice of appeal according to Chapter 2, Article 6 of this Code, within 30 days after filing of such decision in the office of the County administrator but not thereafter. This is established for hearing appeals from applicants concerning environmental clearance and land clearing permits either denied or issued conditionally. Review in the circuit court shall be by petition of writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

(Ord. No. 05-06-05)

Section 12.12.620. Land clearing.

- A. Land clearing is defined pursuant to definition # 161 of Article 2 of this chapter.
- B. Activities which do not constitute "land clearing" and do not require a land clearing permit even when undertaken in areas with natural resources as identified on the conservation overlay map are listed under the land clearing definition, # 161 of Article 2 of this chapter.
- C. **Land clearing permits.** Land clearing permits are required for approval of all building permits. Except as provided in section 12.12.620.E. of this division and the land clearing definition in sections 12.12.620.A. and B. above, no land clearing shall be allowed to commence on a site where natural, archaeological, or historical resources are known to exist without first obtaining a County land clearing permit. When an ECR is not required, a land clearing permit will automatically be issued for the land clearing, as proposed in the environmental clearance application. A land clearing permit will be issued upon payment of the environmental mitigation fee pursuant to section 12.12.604. A land clearing permit will be issued upon review of the required ECR or simplified ECR, unless that report determines that protected natural resources listed in sections 12.12.600, 12.12.603, and 12.12.611 of this division exist on the site. Whenever a protected natural resource listed in sections 12.12.600, 12.12.603, and 12.12.011 of this division is identified on the site, the land clearing Permit will be issued in accordance with the regulations for environmental clearance.
- D. **State and federal permits.** Individual property owners or developers prior to clearing land when a resource is located on site are responsible for obtaining appropriate state or federal permits or authorizations.
- E. **Agricultural exemption.** No County land clearing permit shall be required for any agricultural activity not requiring a Highlands County land development order conducted by a lawfully operating and bona fide agricultural operation that is in business for the purpose of growing plants, crops, trees, silviculture, or other agricultural or forestry products or that is in business for the purpose of raising livestock, when

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the agricultural activity occurs on property owned or lawfully occupied by the person conducting said agricultural activity and said property is designated by the future land use map as agricultural and the land clearing is done in pursuit of said activity. Evidence of a bona fide agricultural operation is the County property appraiser's determination. When land clearing has been performed under this exemption based upon the use of the property for an agricultural operation, the following shall apply:

1. No land development order shall be approved for any non-agricultural use on the same site within three years of the completion of such land clearing; and,
2. Agricultural operations are encouraged to implement a soil and water conservation district approved conservation plan, including the use of Best Management Practices, as applicable to the specific area being cleared, and to secure all other permits required by state and federal agencies exercising jurisdiction over the protected natural resources listed in sections 12.12.600, 12.12.603, and 12.12.611 of this division and found on said property.

F. **Penalties for illegal land clearing.** The County, in consultation with the property owner, shall impose one or more of the following penalties as appropriate if land is cleared without appropriate environmental clearance review or a County land clearing permit:

1. A penalty mitigation fee shall be imposed based on a set of fees approved by the BCC, based on the amount of land cleared; or
2. No development or additional land clearing shall be permitted for a period of three years after such clearing; or
3. The vegetation shall be replaced or the habitat allowed to restore itself through development and implementation of a management plan; or
4. A land clearing company and/or registered contractor clearing land without a land clearing permit on behalf of a land owner shall be subject to penalties.
5. Any mitigation or penalties imposed by the state or federal agencies for the same land clearing violation may substitute for County mitigation or penalties.

County penalty fees shall be placed in the conservation trust fund.

The decision to impose a land clearing penalty may be appealed pursuant to section 12.12.619.J.

(Ord. No. 05-06-05)

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DIVISION 7.

MINING PERMITS

Section 12.12.700. Purpose and intent.

The purpose and intent of this section is to regulate the mining of land and the activities employed thereupon for the extraction and off-site shipment of minerals, ores, organic matter, and other raw materials within the unincorporated areas of Highlands County, Florida, pursuant to the requirements of the Natural Resources Element of the Highlands County Comprehensive Plan. In the interest of public health and safety and the general welfare of the citizens of Highlands County, these regulations are promulgated for the purposes of:

- A. Insuring the safe and orderly removal of raw materials in a manner which is consistent with the goals, objectives, and policies of the comprehensive plan;
- B. Protecting the property of all of Highlands County land owners from significant adverse impacts associated with mining activities;
- C. Protecting the County's natural resources and minimizing any adverse impacts on these resources;
- D. Insuring that all mining activities are carried out in a manner which does not prevent the productive and healthful reuse of mined lands;
- E. Assuring that any mining activity does not present a financial cost or health risk to the citizens of Highlands County.

(Ord. No. 05-06-30, § 81)

Section 12.12.701. Procedure and requirements for obtaining a final development order.

- A. **Applicability.** A final development order/permit for mining operations shall be required prior to the commencement of any mining or the establishment of any mining operation or mining related activities located within the unincorporated areas of Highlands County, Florida. The County engineer is charged with the responsibility of reviewing applications for and issuing a final development order for mining operations. The issuance of a mining operation permit by Highlands County does not relieve the applicant from the requirement of any other applicable local, state, or federal regulation or permit requirement. Mining which will result in adverse effects on environmentally sensitive areas shall not be allowed unless the impacted areas can be restored pursuant to F.S. § 187.201(14)5.
- B. **Exemptions.** The following activities shall be exempt from the mining operation permit requirements of this section provided that all applicable federal, state and local permits and/or authorizations have been obtained:
 - 1. Removal of material from a site for the construction or removal of foundations for any building or structure, and for allowable accessory uses, e.g., swimming pools, septic tanks, retention ponds, watering ponds and fish ponds less than or equal to one acre in size, provided that a building permit or demolition permit has been issued if required, or for road maintenance operations and construction performed and/or permitted by the County.

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2. Removal of material from a site solely for on-site farming;
 3. Removal of materials, except phosphate, limestone, heavy minerals, or Fuller's earth clay, from one acre or less at any one site in a given year, not to exceed five acres over the life of the mine; however, the mining operator shall submit the following for the County engineer's approval:
 - a. A sketch plan showing the size, shape, and location of the proposed excavation; and
 - b. Setback of 25 feet from any adjacent property line;
 4. Removal of peat for agricultural purposes;
 5. Mining and mining related activities associated with a surface area that had received all government approvals to commence mining prior to the date of adoption of these regulations, provided the entity responsible for such activities submits supporting documentation.
- C. **General procedure.** Prior to filing an application for a final development order for a mining operation, an applicant may attend a development review conference pursuant to section 12.03.700 of these regulations to discuss issues including, but not limited to, the proposed mining operation, review procedures, referral agencies, application contents, application copies and fees. Following the pre-development conference and prior to filing the application for a final development order, the applicant shall obtain the following:
1. Concurrency clearance pursuant to Article 13, Division 1 of these regulations;
 2. Archaeological clearance pursuant to Article 15, Division 2 of these regulations;
 3. Historical resource clearance pursuant to Article 15, Division 2 of these regulations;
 4. Proof of proper zoning; and
 5. Environmental clearance pursuant to Article 12, Division 6.
- D. **Application contents.** Applicants shall submit four copies of an executed application form, attachments and any supplementary documents to the County engineer. The attachments shall include two types of documents.
1. Type I documents shall include the following clearances/approvals and be submitted to the County engineer:
 - a. Concurrency clearance;
 - b. Archaeological clearance;
 - c. Historical resource clearance;

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- d. Proof of proper zoning; and
 - e. Proof of proper land use.
2. Type II documents shall include the following reports/plans and be submitted to the County engineer and other agencies pursuant to section 12.12.701.E. of this division:
- a. An environmental clearance report (ECR if required, pursuant to section 12.12.614, environmental clearance report, of these regulations; the environmental clearance will have to be obtained from the development services director;
 - b. A mining operation plan as described in section 12.12.701.F. of this division;
 - c. A proposed reclamation plan as described in section 12.12.701.G. of this division;
 - d. A soil boring report as described in section 12.12.701.H. of this division.
- E. **Notifying other agencies.** The applicant shall notify all agencies listed below and any other agencies required by the ECR, for their review and comment on the proposed mining operation. The official form provided in the *Highlands County Technical Standards Manual*, current edition, Notice of final development order application for a mining operation, shall be copied, signed, and used by the applicant to notify the agencies. The agencies shall be furnished with the same documents and information that will be submitted to the County engineer under Type II documents listed above in section 12.12.701.D. The owner or owner's agent shall certify on a copy of each letter to other agencies that the notification letters were actually mailed, and these certified copies shall be submitted to the County engineer along with the application package. The agencies are:
1. U.S. Natural Resource Conservation Service;
 2. Florida Department of Environmental Protection, Bureau of Mines;
 3. Florida Department of Environmental Protection, Divisions of Water Management and Water Facilities;
 4. Florida Department of Community Affairs;
 5. South Florida or Southwest Florida Water Management Districts;
 6. Central Florida Regional Planning Council;
 7. Highlands County NRAC.
- F. **Mining operations plan.** An application for a final development order for a mining operation shall be accompanied by a mining operations plan which shall be prepared by a Florida registered professional engineer. Plans shall be submitted on 24-inch by 36-inch sheets, at a scale of one inch equals 30 feet or

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larger, or as allowed by the County engineer depending upon the size of the site. The County engineer shall approve, conditionally approve, or disapprove the mining operations plan, the contents of which shall include:

1. The plan view and cross-sectional view of the excavation project;
2. Description of the property lines, ownership and boundary of the property, including bearings and distances;
3. A topographic survey clearly showing the existing and proposed grades referenced to NGVD datum;
4. The right-of-way lines and easement lines;
5. The distance of excavation activity from right-of-way lines, easement lines and property lines;
6. The North arrow, date and scale on all the drawings;
7. The proposed depth and side slopes of the excavation area, and depth of groundwater on a cross-sectional drawing referring to NGVD datum;
8. A mine area layout plan which:
 - a. Describes the type of mining operation and the methods to be used for extracting the site resources;
 - b. Maps mining activities;
 - c. Locates any permanent structures or roads at the mining site; and
 - d. Establishes methods and locations for waste storage;
9. A schedule of proposed time and days of weekly mining operations;
10. A schedule of phased mining activities including clearing, excavating and reclamation;
11. An impact mitigation plan based upon the mining ECR, whenever mitigation measures are required;
12. A traffic circulation plan which addresses the following:
 - a. Major access routes to and from the mining site, a description of the type of transport vehicles used (including their gross loaded weights), and a general schedule of transport times;
 - b. The points of access to the proposed excavation;

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- c. The proposed haul route and improvements on publicly maintained roads;
 - d. The design of paved entrances based on all the requirements of Article 10 of these regulations;
13. Depiction or description of existing natural and manmade features such as water courses, wetlands, general identification of vegetative communities, streets, utility lines, wells, septic tanks, drain fields, chemical/fuel storage-tanks (surface and subsurface), existing buildings and other physical features within 150 feet of the proposed excavation area's perimeter; if blasting is used, this information shall be provided for an area within a one-half mile perimeter of the excavation;
 14. The location of soil borings shown in the soil boring report;
 15. The proposed method of de-watering and use of retention/settling ponds;
 16. Information about all potable water wells or lakes within a radius of 600 feet;
 17. Dust control or preventative methods;
 18. Detailed erosion control methods such as turbidity screens and/or hay bales, seeding and mulching, and sodding;
 19. Location and conservation plan for all wetland areas within 150 feet of the site;
 20. The technique that will be used to vegetate littoral zones, if littoral zones are to be included for the excavation;
 21. Any other specific information requested by the County engineer due to the uniqueness or complexity of the excavation project; and
 22. Any information previously submitted to or received from other government agencies that is germane to the mining plan and applicable to satisfying any of the above requirements.
- G. **Reclamation plan.** The reclamation plan submitted with the application shall be prepared by the property owner or his representative and shall:
1. Describe how restructuring, reshaping and/or re-vegetation will be accomplished;
 2. Be drawn to a minimum scale of one inch equals 30 feet or as allowed by the County engineer, and shall contain a north arrow;
 3. Show existing natural and manmade features including, but not limited to, water courses, water bodies, wetlands, general vegetative communities and concentrations, streets, utility lines, wells,

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septic tanks, drain fields, chemical/fuel storage tanks (surface and subsurface), easements and similar physical features of the site;

4. Show all areas to be reclaimed by depicting and/or describing what manmade and natural features will exist when the reclamation plan is completed;
 5. Depict at least two typical cross-sections with elevations, generally oriented north to south and east to west, showing water elevations and areas to be filled, backfilled, reconstructed, and/or reshaped;
 6. Depict the area to become a lake;
 7. Depict the fence or wall or vegetative buffer, if proposed, and include at least one cross-section;
 8. Document the type and location of vegetation to be preserved or planted including, but not limited to, grass(es), tree(s), and shrubs;
 9. Note that all spoil piles and stockpiles of material shall be removed from the site or incorporated into the reclamation plan when the excavation and reclamation plan is complete;
 10. Document methods to control erosion; and
 11. Note that the reclamation plan is consistent with the requirements of applicable sections of Chapter 62C-16.0051, F.A.C. and F.S. Ch. 380 depending on the type of proposed mining.
- H. **Soil boring report.** There shall be a minimum of two borings per excavation or one boring per ten acres of excavation area, whichever is greater. Copies of results, signed and sealed by a professional engineer or geologist registered in the State of Florida, must be provided. In no case is the excavation allowed deeper than two feet above the confining layer as determined and certified by a professional engineer or geologist registered in the State of Florida.
- I. **Application completeness.** An applicant for a mining operation permit or an extension of permit shall use an application form established for such a purpose by the engineering department and submit it to the County engineer along with an application fee as adopted by the BCC. Within ten working days after receipt of the application the County engineer shall determine whether or not the application is complete.
1. **If incomplete:** If all items required by section 12.12.701.D. of this division are not included, the application shall be deemed incomplete and the applicant notified in writing, requesting the additional information or materials. The applicant shall have 30 calendar days to supply the missing information, after which time, if not received, the County engineer shall deny the application. The applicant must then resubmit his application as if it were a completely new submission. Credit will be given for any application fee or review fees submitted with the first application toward applicable fees for any subsequent application for a mining operation permit for the same project submitted within 12 months from the date the applicant was notified that his application had been deemed incomplete.

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2. **If complete:** If all items required by section 12.12.701.D. of this division are included, and otherwise in conformance with the submission requirements of these regulations, the application shall be deemed complete, and the applicant notified in writing.

(Ord. No. 05-06-30, § 81)

Section 12.12.702. Approval process.

Once the mining operation permit application has been deemed complete it will be reviewed as follows:

- A. **Type II documents:** The application for a mining operation permit can not be acted upon by the County engineer until the environmental clearance is obtained. Thereafter, the County engineer shall have 20 working days to approve or disapprove the application.
 1. If disapproved, the application and supporting documents will be returned to the applicant for revision and re-submittal as required by notes on the plans or on the checklist that will accompany the application.
 2. If approved, the County engineer will issue a letter of intent to issue permit.
- B. Prior to issuing a final development order for a mining operation, the County engineer must receive the approved reclamation surety from the applicant as described below.
 1. If the mining operator proposes to utilize a public road for a primary haul route (greater than or equal to 75 percent of all his truck traffic to or from the site) which road is deemed substandard by the County engineer, the mining operator shall negotiate a road maintenance agreement with the County engineer for submission and approval of the BCC.
 2. A surety in the amount to be established by the BCC shall be deposited into a restricted escrow account or a performance bond in that amount shall be secured. The amount will be based on quantities mined in relation to the acres reclaimed and evaluated on an annual basis. Escrow funds or the performance bond shall forfeit to the County should the mining operator fail to perform according to the approved mining reclamation plan and schedule.

The surety must be for 18 months or the length of the permit plus six months, whichever is less, for reclamation, and must be in a form acceptable to both the County engineer and the board attorney, and is subject to final acceptance by the BCC. This surety will have to be renewed on an annual basis until the permitted mining operation is completed. At the time of renewal, the amount of the surety will be adjusted for reclamation performed and any changes in the quantities to be mined. A surety or performance bond required by other governmental agencies for the purpose of fulfilling reclamation requirements may be accepted partially or completely by the County engineer.

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- C. Upon receipt of the road maintenance agreement if applicable, and the approved reclamation surety, the County engineer will issue a final development order for that mining operation. The permit shall:
1. Show all the conditions or stipulations imposed including requirements of all necessary federal, state, regional, and related County permits to be issued prior to commencement of mining activities;
 2. Include the requirement of an annual report of operations and submission of copies of all applicable permits along with the first annual report;
 3. Show the operating days and times;
 4. Show the length of the permit which shall not exceed ten years;
 5. Be conditioned to expire within three years if mining activities do not commence at the approved mining site;
 6. Show the name(s) of the owner(s) and/or applicant(s);
 7. Be posted at the excavation site for the duration of the excavation; and
 8. Incorporate recommendations contained in the ECR as conditions of approval whenever mitigation measures are required.

(Ord. No. 05-06-30, § 81)

Section 12.12.703. Permit extensions and transfer.

- A. Requests for extensions of the initial permit shall be reviewed in the same manner as outlined in this section for the initial mining operation permit, and an additional application fee will be required.
- B. All plans and data must be updated and submitted along with the application for permit extension.
- C. If the initial permit expires before the permit extension is approved, the applicant shall cease all mining operations until a valid permit has been issued.
- D. If the ownership or operation of the mine should change during the initial or extended term of the permit, the new owner or operator shall be required to apply for and receive from the County engineer, a transfer of the original permit. The transferred permit shall be in the name of the new owner or operator and shall be required prior to the new owner or operator conducts mining activities.
- E. If the amount of material to be removed from the mining site increases in the request for permit extension, then:
 1. The road maintenance agreement if applicable, shall be adjusted to reflect the increased material leaving the site; and

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2. The surety for reclamation shall be adjusted to reflect the increased material leaving the site.
(Ord. No. 05-06-30, § 81)

Section 12.12.704. Land development regulation variances.

The County engineer shall have the authority to grant land development regulation from the terms of this section in accordance with section 12.04.118 variances. When a variance request is denied by the County engineer, the applicant may appeal the decision through the appeals process described in section 12.12.706 of this division.

(Ord. No. 05-06-30, § 81)

Section 12.12.705. Violations.

- A. If, at any time during the mining operating period, the County engineer finds that the permit conditions have been violated, the County engineer may issue an immediate stop work order. The stop work order shall be in effect until the mining operation is brought into compliance with the permit.
- B. In the event the mine operator receives a stop work order due to violation of the conditions of his permit and initially corrects the cause for the violation but makes no effort to adjust his mining operation to prevent repeat violations resulting in additional stop work orders, the County engineer may seek revocation of his mining operation permit from the BCC.

(Ord. No. 05-06-30, § 81)

Section 12.12.706. Appeals.

An applicant who has been denied a mining operation permit or has received conditional approval may appeal the County engineer's decision to the County administrator, whose decision may also be appealed to the BCC.

(Ord. No. 05-06-30, § 81)

Section 12.12.707. Standards for location and operation of a mine.

A. Setbacks and buffers for mining.

- 1. In the absence of applicable state or federal requirements, mining excavation shall be set back a minimum distance which is the greater of:
 - a. 50 feet from any property line
 - b. 150 feet from an existing dwelling under separate ownership

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2. Buffering requirements may be satisfied with a five-strand barbed wire or six feet high solid fence when the adjacent land use is designated other than residential. When the adjacent property has a residential land use designation, a six feet high solid fence with landscaping placed on the outside of the fence will be required. The fence and landscaping shall be located no further than 50 feet from the adjacent property which is to be buffered.
 - a. Landscaping shall consist of the requirements for a transitional protective yard Type A. The trees and shrubs shall meet the plant material standards and installation standards of Article 11 of these regulations.
 - b. No vegetative buffering or fence required by this section shall be planted inside a utility or drainage easement without the consent of the County and the easement holder.
 - c. Existing vegetation which meets or exceeds the quantity, spacing and height standards, may be used to satisfy the requirements of these regulations.
 - d. The permittee is responsible for maintaining all required shrubs and trees in good health. Any dead, unhealthy or missing plants or trees must be replaced with locally adapted vegetation which conforms with the initial planting standards and these regulations. But in the event that trees or shrubs are severely damaged due to an unusual weather occurrence or other act of God, the owner shall have one year to replant.
3. When locating adjacent to existing mining sites, new residential developments shall be subject to the same setback and buffering requirements as described herein, as well as comply with other requirements of these regulations.
4. Additional setbacks, buffering, landscape, and other requirements may be required as part of the special exception.

B. Operations.

1. If a haul route contains unpaved segments of road, the applicant shall maintain the unpaved segment of road in a satisfactory operating condition as determined by the County engineer and shall control dust generated by the excavation's trucks within 500 feet of any residence. Appropriate traffic control signs are required. These include, but are not limited to, stop, traffic entering, etc., and these signs must be consistent with the Manual of Uniform Traffic Control Devices, current edition. No mining operation permit may be issued for a mining operation which proposes to utilize, as part of its haul route, roads which are not publicly maintained, unless approval is obtained from the entity responsible for maintenance of the road.
2. Applicants must ensure the proposed operations meet the standards of the Florida Department of Environmental Protection and/or proper water management district, where applicable.
3. There shall be no disposal of any liquid or solid wastes into the mine area either during or subsequent to mining operations without prior review and approval by the appropriate reviewing

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agencies. Stormwater may be discharged into the excavated area if included in the mining operation plan which was approved by the County engineer.

4. Reclamation shall be substantially completed or significant progress made within six months after the permit expiration date, or within six months of cessation of all mining related activities or else the surety for reclamation shall be drawn upon by the County to complete the reclamation.
 5. The standard slope for the side of an excavation shall be no steeper than one foot vertical drop for every four feet of horizontal distance measured from the edge of the excavation at existing grade to a depth of no less than three feet below the seasonal high water table elevation. Below a depth of three feet, the grade may not exceed a drop of one foot horizontal to one foot vertical. If the applicant desires a slope greater than the standard described above, he shall specify this in the application along with a justification for the deviation from the standard. The County engineer will consider whether conditions warrant a deviation from the slope requirement.
 6. The mine shall be operated in such a manner that dust emissions are minimized. Unpaved roads may require regular watering to minimize dust emissions. The mining operation may be halted if dust emissions occur which exceed DEP standards and result in or cause a public nuisance.
 7. Burning or incineration associated with a proposed mine must obtain all appropriate permits in accordance with Highlands County regulations and any state regulatory requirements.
 8. All mining operations shall be secured with a fence around the excavated area to prevent unauthorized access to the excavation. All points of access shall be secured when no activity is occurring in the excavation.
 9. The County engineer may require reasonable restrictions on the hours of operation of any excavation when such reasonable restrictions are necessary to protect the public's health, safety and welfare. Where applicable, these hours of operations shall be included in the mining operation permit.
 10. Additional operational requirements may be required as part of the special exception requirements.
- C. **Annual report of operations.** An annual report of operations including "as-built" plans and certification by a Florida registered professional engineer that the excavation is being carried out according to approved plans, shall be submitted annually along with a fee established by the BCC to the County engineer for each mining operation permit at least 90 days prior to the annual anniversary date of the permit. This report shall address the excavation and reclamation progress to date, identify lands planned for excavation during the next year, state the total amount in cubic yards of excavation material excavated to date and the proportion of such material excavated in relation to the total amount of material permitted to be excavated, state the amount in cubic yards of excavation material intended to be excavated in the next year and the proportion of such material in relation to the total amount permitted to be excavated. The report shall be prepared by a registered professional engineer. The County engineer shall renew, conditionally renew, or not renew a mining operation permit upon his review and

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determination of compliance with the approved mining operation plan and permit conditions during the preceding year. A substantial deviation from the approved mining operations plan shall require an amendment to the mining operation permit, and shall be reviewed in the same manner as outlined in this section for the initial mining operation permit and an additional application fee will be required. The County engineer's decision may be appealed as described in section 12.12.706 of this [division.]

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ARTICLE 13.

OTHER ADMINISTRATIVE PROCEDURES

DIVISION 1.

CONCURRENCY

Subdivision I.

In General

Section 12.13.100. Purpose and intent.

It is the purpose and intent of the BCC to provide the means for evaluating proposed development orders to ensure that the level of service standards adopted in the County's comprehensive plan are maintained, and that public facilities and services needed to support development are available concurrently with the impacts of such development pursuant to rule 9J-5.0055 FAC. In addition, this section includes:

- A. Guidelines for interpreting and applying level of service (LOS) standards to applications for final development orders and permits, and for determining at what point in the process the test for concurrency must be met;
- B. Guidelines for assessing the demand placed on public facilities as well as the capacity of public facilities;
- C. The means by which the County will monitor changes in the capacity of public facilities;
- D. Provisions for the County to reserve capacity in the public facilities necessary to serve a proposed development following issuance of a certificate of concurrency; and,
- E. Provisions for a certificate of concurrency to include a time limit during which construction must commence to avoid forfeiture of the reserved capacity.

(Ord. No. 05-06-30, § 82)

Section 12.13.101. Procedure.

- A. **Applicability.** Unless specifically exempted by this section, concurrency clearance must be obtained for all development within the unincorporated areas of Highlands County, including but not limited to, commercial building structures, residential subdivisions, commercial and industrial subdivisions, manufactured home subdivisions, manufactured unit parks, seasonal parks, planned unit developments, cluster/PUD developments, and mining operations. The County engineer is charged with the responsibility of reviewing applications for and issuing concurrency clearances. Proof of concurrency clearance shall be obtained from the County engineer and submitted along with applications for final development orders for development requiring the recording of final plats, for development requiring the submittal of final site plans, and for mining operations.

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- B. **Exemptions.** The following shall be exempt from the concurrency review requirements of this section:
1. Building permits issued solely for remodeling, reconstruction, or restoration of residential units or nonresidential uses;
 2. All valid and approved final development orders issued after January 25, 1991, and before the adoption of these regulations, authorizing construction or other physical activity for single phase or multiphase projects provided, however, that for multiphase projects the preliminary plat or the preliminary site plan for the entire project must, to maintain exempt status for the project, be approved within one year of the platting of the previous phase, or where platting is not required, the occupancy of the immediately preceding phase;
 3. All valid, unexpired final development orders issued prior to the adoption of these regulations relating to a development of regional impact (DRI) project issued pursuant to F.S. Ch. 380, or a local government development agreement approved pursuant to F.S. Ch. 163, except where:
 - a. Substantial deviations are sought for the final development order, and then, these regulations shall apply only to those portions of the development for which the deviation is sought; and/or,
 - b. The County can demonstrate that substantial changes in the conditions underlying the approval of the final development order have occurred or the final development order was based on substantially inaccurate information provided by the developer;
 4. All new single-family residences, duplexes, and manufactured homes and accessory structures to residences not on a currently deficient Hurricane Evacuation Route - this exemption excludes any new subdivision;
 5. Boat docks when accessory for residences, duplexes, and manufactured homes;
 6. Utility stations and substations (less than 69 KV);
 7. Public safety stations or buildings;
 8. Accessory storage facilities to a non-residential use, not including any principal use, such as mini-warehouses, warehouses, or distribution facilities;
 9. Parking lots open to the public or required for another use;
 10. All agriculture operations not involving permanent human occupancy or habitation;
 11. All transmitting and receiving towers or communication towers; and,
 12. All public projects not creating public facility demands, including utility service lines, flood control and drainage improvements, and central water or wastewater facilities.

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C. **Concurrency review process.**

1. An application for concurrency clearance shall be submitted on an official form reproduced in the *Highlands County Technical Standards Manual*, current edition, and available from the County engineer's office. It is a written, stand-alone document that must be submitted to the County engineer along with an application fee as adopted by the BCC. The concurrency clearance application must be reviewed and approved by the County engineer prior to submission of an application for a final development order by the applicant.
2. Applicant for a proposed commercial development in a subdivision which has been platted, recorded and currently has an unexpired certificate of concurrency issued by the County may attach a copy of the subdivision's certificate of concurrency to the application and request a reevaluation of the permitted land uses under which the certificate of concurrency was issued. The County engineer will evaluate the proposed commercial development to assess if there is any deviation from the permitted land uses under which the certificate of concurrency was issued. If there are no deviations, the development will be allowed to proceed. If there are deviations from the permitted land uses under which the certificate of concurrency was issued then a reevaluation of concurrency shall be required. The County engineer may request only such additional information as is necessary to evaluate any deviation caused by the proposed new development from the subdivision's certificate of concurrency.
3. Within ten working days after receipt of the application the County engineer shall determine whether or not the application is complete:
 - a. **If incomplete:** If all items required are not included, the application shall be deemed incomplete and the applicant notified in writing, requesting the submission of additional information or materials. The applicant shall have 30 calendar days to supply the missing information, after which time, if not received; the County engineer shall return the application, denied. The applicant must then resubmit his application as if it were a completely new submission.
 - b. **If complete:** If all items required are included, and otherwise in conformance with the submission requirements of these regulations, the application shall be deemed complete, and the applicant notified in writing, that his application will be processed within 20 working days and within ten working days after review and recommendation from the concurrency review workgroup (CRW), if required. (Ord. No. 07-08-32, § 19)

D. **Concurrency determination for small projects and minor LDTA's.** For projects, which do not require submission to the CRW as determined by the County engineer, the County engineer will within 20 working days make one of the following concurrency determinations and notify the applicant, in writing, of the decision. This decision shall be considered final, subject only to appeal as further provided for in this section.

1. The County engineer will issue a certificate of concurrency where it is determined that adequate public facilities and services will be available concurrently with the impacts of the development

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and at all subsequent stages of the development approval process up to the expiration of certificate of concurrency.

2. Where it is determined that capacity of a public facility or service is inadequate within the impacted area, the County engineer shall:
 - a. Deny issuance of a certificate of concurrency; or
 - b. Issue a certificate of concurrency subject to one or more of the following conditions:
 - (1) Reduction of project size, density, and intensity to reduce the impacts of the development to less than or equal to the available capacity;
 - (2) Requirement of the following:
 - (a) Provision of public facilities and services through an approved Highlands County Land Development Agreement, including offsite improvements, by the applicant to achieve the necessary additional capacity needed to maintain the adopted LOS standards; or
 - (b) Commitment by the applicant through an approved Highlands County Land Development Agreement, to construct public facilities and services to achieve the necessary additional capacity needed to maintain the adopted LOS standards prior to the issuance of a building permit; or
 - (c) Approved proportionate fair-share agreement subject to sections 12.13.140 to 12.13.149, of the Code of Ordinances, Highlands County, Florida.
 - (3) An improvement project is scheduled and fully funded through construction in the first year of the adopted capital improvements element of the comprehensive plan, or the adopted Florida Department of Transportation Five-Year Work Program.

E. **Concurrency determination for major LDTA's.** All major LDTA's will require submission to the CRW. The County engineer will within 20 working days, review and prepare an agenda packet including the major LDTA and concurrency recommendation for consideration by the CRW. After review and action by the CRW, the County engineer will within ten working days make one of the following concurrency determinations, consistent with the CRW action and notify the applicant, in writing, of the decision. This decision shall be considered final, subject only to appeal as further provided for in this section.

1. The County engineer will issue a certificate of concurrency where it is determined that adequate public facilities and services will be available concurrently with the impacts of the development and at all subsequent stages of the development approval process up to the expiration of certificate of concurrency.

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2. Where it is determined that capacity of a public facility or service is inadequate within the impacted area, the County engineer shall:
 - a. Deny issuance of a certificate of concurrency; or
 - b. Issue a certificate of concurrency subject to one or more of the following conditions:
 - (1) Reduction of project size, density, and intensity to reduce the impacts of the development to less than or equal to the available capacity;
 - (2) Requirement of the following:
 - (a) Provision of public facilities and services through an approved Highlands County Land Development Agreement, including offsite improvements, by the applicant to achieve the necessary additional capacity needed to maintain the adopted LOS standards; or
 - (b) Commitment by the applicant through an approved Highlands County Land Development Agreement, to construct public facilities and services to achieve the necessary additional capacity needed to maintain the adopted LOS standards prior to the issuance of a building permit; or
 - (c) Approved proportionate fair-share agreement subject to sections 12.13.140 to 12.13.149, of the Code of Ordinances, Highlands County, Florida.
 - (3) An improvement project is scheduled and fully funded through construction in the first year of the adopted capital improvements element of the comprehensive plan, or the adopted Florida Department of Transportation Five-Year Work Program.

F. **Time limits.**

1. The certificate of concurrency shall be valid based on the following criteria:
 - a. 18 months from the date of issuance of the final development order for land subdivisions not requiring improvement plans;
 - b. 36 months from the date of issuance of the final development order for land subdivisions requiring improvement plans;
 - c. 24 months from the date of issuance of the final development order for commercial building structures;
 - d. 24 months from the date of issuance of the final development order for mining and mining related activities; or

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2. An extension may be granted at the discretion of the County engineer for six months, subject to appropriate conditions and safeguards. A written request must be submitted for a time extension prior to the expiration of the certificate of concurrency which includes documentation to substantiate that there has been no substantial change in the permitted land uses under which the certificate of concurrency was issued.
3. If a certificate of concurrency expires or the approved land uses change substantially, as determined by the County engineer, the applicant will have to reapply for concurrency clearance, repay the application fee and complete a new traffic impact study.
4. If a major LDTA is required for transportation concurrency, the certificate of concurrency may be valid for a period not to exceed five years, upon approval by the County engineer, if the applicant's major LDTA includes a minimum of five years of background growth in the concurrency determination traffic analysis.
5. The expiration of the certificate of concurrency may occur at a negotiated date for any of the following:
 - a. A development of regional impact (DRI) or phase thereof, pursuant to F.S. Ch. 380; or,
 - b. A Highlands County Land Development Agreement secured project, or phase thereof, pursuant to these regulations.

G. **Application contents.** All applications for concurrency clearance shall provide sufficient information to determine the impacts of such development pursuant to the concurrency evaluation procedures in this section. Two copies of the application shall be submitted to the County engineer. Such information, as documented in the *Highlands County Technical Standards Manual*, current edition, shall include:

1. Conceptual site plan showing specific location of the project including all existing roads, right-of-way, median openings and driveway connections within 250 feet of the project site;
2. Total number and type of dwelling units for residential developments;
3. Identification of the type, intensity and size of non-residential use, where appropriate, at a level of detail consistent with the type and location of development;
4. Identification of project phasing, and the estimated start and completion dates;
5. Total potable water and sewage treatment demand and peak demand projected to be generated by the proposed development;
6. If the project will utilize the services or facilities of an individually-owned, community-owned or franchised utility system, the applicant shall provide evidence of a contract with the service provider, indicating the provider's commitment and ability to serve the proposed development; such evidence shall include a letter from the franchise operator stating that adequate capacity is available and reserved to serve the proposed development, which shall include and specifically

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reference the department of environmental protection permit number issued pursuant to a completed notice of intent to use general permit for wastewater collection, drinking water distribution system as amended or superseded, and if applicable, an application to construct a public drinking water system as amended or superseded, and if applicable, a copy of the latest operation and maintenance performance report prepared pursuant to Florida Administrative Code Chapter 17-600.405 or any successor regulation(s); if the ability of the provider to serve a proposed development is contingent upon planned facility expansion, such planned improvements shall meet the requirements of this section;

7. Where central water is not available, the applicant shall make provisions for an alternate source of potable water and supply evidence from the Highlands County Health Department showing that the suggested alternative to central water will be allowed and shall be designed to meet the requirements of this section;
 8. Where projects are to be served by septic tanks, the applicant shall provide evidence from the Highlands County Health Department that septic tanks will be allowed and shall be designed to meet the requirements of this section;
 9. Where projects are to be served by package wastewater treatment plants, the applicant shall provide the design capacity of the proposed onsite wastewater treatment plant;
 10. Any proposed dedication or provision of park and open space land by the applicant;
 11. Estimate of the amount of solid waste generation;
 12. Any available stormwater design calculations for the management of surface water quality and quantity and a statement that the stormwater management shall comply with the requirements of this section;
 13. Information about the projected school enrollments from the proposed development so that the school board can be informed about any such increase in the enrollments;
 14. Data and analysis required for traffic impact study, as explained in the *Highlands County Technical Standards Manual*, current edition of this Code and completed on County provided forms and electronic files; and,
 15. Evidence of the affected utility companies confirming the availability of electric, natural gas (optional), and phone service in sufficient capacity to serve the proposed development.
- H. **Development agreements.** The County may, but under no circumstances is it required to, enter into a Highlands County Land Development Agreement as authorized by F.S. §§ 163.3220--163.3243(1993) as from time to time amended, or these regulations, in order to ensure the provision of adequate facilities and services for all new development concurrently with the impacts of that development. The effect of the development agreement shall be to bind the parties to the terms and conditions of the development agreement and the certificate of concurrency.

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- I. **Transfer of certificate of concurrency.** A certificate of concurrency shall apply to the land and is, therefore, transferable from owner to owner of the land subject to the terms and conditions of the certificate; it is not transferable from property to property. Persons transferring ownership shall notify the County of the transfer to allow the County to provide notice to the new owner, should notice become necessary.

(Ord. No. 05-06-30, § 82; Ord. No. 06-07-28, § 3; Ord. No. 07-08-32, § 19)

Section 12.13.102. Reserved. (Ord. No. 06-07-28, § 4)

Section 12.13.103. Appeal process.

The BCC has established an appeal process described in this division for hearing appeals when a certificate of concurrency has been either denied by the County engineer or issued conditionally or an extension has been denied. The process directs that the appeals be heard by a hearing officer appointed by the board in compliance with guidelines of this division.

- A. **General requirements.** The County engineer's decision to deny a certificate of concurrency or issue a certificate of concurrency subject to conditions described in this section, may be appealed. All appeals shall be heard within 30 days of the date of filing the notice of appeal, unless otherwise stipulated and agreed to by the applicant and the County, or unless otherwise ordered by the hearing officer for good and sufficient cause.

1. **Appeal form.** An appellant desiring to appeal such decision shall file a verified notice of appeal, on a form established for such purpose by the engineering department, by certified mail with the County administrator. The notice of appeal submitted by the appellant shall contain:
 - a. The name and address of the appellant or the appellants, and an explanation of how his or her substantial interests will be affected by the determination.
 - b. The legal description of the property.
 - c. A statement of all disputed issues of material fact; if there are none, the notice of appeal must so indicate.
 - d. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the appellant to relief.
 - e. A demand for relief to which the appellant deems himself entitled.
 - f. Any other information which the appellant contends is material.
2. **Other requirements.**
 - a. The appellant shall submit with the notice of appeal all relevant documents in his custody or control pertaining to the appeal.
 - b. With the notice of appeal, the appellant shall pay all applicable fees.

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- c. The fees and costs of the hearing officer conducting the hearing shall be paid equally by the County and the appellant. With the filing of the notice of appeal, the appellant shall pay to the County a deposit in an amount established from time to time by the BCC to defray the appellant's share of the hearing officer fees and costs. After the appellant's share of the hearing officer fees and costs is finally determined, any amount in excess of appellant's deposit shall be refunded to appellant, and appellant shall pay to the County any amount by which his share of such fees and costs exceeds his deposit.

3. **Hearing procedure.**

- a. Procedures for the hearing and matters relating thereto shall be governed by this Code.
 - b. The hearing officer shall render a decision on the appeal within 15 working days after the hearing. If a state hearing officer is used, the decision shall be rendered within 30 days.
 - c. The decision shall be in writing, shall contain findings of fact and conclusions of law, and shall refer specifically to the property or portion of property to which it applies. The decisions may contain reasonable conditions necessary to affect the purposes and requirements of this section. The decision shall state that it is subject to expiration in accordance with these regulations.
 - d. The decision shall be filed with the County administrator's office and a copy shall be provided to the appellant, the board attorney and the County engineer. The decision of the hearing officer shall be considered final for purposes of judicial appeal.
4. **Appeal from decision of hearing officer.** An aggrieved party may appeal a final order of the hearing officer to the Circuit Court in Highlands County, Florida, within 30 days after the filing of such order in the office of the County administrator. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

B. **Hearing officer.**

1. The BCC shall appoint one or more hearing officers, all of whom shall be either lawyers, professional engineers, planners who are members of the American Institute of Certified Planners, or others the board determines to be qualified and to have demonstrated experience in land use matters.
2. Hearing officers may be removed for cause.
3. The County may use the State of Florida's Hearing Officer Program, F.S. Ch. 120.
4. Whoever shall accept an appointment as a hearing officer and any firm with which the hearing officer is or may become associated during his term and for a period of one year from the date of termination as holder of such office, is hereby expressly prohibited from acting as agent or

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attorney in any proceeding, appeal, application, or matter before any commission, board, agent, or other office of County government, involving property which was the subject of an appeal regarding concurrency clearance and heard by the officer during his term.

(Ord. No. 05-06-30, § 82)

Section 12.13.104. Review standards for evaluation.

- A. **Determination of capacity.** To ensure that adequate public facility and service capacity is available concurrently with the impact of a proposed development, the total available capacity must be greater than or equal to the demand from the proposed development. The total available capacity is the difference of the total capacity and the sum of demands from existing development, vested development and approved/reserved development.
- B. **Availability of infrastructure and services.** A public facility or service shall be determined to be available for potable water, sanitary wastewater, solid waste, and drainage if it meets any of the conditions below. Park and recreation services or facilities shall be determined to be available if they meet any of the conditions 1, through 5. below. Transportation facilities shall be determined to be available if they meet any of the conditions 1. through 6. below. The requirements of these regulations concerning the posting of sureties to guarantee completion of work shall apply to all construction described in conditions 2. through 5. below.
1. The facility or service is in place to serve a proposed development when the County's final development order, permit, or development agreement is approved.
 2. The County's final development order, permit, or development agreement is approved subject to the condition that the facility or service will be in place when the impacts of the proposed development occurs.
 3. The facility or service is under construction when the County's final development order, permit, or development agreement is approved.
 4. The facility or service is the subject of a binding executed construction contract which provides for the commencement of the actual construction of the required facility or the provision of the required service within one year of issuance of the County's final development order.
 5. The facility or service is guaranteed by an enforceable development agreement which requires commencement of the actual construction of the facility or the provision of the service within one year of issuance of the County's final development order or permit.
 6. The public facility is identified in the County's adopted five-year capital improvements program or in the capital improvements element of the comprehensive plan or included in the adopted Florida Department of Transportation Five-Year Work Program provided that:
 - a. The proposed improvements as set forth in the plan/program are sufficient to maintain the adopted levels of services after development

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- b. The proposed public improvements are scheduled to commence within three years of the issuance of the applicable development order or permit.
- C. **Potable water and sanitary wastewater.** The adopted level of service standards for potable water and sanitary are:
1. **Residential water systems:**
 - a. **Seasonal park** 75 gpcd.
 - b. **Manufactured home park** 100 gpcd.
 - c. **Single-family residential or multi-family development** 120 gpcd.
 2. **Water storage capacity.** All new development and redevelopment shall provide a total project water storage capacity (in combination with standby pumping capacity) of at least 50 percent of the maximum daily water system demand. Minimum water pressure for fire-flows shall be 20 pounds per square inch (psi) residual, with minimum flow capacity as follows:
 - a. **Residential:** 500 gallons per minute.
 - b. **Commercial:** 750 gallons per minute.
 - c. **Large commercial and industrial:** 1,000 gallons per minute.
- D. **Solid waste.** The County's adopted level of service standard shall be its ability to provide facilities sufficient to accommodate 5.21 pounds/person/day.
- E. **Parks and recreation/open space.** The adopted level of service standard shall be to maintain a County-wide standard of 22.5 acres per 1,000 population.
- F. **Stormwater management.** For a proposed development, the post development run-off shall not exceed the predevelopment run-off for a 25-year/24-hour storm event, and Best Management Practices shall be utilized to meet the state water quality standards. The stormwater management system for the proposed development will comply with the following minimum level of service standards:
1. **SWFWMD LOS:** 25-year/24-hour storm event - (peak discharge; 25-year/24-hour).
 2. **SFWMD LOS:** 25-year/24-hour storm event - (peak discharge; 25-year/36-hour).
- Direct discharges into designated outstanding Florida waters shall require a treatment area one and one-half times greater than that required otherwise.
- G. **Transportation facilities.** The data requirements and concurrency evaluation shall be performed in accordance with this section and *Highlands County Technical Standards Manual*, current edition. The

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adopted level of service standards for the concurrency determination network are included in the comprehensive plan transportation element. (Ord. No. 06-07-04 § 25; Ord. No. 06-07-28 § 5)
(Ord. No. 05-06-30, § 82; Ord. No. 06-07-04, § 25; Ord. No. 06-07-28, § 5)

Sections 12.13.105--12.13.139. Reserved.

Subdivision II.

Proportionate Fair Share Regulations

Section 12.13.140. Short title.

Sections 12.13.140 through 12.13.149 shall be known and may be cited as the Highlands County Proportionate Fair-Share Ordinance.
(Ord. No. 06-07-05, § 1)

Section 12.13.141. Purpose, intent, and findings.

- A. **Purpose and intent.** The purpose and intent of the Highlands County Proportionate Fair-Share Ordinance is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. § 163.3180(16).
- B. **Findings.** The board of County commissioners (BCC) finds and determines that transportation capacity is a commodity that has a value to both the public and private sections and that the County proportionate fair-share program:
1. Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;
 2. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost of a transportation facility;
 3. Contributes to the provision of adequate public facilities for future growth and promotes a commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion;
 4. Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the County to expedite transportation improvements by supplementing funds currently allocated in the five-year capital improvements schedule in the capital improvements element (CIE) of the County comprehensive plan for transportation improvements; and

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5. Is consistent with F.S. § 163.3180(16), and supports the following policies in the County comprehensive plan:
 - a. Objective 3 with associated policy 3.7 of the transportation element.
 - b. Objective 9 with associated policies 9.1, 9.2, 9.3 9.4 and 9.8 of the transportation element.
 - c. Objective 12 with associated policy 12.1 of the transportation element.
 - d. Objective 4 with associated policy 4.1, 4.2 and 4.3 of the future land use element.
 - e. Objective 4 with associated policy of the intergovernmental coordination element.
 - f. Objective 2 with associated policies 2.1, 2.2 and 2.3 of the capital improvements element.
 - g. Objective 4 with associated policies 4.1, 4.2, 4.4, 4.5 and 4.9 of the capital improvements element.

(Ord. No. 06-07-05, § 1)

Section 12.13.142. Applicability.

- A. The proportionate fair-share program shall apply to all developments in the County that have identified or have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the concurrency management system (CMS) adopted by the BCC, including transportation facilities maintained by the Florida Department of Transportation (FDOT) or another government agency that are relied upon for concurrency determinations, pursuant to the requirements of section 12.13.143 of this division. the proportionate fair-share program does not apply to developments of regional impact (DRIS) using proportionate fair-share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in this division, policies in County comprehensive plan, or F.S. § 163.3180, regarding exceptions and de minimis impacts.
- B. The proportionate fair-share program applies to transportation improvements or mitigation required to address roadway link deficiencies identified at the time of concurrency review. If an intersection deficiency is identified in the concurrency denial determination and the improvements required to remedy that insufficiency can be incorporated into a link improvement pursuant to section 12.13.143 of this division, then the costs and proportionate fair-share contribution may be included in the link improvement and calculation of the proportionate fair-share obligation made pursuant to section 12.13.146 of this division. The proportionate fair-share program does not apply to minor intersection improvements, such as signal retiming, installing traffic signals, and constructing turn lanes required to remedy a deficiency, that are not part of a roadway link transportation concurrency requirement. The County engineer may consider and approve major intersection improvements, such as grade separations, interchanges, and through movement capacity improvements, as eligible for the proportionate fair-share program.

(Ord. No. 06-07-05, § 1)

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Section 12.13.143. General requirements.

- A. An applicant may choose to satisfy the transportation concurrency requirements of the County by making a proportionate fair-share contribution, pursuant to the following requirements:
1. The proposed development is consistent with the County comprehensive plan and applicable land development regulations.
 2. The transportation improvement needed for mitigation is fully funded through construction in years two, three, four or five of the five-year capital improvements schedule in the CIE and the transportation improvement(s) upon completion, will satisfy transportation concurrency on a transportation facility on the five-year capital improvements schedule in the adopted CIE. The provisions of section 12.13.143B. of this division may apply if a project or projects needed to satisfy concurrency are not presently contained in the five-year capital improvements schedule in the adopted CIE.
- B. The County may choose to allow an applicant to satisfy transportation concurrency through the proportionate fair-share program by contributing to an improvement that, upon completion, will satisfy transportation concurrency on a transportation facility included in the five-year capital improvements schedule in the CIE pursuant to this subsection, but is not, at the time the application pursuant to section 12.13.145 of this division is made, contained or fully funded in the five-year capital improvements schedule in the CIE where the following apply:
1. The County adopts, by resolution or ordinance, a commitment to add the improvement to the five-year capital improvements schedule in the CIE no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the appropriate County body and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1., consistent with the County comprehensive plan, and in compliance with the provisions of sections 12.13.140 through 12.13.149, inclusive, of this division. In order to fulfill the obligations of the proportionate fair-share agreement, the developer shall financially commit funds prior to the effective date of the agreement by delivering to the County a monetary payment or land for right-of-way acceptable to the County equal to the developer's proportionate fair-share obligation as stated in the proportionate fair-share agreement or by securing the developer's proportionate fair-share obligation with a cash deposit, certificate of deposit, bond or other similar cash equivalent security acceptable to the County.
 2. If the funds allocated for the five-year capital improvements schedule in the CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the County may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share obligation is calculated if the proportionate fair-share obligation in that agreement is sufficient to pay for one or more improvements which will, in the opinion of the County engineer, significantly benefit the impacted transportation system.

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3. The improvement or improvements funded by the proportionate fair-share contribution must be adopted into the five-year capital improvements schedule in the CIE at the next annual CIE update.
- C. Any improvement project proposed to meet the developer's proportionate fair-share obligation must meet design standards of the County for locally maintained roadways and those of the FDOT for the state highway system.
(Ord. No. 06-07-05, § 1)

Section 12.13.144. Intergovernmental coordination.

- A. Pursuant to policies in the intergovernmental coordination element of the County comprehensive plan and applicable policies in the Central Florida Regional Planning Council Strategic Regional Plan, the County shall coordinate with affected jurisdictions, including FDOT, neighboring counties, and incorporated municipalities in Highlands County, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.
- B. In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the County may enter into agreements with one or more adjacent local governments to address cross-jurisdictional impacts of development on regional transportation facilities.
(Ord. No. 06-07-05, § 1)

Section 12.13.145. Application process.

- A. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the proportionate fair-share program pursuant to the requirements of section 12.13.143 of this division.
- B. Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system designated in accordance with F.S. §§ 339.61, 339.62, 339.63, and 339.64, FDOT will be notified and invited to participate in the pre-application meeting.
- C. Eligible applicants shall submit an application to the County that includes an application fee as required by the County's current fee structure for permit application fees and the following:
 1. Name, address and phone number of owner(s), developer and agent;
 2. Property location, including parcel identification numbers;
 3. Legal description and survey of property;
 4. Project description, including type, intensity and amount of development;

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5. Traffic impact study performed in accordance with the County's adopted technical standards manual procedures;
 6. Phasing schedule, if applicable;
 7. Description of requested proportionate fair-share mitigation method(s); and
 8. Copy of concurrency application.
- D. The County engineer shall review the application and certify that the application is sufficient and complete within ten business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the proportionate fair-share program as indicated in section 12.13.143 of this division, then the applicant will be notified in writing of the reasons for such deficiencies within ten business days of submittal of the application. If such deficiencies are not remedied by the applicant within 20 days of receipt of the written notification, then the application will be deemed abandoned. The County engineer may, in his or her discretion, grant an extension of time to be determined by the County engineer to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.
- E. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the strategic intermodal system requires the concurrence of FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- F. When an application is determined to be sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation shall be calculated and a binding agreement will be prepared by the County or the applicant with direction from the County and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a state highway system facility, and a copy to any incorporated municipality in Highlands County having jurisdiction, for transportation concurrency, over an impacted road, no later than 60 days from the date upon which the applicant received the notification that the application is determined to be sufficient, complete, and eligible, and no fewer than 14 days prior to the BCC meeting when the agreement will be considered. The payment or security to be provided by the developer pursuant to section 12.13.143B.1. of this division must also be documented for consideration by the BCC. All agreements and other documents requiring execution by the developer shall be executed by the developer prior to consideration by the BCC.
- G. The County shall notify the applicant regarding the date of the BCC meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the BCC.

(Ord. No. 06-07-05, § 1)

Section 12.13.146. Determining proportionate fair-share obligation.

- A. Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.

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- B. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation. In calculating the proportionate fair-share obligation, a development shall not be required to pay more than its proportionate fair-share contribution regardless of the manner of mitigation. The proportionate fair-share contribution specified in the proportionate fair-share agreement shall not exceed the proportionate fair-share obligation calculated pursuant to this section.
- C. The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided in F.S. § 163.3180(12), as follows:

The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of calculating the applicant's proportionate fair-share obligation pursuant to this methodology, "construction cost" includes all associated costs of the improvement, including, but not limited to, design, right-of-way acquisition, planning, engineering, inspection, utilities, financing costs, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred. As used in this section, the term "same development" shall mean any development occurring on land existing as a single parcel or as contiguous parcels having the same owners on October 1, 2006, and all lands required to be developed as a single development by zoning amendment, comprehensive plan amendment, ordinance or agreement.

OR

$$\text{Proportionate Fair-Share} = \sum_i \left[\frac{\text{Development Trips}_i}{\text{MSV Increase}_i} \right] \times \text{Cost}_i$$

Where:

Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" when that stage or phase has triggered a deficiency according to the CMS;

MSV Increase_i = Maximum service volume increase provided by the eligible improvement to roadway segment "i" per section 12.13.143 of this division;

Cost_i = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, utilities, financing costs, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred. The construction cost inflation factor shall be determined by the County Engineer based upon the most recent publication of the "FDOT Transportation Costs" or "The Engineering News of Record" or other documentation of construction cost inflation acceptable to the County Engineer.

- D. For the purposes of determining proportionate fair-share obligations, improvement costs shall be based upon a certified and sealed engineer's cost estimate for a project defined in a proportionate fair share

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agreement. Such cost estimate will be consistent with unit bid costs of recent similar bid projects, preferably within Highlands County, within the last year. This cost estimate will be reviewed for reasonableness and approved or disapproved, in writing, by the County engineer. If disapproved, the grounds for the disapproval will be indicated to the applicant so that a revised cost estimate may be resubmitted.

- E. If the County has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.
- F. If the County has accepted right-of-way dedication for all or part of the proportionate fair-share contribution, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at an amount up to 120 percent of the most recent assessed value by the County property appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approval and ordered by the County upon receipt of funds from the applicant to pay for the appraisal. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the County at no expense to the County. If the estimated value of the right-of-way dedication proposed by the applicant is less than the County estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used to satisfy a proportionate fair-share obligation, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations and should contact the County engineer for essential information about compliance with the County's technical standards manual and land development regulations.
- G. If through the approval of a previous phase of a development, a proportionate fair-share obligation pursuant to this program was required on a roadway segment and that obligation was satisfied, the previous payment may be applied as a credit toward proportionate fair-share obligations on the same roadway segment for future phases of the same development.

(Ord. No. 06-07-05, § 1)

Section 12.13.147. Impact fee credit for proportionate fair-share mitigation.

- A. Proportionate fair-share contributions shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share contribution is used to address the same capital infrastructure improvements creditable as allowed by the County impact fee ordinance.
- B. Impact fee credits for the proportionate fair-share contributions will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced as provided in proportionate fair-share agreement as they become due pursuant to the County impact fee ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated transportation impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the County pursuant to the requirements of the County impact fee ordinance.
- C. Major projects not included within the County impact fee ordinance or created under section 12.13.143B.1. and 2. of this division which can demonstrate a significant benefit to the impacted

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transportation system may be eligible for impact fee credits to the extent allowed by the County impact fee ordinance.

- D. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any transportation impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location.
- E. No impact fee credit shall be allowed for any project that is not included in the five-year capital improvements schedule in the CIE.

(Ord. No. 06-07-05, § 1)

Section 12.13.148. Proportionate fair-share agreements.

- A. Upon the effective date of an executed proportionate fair-share agreement for which the proportionate fair-share obligation has been paid or adequately secured as provided in section 12.13.143.B.1. of this division, the applicant shall receive a County certificate of concurrency approval. Should the certificate of concurrency approval expire following execution of the proportionate fair-share agreement, the proportionate fair-share agreement shall be considered null and void, and the applicant shall be required to reapply.
- B. Payment of the proportionate fair-share obligation is due in full prior to issuance of the final development order or recording of the final plat, whichever is last to occur, and shall be non-refundable. If the payment is submitted more than 12 months after the date of execution of the proportionate fair-share agreement by all parties, the proportionate fair-share obligation shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to section 12.13.146 of this division and adjusted accordingly.
- C. All facilities constructed by a developer pursuant to a proportionate fair-share agreement must be completed or completion adequately secured pursuant to section 12.13.143.B.1. of this division prior to the issuance of the final development order.
- D. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat, whichever is last to occur.
- E. Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- F. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement by the BCC. The application fee shall be nonrefundable and the applicant shall reimburse the County for all associated advertising costs incurred by the County.
- G. The County may enter into proportionate fair-share agreements for selected corridors or areawide improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

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- H. Payment of the proportionate fair-share obligation calculated pursuant to section 12.13.146 of this division whether paid in money or by dedication of right-of-way or by delivery of adequate security pursuant to section 12.13.143.B.1. of this division shall be nonrefundable.
- I. If an executed proportionate fair-share agreement is rendered null and void due to expiration of an approved certificate of concurrency after payment of the proportionate fair-share obligation in money or by dedication of right-of-way and, (i) within six months thereafter, the applicant re-applies for a proportionate fair-share agreement for the same property, and (ii) within nine months after the timely filing of that re-application, another proportionate fair-share agreement is entered into for the same property by the applicant and the BCC, a credit shall be given for that payment of the proportionate fair-share obligation. The amount of the credit shall be an amount equal to that payment multiplied by a fraction, the numerator of which is the number of trips for the un-built part of the development for which that payment was made and the denominator of which is the total trips for the development for which that payment was made.

(Ord. No. 06-07-05, § 1)

Section 12.13.149. Appropriation of fair-share revenues.

- A. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the BCC, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the FDOT transportation regional incentive program.
- B. In the event a scheduled facility improvement is removed from the five-year schedule of capital improvements in the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or impact area as determined by the County engineer that would mitigate the impacts of development pursuant to the requirements of section 12.13.143.B.2. of this division.
- C. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, the County may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT transportation regional incentive program. Such coordination shall be ratified by the County through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.
- D. When an applicant constructs a transportation facility that exceeds the applicant's proportionate fair-share obligation calculated under section 12.13.146 of this division, the County shall reimburse the applicant for the excess contribution according to the terms and conditions of the proportionate fair-share agreement using one or more of the following methods:
 - 1. By using future transportation impact fees to the extent allowed by the County impact fee ordinance.

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2. By using future proportionate fair-share payments from other applicants for the same facility, or from proportionate fair-share payments for other transportation facilities for which other funding has been secured to build the project for which the proportionate fair share payment was originally collected.

3. Through other compensation or means acceptable to the County and the applicant.

(Ord. No. 06-07-05, § 1)

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DIVISION 1.1.

PUBLIC SCHOOL CONCURRENCY MANAGEMENT

Section 12.13.150. Purpose and intent.

The purpose and intent of this division is:

- A. To implement the provisions of the Highlands County Comprehensive Plan related to the adequacy of school facilities as new residential growth occurs.
- B. To implement the provisions of the Highlands County Interlocal Agreement for Coordinated Planning and School Concurrency.
- C. To ensure that public schools needed to support new development will meet the adopted level of service.
- D. To ensure that no proposed development is approved that would generate demands that exceed school capacity at the adopted level of service.
- E. To ensure that adequate school facilities will be in place or under actual construction as new development occurs, or within three years after the issuance of approval of any proposed development, as provided by state statute, by providing a mechanism to implement proportionate share mitigation for school facilities where needed.

(Ord. No. 08-09-54, § 3)

Section 12.13.151. Applicability.

- A. **Generally.** Except as otherwise specifically provided, the provisions of this division shall apply to development orders for preliminary plat, site plan approval or the functional equivalent for planned development or flexible unit development or the equivalent submitted after December 1, 2008, as follows:
 - 1. All such proposed development shall be subject to school concurrency.
 - 2. An applicant for such proposed development may, upon request, obtain a non-binding finding of available school capacity from the school district at any time prior to the filing of an application for approval of the proposed development.
 - 3. Before approval of any such proposed development, or phase thereof, the following must be obtained:
 - a. A valid and unexpired finding of available school capacity as determined by the school district and designated on the school district capital improvements schedule. A finding of available school capacity expires after one calendar year.

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- b. A valid and unexpired allocation of school concurrency as determined by the school district, or a proportionate share mitigation agreement executed by the developer and the school board.
4. The following residential uses shall be considered exempt from the requirements of school concurrency:
- a. Single-family lots of record, existing as such on September 2, 2008.
 - b. Any residential development that has a preliminary plat or site plan approval or the functional equivalent for a site-specific development order prior to December 1, 2008, shall be exempt from the school concurrency requirements.
 - c. Any amendment to any previously approved residential development that does not increase the number of dwelling units or change the type of dwelling units.
5. Age-restricted communities with no permanent residents under the age of 18.
- a. Exemption of an age-restricted community will be subject to a restrictive covenant duly recorded in the public records of Highlands County, Florida, limiting the age of permanent residents to 18 years and older, among other requirements.
 - b. In the event the recorded restrictive covenant is breached or otherwise removed, the local government may enforce the restrictive covenant or may declare the exemption to be null and void and the school concurrency in effect at the time of the change in circumstances to be immediately due and payable, and school concurrency may, thereafter, be collected by any method available to the local governments for collecting monies owed to it.

(Ord. No. 08-09-54, § 3)

Section 12.13.152. Application and review procedure.

- A. **When required.** Subject to the requirements of this section, an application for school concurrency must be submitted in conjunction with any proposed preliminary plat, site plan or the functional equivalent for planned development or flexible unit development or the equivalent. No such proposed development will be approved by the County unless it complies with the requirements of this division.
- B. **Requirements for application for school concurrency.**
- 1. **Pre-submittal meeting.** Prior to submission of an application for school concurrency, the applicant shall meet with the County development services director and the school district to confirm the scope and applicability of this division and to identify potential school facility deficiencies that may need to be mitigated.
 - a. At or following the pre-submittal meeting, the applicant shall be provided the following:
 - (1) The current school district capital improvements schedule;

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- (2) Relevant and available information regarding demand for school facilities and available school capacity; and
 - (3) A summary of the scope of the requirements for an application for school concurrency, which shall include, but not necessarily be limited to, the information listed in subsection B.2. of this section.
 - b. At or following the pre-submittal meeting, the applicant shall inform the County and the school district of any interest to explore proportionate share mitigation options, specify the mitigation options to be considered and, if possible, the proposed amount and type of proportionate share mitigation.
2. **General requirements.** The application for school concurrency shall include:
 - a. Name, address, and phone number of the applicant;
 - b. Property location, including parcel identification numbers and vicinity map;
 - c. A description of the proposed development adequate to determine the number and type of public school students generated by the proposed development, including the number of dwelling units and unit types, the type, intensity and amount of development, and whether there is any age restriction for occupancy;
 - d. A phasing schedule for any proposed development to be completed in more than one phase;
 - e. A description of any past or proposed school facility dedicated, constructed, or funded in order to mitigate the public school impacts of the proposed development;
 - f. A calculation of any school impact fees that will be assessed prior to occupancy of the dwelling units or lots that are part of the proposed development;
 - g. In the event that there is not available school capacity to accommodate the proposed development, a proposed proportionate share mitigation agreement, using the form provided by the school district, and a description of the proposed proportionate share mitigation option(s) being utilized; and
 - h. Other relevant information required by the school district that is needed to evaluate the application for school concurrency and to make a finding with regard to available school capacity.
3. **Completeness review.** Within 15 business days after its receipt, the County development services director will determine whether the application for school concurrency is complete and complies with the submission requirements set forth in this division. If the application for school concurrency is complete and the submission requirements have been met, the County development services director will forward the application for school concurrency to the school

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district for review and a finding with regard to available school capacity. If the application for school concurrency is not complete, the County development services director shall notify the applicant of its deficiencies in writing within 20 business days of its receipt. At the time that the application for school concurrency is determined to be complete, the County development services director shall send it to the school district for review.

4. **Appeals.** Appeal may be taken from the final decision of the County development services director regarding the applicability of this division to a particular application. Appeals must be filed within 30 business days of the decision, as further described herein.
5. **Finding of available school capacity.** The County shall not approve a residential development until the school district issues a finding of available school capacity. If a finding of available school capacity is based on proportionate share mitigation, the County shall not give final approval of the proposed development until the execution of a proportionate share mitigation agreement by the applicant and the school district, pursuant to this division. No provision of the proportionate share mitigation agreement shall limit the authority of the County to deny any development permit or its functional equivalent. Upon approval of the proposed development, the County shall execute the proportionate share mitigation agreement.
6. **Duration and effect of an allocation of school concurrency.**
 - a. An allocation of school concurrency shall remain valid and shall apply to any certificate of occupancy or building permit requested for as long as the approval of the proposed development remains effective.
 - b. An allocation of school concurrency shall not affect the need for the applicant to meet all other requirements set forth in the land development and subdivision regulations or any other lawfully adopted ordinance or law of the County.
7. **Finding of no available school capacity; proportionate share mitigation agreements.**
 - a. Upon receiving from the school district of a finding of no available school capacity, the County development services director must notify the applicant in writing within ten business days of the denial. The notice must state the reasons for the denial and any actions that the applicant may take voluntarily to receive a finding of available school capacity.
 - b. Upon a finding of no available school capacity, an applicant may:
 - (1) Submit a proposed development for a reduced amount of development for which available school capacity exists;
 - (2) Submit an amended proposed development that includes the following:
 - (a) A proposed phasing schedule setting forth the amount, location, and timing of development associated with each proposed phase;

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- (b) A showing that available school capacity will exist for each phase of development;
- (c) Other additional information or materials identified by the school district as necessary to ensure school concurrency;
- (d) Proffer an executed proportionate share mitigation agreement, pursuant to this division, which shall fully mitigate the impact of the proposed development on school facilities; or
- (e) Wait until school capacity may exist for the proposed development pursuant to the school district five-year district facilities work program.

(Ord. No. 08-09-54, § 3)

Section 12.13.153. Level of service.

The LOS applied to a CSA shall be as adopted in the Highlands County Interlocal Agreement for Coordinated Planning and School Concurrency and the Public School Facilities Element of the Highlands County Comprehensive Plan for each level or type of school facility.

(Ord. No. 08-09-54, § 3)

Section 12.13.154. Proportionate share mitigation agreements.

- A. **Applicability.** The provisions of this section shall apply to an applicant that either has received a finding of no available school capacity or wishes to proffer proportionate share mitigation.
- B. **Generally.** If it is determined necessary or desirable, the school district and the County may convene a meeting with the applicant, or each other if desired, to discuss the specific details of the proportionate share mitigation agreement. A 90-day negotiation period shall be applicable for such purposes. The proportionate share mitigation agreement shall provide mitigation that is at least proportionate to the demand for school facilities to be created by the additional or new residential units in the proposed development, and for which there is no available school capacity. Mitigation may not be provided unless it is first accepted by the school district. Any mitigation that is provided for in a proportionate share mitigation agreement must satisfy the demand created by the additional or new residential units, and shall be directed by the school district toward a planned school facility as identified in the school district five-year district facilities work program. The proportionate share mitigation agreement must be signed by the applicant and the school district before a finding of available school capacity can be issued. The County shall execute the proportionate share mitigation agreement following approval of the proposed development. No provision of the proportionate share mitigation agreement shall limit the authority of the County to deny any development permit or its functional equivalent.
- C. **Options for proportionate share mitigation.** If the applicant chooses to enter into a proportionate share mitigation agreement, the applicant shall consult with the County and the school district on the options available for mitigating the CSA affected by the proposed development. The applicant shall provide one or more of the proportionate share mitigation options. The agreed upon mitigation shall be

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described in an exhibit to the proportionate share mitigation agreement. The following options or a combination thereof may be utilized to satisfy such mitigation requirements:

1. Payment of calculated proportionate share mitigation fees in accordance with subsection F. of this section;
2. Contribution of land;
3. Mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits;
4. Donation of buildings for use as a primary or alternative learning facility;
5. Renovation of existing buildings for use as learning facilities;
6. Construction of permanent student stations or core capacity; or
7. Construction of a school in advance of the time set forth in the school district five-year district facilities work program.

D. **Proportionate share mitigation requirements.** Proposed mitigation shall be directed toward a permanent capacity improvement identified in the school district five-year district facilities work program. Consideration may be given by the school board to place an additional improvement required for mitigation in the school district five-year district facilities work program. The proposed mitigation must satisfy the demand created by the proposed development consistent with the adopted LOS standards or identified as an amendment to the adopted school district five-year district facilities work program. Portable classrooms will not be accepted as mitigation.

E. **Use of capacity of contiguous concurrency service areas.** Mitigation shall not be required when the adopted LOS cannot be met in a particular CSA, if the school district determines that the needed capacity for the development is available in one or more contiguous CSA(s) and the impacts of the development on school capacity can be shifted to that CSA.

F. **Determination of amount of proportionate share mitigation required.** The amount of proportionate share mitigation required from an applicant shall be calculated by applying the adopted student generation rate multiplier to the estimated cost per student station for each school type (elementary, middle and high) for which there is not sufficient school capacity. The full cost of proportionate share mitigation shall be required from the proposed development. The minimum proportionate share mitigation obligation for a proposed development shall be determined by the following formulas:

Formula for number of student stations to be mitigated

Number of new student stations required for mitigation (by school type) = available school capacity for the proposed development - [number of dwelling units generated by the proposed development (by housing type) × student generation multiplier (by housing type and school type)]

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Formula for cost of mitigation

Cost of proportionate share mitigation = number of new student stations required for mitigation (by school type) × estimated cost per student station (by school type).

- G. **Cross jurisdictional impact.** If the approval of additional or new residential dwelling units would result in a failure of school concurrency within a school district in an adjacent County and the applicant seeks to enter into a proportionate share mitigation agreement, the formulas set forth in this section shall be used to determine the applicant's minimum proportionate share mitigation obligation. Any proportionate share mitigation provided by the applicant shall be directed to the school district in the adjacent County that experiences the failure of school concurrency.
- H. **Impact fee credit.** A developer shall receive credit for school impact fees to be paid to the County for land, buildings, permanent student stations or core capacity donated and buildings renovated pursuant to this division, and accepted by the school district based upon amounts agreed upon by the applicant, the school district, and the County in proportion to the total amount due for the development's public school facilities impact. If the total impact for public schools is prepaid through the developer's proportionate share mitigation, no impact fees for public schools shall be due for residential dwelling units constructed within the approved development.

(Ord. No. 08-09-54, § 3)

Section 12.13.155. School district five-year district facilities work program and the capital improvements element.

- A. **School district five-year district facilities work program.** Pursuant to the Highlands County Interlocal Agreement for Coordinated Planning and School Concurrency, the County will review, comment, and participate in the development of the school district five-year district facilities work program and will provide input with respect to the consistency of the school district five-year district facilities work program with the County comprehensive plan.
- B. **Capital improvements element.** The capital improvements element of the County comprehensive plan shall be amended each year by December 1 to reflect the most recent update to the school district five-year district facilities work program. Adoption shall be by reference to the specific date of approval by the school district of the updated school district five-year district facilities work program.

(Ord. No. 08-09-54, § 3)

Section 12.13.156. Appeals.

An applicant may appeal any final decision by the County development services director, made pursuant to the terms of this division, to the board. Appeals must be filed with the County administrator within 30 business days of the determination or decision being appealed. Appeals shall be heard by the board at an evidentiary hearing at which the reasons for the decision and the evidence relied upon shall be presented. The applicant also shall have the opportunity to present the reason for appeal and evidence in support of the appeal. The board may:

1. Affirm the decision of the County development services director;

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2. Remand the matter to the County development services director for further proceedings; or
3. Reverse the decision of the County development services director.

Decisions of the board may be challenged in a court of competent jurisdiction in accordance with applicable law.

(Ord. No. 08-09-54, § 3)

DIVISION 2.

VESTING

Section 12.13.200. Purpose and intent.

Certain land development rights of property owners may be vested with respect to the Highlands County Comprehensive Plan, land development regulations, and requirements for the determination of capacity of public facilities and availability of public facilities ("concurrency"). It is the intent of the BCC that these regulations be implemented and applied with sensitivity for private property rights and not be unduly restrictive. It is the intent of the BCC that nothing in these regulations be applied or construed in a manner that abrogates the vested rights of a property owner under F.S. § 163.3167(8), or the common law of the United States or the State of Florida, or constitutes a taking of property in violation of the Constitutions or laws of the State of Florida or the United States of America. The purpose of this section is to provide standards, limitations, and procedures for the determination of vested rights. Any person claiming vested rights to develop property shall make application for a determination of vested rights pursuant to this section. A determination of vested rights made pursuant to this section may be relied upon according to its terms by the property owner and his successors. Judicial relief will not be available unless administrative remedies set forth in this section are exhausted, including the appeal of a vested rights determination to a hearing officer as provided in this section.

(Ord. No. 05-06-30, § 82)

Section 12.13.201. Reserved.

Section 12.13.202. Standards for determination of vested rights.

An application for a determination of vested rights shall be approved if an applicant has demonstrated rights that are vested under the standards of this section. The burden shall be, at all times, on the applicant to establish entitlement to the vested rights claimed. The vested rights determination shall allow completion of the development determined to be vested up to and through issuance of appropriate certificates of occupancy, subject to the limitations set forth in this division and subject to compliance with such laws and regulations against which the development is not vested.

- A. **Certain projects vested (F.S. Ch. 380):** Developments of regional impact which are authorized under F.S. Ch. 380.06, pursuant to a valid, unexpired binding letter of vested rights issued by the state land planning agency, including approved modifications to such binding letter of vested rights (the "binding letter"), are vested, as set forth in the binding letter, from the Highlands County Comprehensive Plan, from the land development regulations adopted to implement the plan, and from concurrency. Such vesting shall continue until development approved in the binding letter is complete or until the expiration or invalidation of the binding letter, whichever occurs first. A proposed change to a development vested hereunder shall be reviewed pursuant to the substantial deviation or change criteria provided for in F.S. Ch. 380.06. Any substantial deviation after January 25, 1991, shall cause those development rights that are the subject of such deviation to become subject to the plan, the land development regulations adopted to implement the plan, and concurrency. The request for a determination of vested rights shall consist of the binding letter, along with the master plan of development or similar document previously approved by the BCC. Such document shall be provided to the planning department for verification of authenticity. The planning department may require additional documents or materials necessary for the County to determine the extent of development vested and to

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estimate the capital improvements required by the development. Submission of the binding letter along with the appropriate master plan or similar document and any additional materials required by the planning department shall entitle the development to a determination of vested rights. DRI scale developments which are vested under F.S. § 380.06 and for which a binding letter has not been issued shall qualify for a determination of vested rights upon receipt by the planning department of substantial competent evidence that, prior to July 1, 1973, the County issued a building permit or other authorization to commence development and that in reliance on such permit or other authorization that there has been a change of position as required under the provisions of F.S. § 380.06(20), and such vesting shall continue until such development is complete or until the state land planning agency determines that such development is not entitled to be vested under F.S. § 380.06, whichever occurs first.

- B. **Certain development orders vested.** A development that has been issued a local development order and has commenced and is continuing in good faith is vested, to the extent of the development permitted by such local development order from the Highlands County Comprehensive Plan, from the land development regulations adopted to implement the plan, and from concurrency as provided in this section. Possession of a valid, unexpired local developmental order shall vest the development approved under such permit for the purposes of the plan if issued prior to January 25, 1991; if issued prior to the effective date thereof, for purposes of the land development regulations adopted to implement the plan and concurrency; and, if issued prior to the effective date of any plan amendments adopted pursuant to the settlement agreement, for purposes of such amendments. Verification of such approvals or permits shall be made by the director, or designee, of the County department that issued the approval or permit, and his statement of verification shall be submitted to the planning department.
- C. **Common law vesting.** Consistent with the common law of the United States and the State of Florida, a property owner may also establish vested rights by proving that he has reasonably relied in good faith upon some act or omission of the County, and has made such a substantial change in position or has incurred such extensive obligations and expenses, that it would be highly inequitable or unjust to destroy the rights he has acquired. In making this determination, Highlands County may consider a number of factors, including but not limited to whether construction or other development activity has commenced and is continuing in good faith and whether the expense or obligation incurred cannot be substantially utilized for a development permitted by Highlands County's Comprehensive plan and Land Development Regulations.
- D. **Certain lots-of-record vested.** Construction or reconstruction of single-family residential units and related structures upon legal lots-of-record existing prior to the adoption of the Highlands County Comprehensive plan are vested against the use, density, or intensity provisions of the Highlands County Comprehensive Plan when necessary to provide the property owner a reasonable and economically viable use of the property. The determination of vested rights shall allow the issuance of development orders and permits for such construction and reconstruction.
- E. **Certain subdivisions vested.** The lands within the boundaries of recorded plats approved and recorded according to law on or before January 25, 1991, which had diverse patterns of ownership as of that date and had roads which had been accepted, as of that date, by the County or the State of Florida for maintenance or which are maintained by a special benefit district are vested against the use and density limitations which would otherwise exist due to those platted lands being located in areas which were

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designated for agricultural use on the future land use map adopted January 25, 1991. All other provisions of federal, state, and local laws, rules, and regulations as in effect from time to time shall govern the development of all lands within those platted subdivisions.

- F. **Certain existing uses of structures, existing uses of the land, or existing buildings vested.** Any property owner wishing to expand, rebuild, or change an existing use of structures, buildings, or land that, while inconsistent with the comprehensive plan future land use map complied with the zoning regulations when built or commenced and obtained all required building permits when developed, build, or established shall have the right to continue that use of the structure or use of the land until that use is discontinued and may be permitted to expand, rebuild, or change that use if such expansion, rebuilding, or change in use is allowed by the zoning district regulations currently in effect for the property. All other land development regulations, concurrency, and other County ordinances then in effect shall govern the permitting of the expansion, rebuilding, or change in use.

(Ord. No. 05-06-30, § 82)

Section 12.13.203. Limitations on determination of vested rights.

- A. A determination of vested rights will not relieve a property owner from the application of any future County impact fee ordinance.
- B. Except as otherwise expressly provided herein vesting determinations shall be limited to use, density, and intensity.
- C. Except as provided in this division, upon the expiration of five years after the issuance of a determination of vested rights, the issuance of development permits for the property subject to the determination of vested rights shall be subject to the requirements for concurrency. Notwithstanding the foregoing, the five-year period may be extended upon a finding by the development services director or the hearing officer, on appeal, that such extension is reasonable and necessary in light of the development approved. Commencing with the expiration of two years after the issuance of a determination of vested rights, pursuant to this division, an annual report shall be submitted to the planning department by the developer or owner of the subject property. Annual reports shall be submitted on forms provided by the planning department and shall be due on each annual recurrence of the issuance date. The annual report shall contain information and documents establishing that development has commenced and is continuing in good faith. Failure to commence and continue in good faith shall cause the development to become subject to concurrency. Failure to file an annual report, when due, may cause the development to become subject to concurrency. Requests for extensions shall be submitted to the planning department not less than 30 days prior to the due date for the annual report.
- D. Except as provided in this division, all development subject to a determination of vested rights must be consistent with the terms of the development approval(s) upon which the determination of vested rights was based. Any substantial deviation from a prior approval, except a deviation required by governmental action, shall cause the development involved to be subject to the policies and implementing decisions and regulations set forth in the Highlands County Comprehensive Plan, including concurrency. It is understood, however, that non-site planned approvals may allow for some flexibility in development scenarios. The development services director shall determine whether a proposed change is a substantial deviation in light of the following criteria:

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1. Any change in use or intensity of use that would increase the development's impacts on those public facilities subject to concurrency by more than five percent.
2. Any change in access to the project that would increase the development's transportation impacts by more than five percent on any road subject to concurrency unless the access change would result in an overall improvement to the transportation network.

Except for changes that meet the criteria of this subsection, proposed changes shall not cause the development allowed under the determination of vested rights to become subject to concurrency, but, to the extent feasible, shall cause such development to become subject to the land development regulations adopted to implement the plan. The property owner may appeal a substantial deviation determination to the BOA within ten days of such determination.

- E. Notwithstanding anything in this section to the contrary, a vested rights determination may be revoked upon a showing by the County of a peril to public health, safety or general welfare of the residents of Highlands County unknown at the time of approval.

(Ord. No. 05-06-30, § 82)

Section 12.13.204. Properties presumed vested.

The County shall maintain a list of those projects presumed vested. However, at any time the determination of vested status may be amended by substantial competent evidence as per the requirements of these regulations.

(Ord. No. 05-06-30, § 82)

Section 12.13.205. Procedure for determining vested rights.

The following rules shall govern the application for a determination of vested rights.

- A. Applications for determination of vested rights shall be submitted to the Highlands County Planning Department (the "planning department").
- B. An application for a determination of vested rights relating to the use of property shall be filed within two years from the conclusion of the consistency rezoning public hearings for the subject property. Except as provided in subsection C. and D. of this section, failure to file an application within the required period will constitute an abandonment of any claim to vested rights.
- C. If a property owner is absent from the State of Florida during the entire filing period and does not have an agent present in the State of Florida during such period, such property owner may, with documentation sufficient to indicate a probable lack of notice, be granted leave by the planning department to file an application within one year after the individual's return to the State of Florida.
- D. Notwithstanding the provisions of this section, the BCC may, in extraordinary circumstances, allow a property owner to submit an application after the one year deadline where such extension is necessary to avoid undue hardship to the property owner.

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- E. An application for determination of vested rights may be submitted only by a property owner who:
1. As to vesting for the comprehensive plan, owned the property proposed for development on January 25, 1991, the effective date of the Highlands County Comprehensive Plan; or,
 2. As to vesting for concurrency and the land development regulations adopted to implement the plan, owned the property on the date of adoption of the regulation against which the applicant seeks to be vested; or,
 3. As to vesting for any comprehensive plan amendments adopted to implement the provisions of the settlement agreement between Highlands County and D.C.A. approved by the BCC, owned the property prior to the effective dates of such amendments; or,
 4. Entered into a contract or option to purchase the property on or before such date; or,
 5. Presents facts such that it would be inequitable, unjust or fundamentally unfair to deny an application for vested rights where the applicant acquired ownership after such date.

(Ord. No. 05-06-30, § 82)

Section 12.13.206. Application procedure.

An application for a determination of vested rights shall be submitted to the development services director on a form prepared by the development services department. An application fee in an amount determined by the BCC, from time to time, shall accompany and be part of the application. The application shall include the following information and documents and shall be made on the form attached hereto in the planning department.

- A. Name, address and telephone number of the owner or his authorized agent;
- B. Street address, STRAP number, legal description and acreage of the property; and,
- A. All factual information and documents reasonably available to the owner and applicant to prove the existence of vested rights according to the standards stated in this section.

(Ord. No. 05-06-30, § 82)

Section 12.13.207. Determination of completeness.

After receipt of an application for a determination of vested rights, the development services director shall, within ten working days, determine whether the application, as submitted, is complete.

- A. **If incomplete:** If all items required are not included, the application shall be deemed incomplete and the applicant notified in writing, requesting the additional information or documents. The applicant shall have 30 calendar days to supply the missing information or documents, after which time, if not received, the development services director shall disapprove the application and so notify the applicant. The applicant must then resubmit his application as if it were a completely new submission. Credit will be given for any application fee or review fee submitted with the first application toward applicable fees for

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any subsequent application for the same project submitted within 12 months from the date the applicant was notified that his application had been deemed incomplete.

- B. **If complete:** If all items required are included and the application otherwise conforms with the submission requirements of these regulations, the application shall be deemed complete, and the applicant notified, in writing, that application will be processed approved, approved with conditions or disapproved within 20 working days.

(Ord. No. 05-06-30, § 82)

Section 12.13.208. Determination of vested rights.

After receipt of a complete application for a determination of vested rights, the development services director shall review and evaluate the application pursuant to the criteria in this division and shall prepare a written report of its determination specifying whether the application request be granted, granted with conditions, or denied. If granted or granted with conditions, the report shall specify the rights determined to be vested and where applicable, conditions that may be applied. In the event that the vesting request is denied, the vesting determination shall specify the reasons for denial. The development services director shall send the vesting determination to the applicant by certified mail to the mailing address given on the application.

(Ord. No. 05-06-30, § 82)

Section 12.13.209. Appeal procedure.

- A. **Notice of appeal.** A property owner desiring to appeal the development services director's determination of vested rights shall file a verified notice of appeal, within 30 days after the date of mailing of the vesting determination, on a form established for such purpose by the planning department, by certified mail or personal delivery to the planning department. The notice of appeal submitted by the property owner shall contain:

1. The name and address of the appellant or the appellants, and an explanation of how his or her substantial interests will be affected by the determination.
2. The legal description of the property.
3. A statement of all disputed issues of material fact. If there are none, the notice of appeal must so indicate.
4. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the appellant to relief.
5. A demand for relief to which the appellant deems himself entitled.
6. Any other information which the appellant contends is material.

- B. **Other requirements.** The appellant shall submit with the notice of appeal all relevant documents in his custody or control pertaining to the appeal.

1. With the notice of appeal, the appellant shall pay all applicable fees.

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2. The fees and costs of the hearing officer conducting the hearing shall be paid equally by the County and the appellant. With the filing of the notice of appeal, the appellant shall pay to the County a deposit in an amount established from time to time by the BCC to defray the appellant's share of the hearing officer fees and costs. After the appellant's share of the hearing officer fees and costs is finally determined, any deposits in excess of appellant's expenses shall be refunded to appellant, and appellant shall pay to the County any amount by which the share of such fees and costs exceeds the deposit.

C. **Hearing procedure.**

1. The hearing officer shall set a date, after consulting with the applicant, the board attorney, and the development services director not later than 45 days after filing of the notice of appeal.
2. Procedures for the hearing and matters relating thereto shall be governed by this Code.
3. The hearing officer shall render a decision on the appeal within 30 calendar days after the hearing.
4. The decision shall be in writing, shall contain findings of fact and conclusions of law, and shall refer specifically to the property or portion of property to which it applies. The decisions may contain reasonable conditions necessary to effect the purposes and requirements of this section. The decision shall state that it is subject to expiration in accordance with this Code.
5. The decision shall be filed with the planning department and a copy shall be provided to the appellant and the board attorney. The decision of the hearing officer shall be considered final for purposes of judicial appeal.

- D. **Appeal from decision of hearing officer.** An aggrieved party may appeal a final order of the hearing officer to the Circuit Court in Highlands County, Florida, within 30 days after the filing of such decision in the planning department, but not thereafter. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate procedure.

(Ord. No. 05-06-30, § 82)

DIVISION 3.

TRANSFER OF DEVELOPMENT RIGHTS

Section 12.13.300. Purpose and intent.

The purpose of this division is to provide for the protection of environmentally sensitive lands and to promote orderly growth in Highlands County by allowing development rights to be severed from sending lands and transferred to sites where additional development can be accommodated. The transfer of development rights program is designed to redistribute population densities, or development potential, to encourage the most efficient use of services and facilities. Further, it is the purpose and intent of this division to provide an alternative to the development of sending lands by establishing a mechanism to seek economic relief from the limitation of development imposed on these lands. Transfer of development rights can mitigate inequities in the valuation of land by providing a means of compensating landowners whose property is restricted, by permitting the sale of development rights, and making landowners in more intensively developed areas pay for the right to develop up to maximum density, by purchasing development rights.

(Ord. No. 05-06-30, § 82)

Section 12.13.301. Applicability.

Development rights may be transferred from sending areas pursuant to the procedures contained in this division, to property in incorporated Highlands County which meets the qualifications to receive such density.

(Ord. No. 05-06-30, § 82)

Section 12.13.302. TDR program in general.

The transfer of development rights (TDR) program allows a property owner to exceed his starting density by purchasing development rights from the property owner with land in a designated sending area as to allow an increase up to the maximum density of the receiving site. In order to increase density, the site must meet the requirements to become a designated receiving area and follow the procedures as described in this division. When development rights are transferred from the sending area to the receiving area, a TDR easement over the sending area shall be simultaneously recorded in the public records of Highlands County, restricting future development potential.

(Ord. No. 05-06-30, § 82)

Section 12.13.303. Administration.

- A. **General.** Except as otherwise specified, the transfer of development rights program shall be administered by the development service director, who may designate responsibilities regarding the program to one or more members of the planning department staff.
- B. **Responsibilities.** The development services director, or designee, shall be responsible for:
 - 1. Establishing, administering and promoting the County's transfer of development rights program.
 - 2. Administering the transfer of development rights bank established by the Highlands County BCC.

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3. Ensuring the orderly and expeditious processing of transfer of development rights applications under this division.
4. Ensuring the contract for sale and purchase of development rights is executed and all deeds and easements are recorded in the public records of Highlands County.
5. Ensuring that the property appraisers office is notified of all transfers of development rights.
6. Ensuring that the future land use map, if applicable, is amended by a staff initiated land use map amendment to reflect an appropriate future land use designation for the sending area.

(Ord. No. 05-06-30, § 82)

Section 12.13.304. Sending area.

- A. **General.** Sending areas represent in part those areas of the County that are designated by the BCC to warrant protection. The owner of property in a designated sending area may transfer the development rights to a parcel of land in a designated receiving area, subject to the provisions of this division.
- B. **Eligible sending area shall include:**
 1. **Lands designated as wetlands,** Cut throat grass seeps or xeric uplands on the future land use conservation overlay map, or which may be designated as residential, on the comprehensive plan land use map and the zoning atlas.
 2. **Other sites determined by the BCC to be worthy of protection.** At such a time that the BCC determines that a parcel of land is environmentally sensitive or preservation of the site is in the public interest, the parcel is eligible to become a designated sending area. The site shall be designated by resolution of the BCC.
 3. **Lands designated as agriculture** on the comprehensive plan land use map and AU on the zoning atlas.
- C. **Transfer rate.** The owner of land which is designated as a sending area may elect to transfer development rights as provided in this division. Residential development rights may be transferred from property designated agriculture, at the rate of one dwelling per five acres for agriculture. The minimum land area eligible for the transfer of development rights shall be ten acres for agricultural lands, and at the density and intensity allowed by the comprehensive plan and the zoning ordinance for non-agricultural lands. All properties must be legal lots of record.
- D. **Transfer limitations.** If the owner of land in a sending area only transfers a portion of the development rights available for the property, the County, upon recommendation from the development services director reserves the right to determine which portion of the land is subject to the conservation easement. The purpose is to preserve the highest quality environmentally sensitive land, link high quality sites when possible, and allow compatible development to occur on the remainder of the site.

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- E. **Computation of the development rights.** The number of development rights assigned to a sending area parcel of land shall be determined by the development services director as calculated below:
1. All development rights shall be in whole numbers, no fractions shall be permitted. Any fractional residential unit that may occur during calculations shall be converted upward, if one-half or more of a whole unit, or downward, if less than one-half of a whole unit, to the nearest whole unit.
 2. The amount of development rights assigned to a sending area parcel shall be reduced by one dwelling unit for every conforming residential structure situated on the property at the time of approval.
- F. **Restriction on future use.** Upon closing of the contract for sale and purchase, an appropriate deed shall be recorded in the public records of Highlands County for the sending parcel. In addition, the residential development of the subject property shall be considered severed. Conservation or agriculture easements shall satisfy all requirements of F.S. § 704.06.
- G. **Existing uses.** Residential dwelling units which existed prior to making application to transfer development rights shall be permitted to remain as legal conforming uses. All other uses shall be considered non-conforming.
- H. **Remaining land area.** If all of the development rights assigned to a sending area are not transferred off the site, the remaining development rights, if proposed for development, shall be developed in a manner consistent with its comprehensive plan designation and compatible with the surrounding area.

(Ord. No. 05-06-30, § 82)

Section 12.13.305. Receiving areas.

Development rights shall only be transferred to those parcels which meet the qualifications for designation as receiving areas.

- A. **Eligible receiving areas.** In order to qualify as a receiving area for an increase in density above the starting densities allowed by the comprehensive plan a parcel must:
1. Be located within any of the residential urban land use designation mapped by the comprehensive plan and on the zoning atlas.
 2. Be compatible with surrounding land uses.
 3. Meet all concurrency requirements.
- B. **Residential density bonus.** Approved flexible unit development receiving areas may receive a density up to the maximum density allowed by the future land use designation. Residential development at a density greater than nine dwelling units per acre shall be for low/very low income housing as defined by the comprehensive plan.

(Ord. No. 05-06-30, § 82)

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Section 12.13.306. Transfer of development rights: sending area procedure.

- A. **Sending parcel application.** The property owner of environmentally sensitive lands must make application for an administrative determination in order to be formally designated as a sending area. The purpose of this administrative determination is to ascertain the exact number of development rights the property owner is entitled. The application shall include, at a minimum:
1. Proof of ownership;
 2. A legal description of the property;
 3. Contract or option for the purchase and sale of development rights.
- B. **Review process.**
1. Within 15 working days from receipt of the application, the planning department shall complete a site check to ensure that the site has not been altered. Within five working days from completion of the site check, the planning staff shall complete a written recommendation to the development services director regarding the site.
 2. Within five working days from receiving the staff recommendation, the development services director shall complete the review of the application.
- C. **Written determination.** The property owner shall receive a written determination indicating how many development rights can be sold. The number of development rights for the site shall be documented and be kept on file at the planning department. The written document shall be valid for a period of 12 months.
- D. **Transfer of development rights (TDR) easement.** Simultaneous with closing on the contract for purchase and sale of development rights, the owner of land in the sending area shall execute an easement, in a form acceptable to the BCC. The easement shall restrict future use of the land, shall satisfy all requirements of F.S. § 407.06, shall be recorded in the public records of Highlands County, and shall run with the land and be binding with all current and subsequent owners of the servient estate in perpetuity.
- E. **Re-submittal for application.** The owner of a sending parcel may re-apply until all development rights have been severed from the property.
- F. **Development right certificates.** A Highlands County Development Rights Certificate is a legal document which permits a property owner to retain and sell development rights after donating environmentally sensitive lands (sending areas) to the County. These lands shall be managed by the County or its designee. In such cases, TDRs shall be treated in a manner similar to retention of mineral rights and shall be recognized upon recording of a deed transferring ownership from the property owner to the County.

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1. **Eligibility.** Development rights certificates shall only be issued to property owners with land in sending areas that donate the environmentally sensitive land to the County. The development rights certificate shall require that restrictions be placed on the sending area prior to the sale of those development rights. A minimum donation of ten acres is required.
2. **Issuance of the certificate.** Upon completion of the application process, and recordation of the deed transferring ownership of the property to Highlands County, the property owner shall be issued a development rights certificate. The certificate shall indicate the exact number of development rights which can be sold, transferred, or traded, by the holder of such certificate. The certificate shall remain in effect until used in a designated receiving area in accordance with provisions of this division.

- G. **Limitation.** The amount of development rights assigned to a sending area parcel, or indicated on a certificate, shall be reduced by one for every conforming residential structure situated on the property at the time of application.

(Ord. No. 05-06-30, § 82)

Section 12.13.307. Transfer of development rights: receiving area procedure.

- A. **General.** Transfer of development rights is considered a special density program and receiving areas shall be approved concurrent with issuance of a development order. The following procedures shall be followed in order to become a receiving area in Highlands County.
- B. **Pre-application conference.** Prior to submittal of an application requesting to be a receiving area, the applicant is encouraged to attend a pre-application conference with the planning staff, to review the proposed development, and the requirements and procedures of the transfer of development rights program.
1. **Submission of application.** An applicant for receiving area status must submit all necessary information and material, including a contract (or option) for sale and purchase of development rights, as required by the transfer of development rights program.
 2. **Determination of sufficiency.** The development services director shall determine the sufficiency of an application for transfer of development rights within five working days from the receipt of the application.
 - a. **If it is determined that the application is not sufficient,** written notice shall be mailed to the applicant specifying the deficiencies within ten working days of the determination. The development services director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within 20 working days, the application shall be considered withdrawn.
 - b. **If the application is determined sufficient,** the development services director will proceed to review the application pursuant to the procedures and standards of this division.

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3. **Review and decision of the development services director.** Within 15 working days after the development services director determines the application is sufficient, the application shall be reviewed to determine if the applicant has complied with the preliminary requirements for a receiving area. A letter of agreement or development agreement incorporating the items of the letter must accompany the adequate facilities component of the application prior to issuance of a concurrency reservation or conditional concurrency. Reservations shall be based on the total density of the development including the density to be granted pursuant to the transfer of development rights program.
4. **Standards.** All applications for the transfer of development rights receiving area program shall comply with these standards:
 - a. The proposed development and request to be designated a receiving area for a density increase shall be compatible with surrounding land uses and consistent with the comprehensive plan.
 - b. The requested density increase shall not exceed the maximum density permitted by the future land use designation.
5. **Issuance of a preliminary report.** A preliminary report prepared by the development services director shall be issued within seven working days of action or inaction. The report shall identify all conditions that must be fulfilled by the developer in order for the property to be designated a receiving area, and receive the requested or recommended increase in density. (Ord. No. 05-06-30, § 82)

Section 12.13.308. Development review procedures for the transfer of development rights receiving area applicants.

Upon the issuance of the preliminary report approving the request, the property owner shall proceed through the development approval process.

- A. **Review and recommendation of development services director.** The development services director shall review the application, preliminary report, letter of agreement or development agreement and recommend approval, approval with conditions, or denial of the application based on the standards in this division, for all developments with density transfers. Transfers of 20 units or less shall be established through administrative approval by the development services director. All density transfers of more than 20 units must have final approval of the BCC.
- B. **Review and recommendation of the P&Z.** Within 20 working days of the recommendation of the development services director, the P&Z shall consider the application, the preliminary report, the development services director's recommendation, the relevant support materials, and public testimony given at a hearing. After the close of the public hearing, the P&Z shall recommend to the BCC approval, approval with conditions, or denial of the application and the proposed increase in density.
- C. **BCC findings.** In addition to finding that the standards to qualify as a receiving area and be eligible for an increase in density have been satisfied, by the BCC shall require that:

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1. The transfer of development rights is by deed, and the deed shall be recorded with the County in the same manner as a deed for real property before final site plan approval.
 2. The transfer is to eligible parcels of land which meet all the requirements of these regulations within which the transferred densities have been included and amended.
 3. The proposed development meets all concurrency requirements at the level of impact calculated to include the density transfer.
 4. If the transfer is between two private parties, at the time the transfer is approved, the entire sending area from which transfers will occur shall be subject to a conservation, open space, or agriculture easement, recorded and identified on the zoning atlas. Pending recording of the TDR easement, no development approvals or development permits will be issued for the receiving area.
 5. The proposed development and density are compatible with the surrounding area and land use.
- D. **Conditions.** The development services director or the P&Z may recommend and the BCC may impose such conditions in approval of a transfer of development rights and designation of receiving area that are necessary to accomplish the purposes of the comprehensive plan and these regulations to prevent or minimize adverse effects upon the community.
- E. **Notification to property appraisers office.** Upon approval of the receiving area and recording of deeds of transfer and conservation easements the development services director shall notify, within five working days, the property appraiser's office in writing that property development rights have been transferred from the sending area to the receiving area in perpetuity and that:
1. The seller shall be entitled to reduction of taxes consistent with the development rights retained, if any, and the TDR easement placed on the property; and
 2. The development rights transferred shall run with the receiving parcel and the parcel shall be reassessed at the approved density. (Ord. No. 05-06-30, § 82)

Section 12.13.309. County initiated land use amendment.

Concluding the transfer of development rights and providing that all standards have been met and deeds of transfer and conservation easements recorded, the planning department shall initiate a County comprehensive Plan land use map amendment to accurately reflect the use of the sending area parcel as Conservation or indicate that a TDR easement exists. The receiving area shall be designated to reflect the approved density during the five-year revision to the comprehensive plan as required by Florida Statutes. (Ord. No. 05-06-30, § 82)

Section 12.13.310. Accounting for TDR density.

The development services director shall implement and maintain an "accounting" system for monitoring density transfers in the transfer of development rights program. (Ord. No. 05-06-30, § 82)

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DIVISION 4.

DEVELOPMENT AGREEMENTS

Section 12.13.400. Intent and relation to the Florida Local Government Development Agreement Act.

The provisions of the Florida Local Government Development Agreement Act provide authority for the BCC to enter into a development agreement with any person having a legal or equitable interest in real property located within the unincorporated area of Highlands County, Florida, and for such purpose, the legislative intent and provisions of the Florida Local Government Development Agreement Act, F.S. §§ 163.3220--163.3243 et seq., is hereby adopted and incorporated herein by reference.

(Ord. No. 05-06-30, § 82)

Section 12.13.401. Minimum content of a development agreement.

In addition to the requirements of F.S. §§ 163.3227 and for the purposes of a local development order, any development agreement approved by the BCC shall include, but not be limited to, the following information, maps, and other documentation that is necessary to make a completeness determination:

- A. A preliminary site plan which depicts all construction phases, whenever applicable;
- B. A map depicting the future land use of the property, as designated on the future land use map of the Highlands County Comprehensive Plan as amended from time to time;
- C. A map depicting the most current zoning district(s) established or anticipated to be established for the property, so long as such zoning district(s) is (are) consistent with the Highlands County Comprehensive Plan and conforms (conform) to the zoning ordinance and other applicable development regulations then in effect;
- D. In the same manner as F.S. § 163.3227(d) regarding public facilities, a description of private facilities, including on-site and off-site improvements necessary to complete the project;
- E. A description of the remedial measures to mitigate concurrency and environmental impacts that are attributable to the proposed project, whenever applicable; and,
- F. A listing of applicable state and federal permits that are issued or will need to be acquired in order to develop the project as it is proposed. (Ord. No. 05-06-30, § 82)

Section 12.13.402. Application procedures.

Development agreements shall be prepared in accordance with this section and submitted to the planning department. Development agreements shall contain such information as is required by the above and as is reasonably necessary to portray the project in its completed stage.

- A. When a proposed development agreement is determined to be complete and within 30 calendar days from this completeness determination date, the planning department shall schedule and notice a public hearing on the development agreement at the earliest possible regular meeting of the planning and

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zoning commission (hereafter called the "commission") and, thence, the following regular meeting of the BCC in accordance with this section.

- B. When a proposed development agreement is determined to be insufficient or incomplete, the planning department shall provide the applicant with a written statement of any additional information required to complete the development agreement.
- C. The BCC will establish and may amend by resolution a schedule of fees from time to time for the filing and processing of development agreements. (Ord. No. 05-06-30, § 82)

Section 12.13.403. Public hearings (cite F.S. §§ 163.3225).

Two noticed public hearings shall be conducted for a development agreement or its amendment. The first public hearing shall be held by the planning and zoning commission, which shall act as the local planning agency and which shall make a recommendation to the BCC for approval, approval with conditions or changes, or denial of the proposed development agreement. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The second public hearing shall be held by the BCC, which shall take formal action to approve, to approve with conditions or changes, or to deny the development agreement, incorporating the mandatory findings of this section with their action. Public hearing dates will coincide with the regularly scheduled meetings of the commission and the BCC. The date, time, and place of a subsequently continued public hearing shall be announced by the chairman before adjourning the public hearing. (Ord. No. 05-06-30, § 82)

Section 12.13.404. Mandatory findings (cite F.S. §§ 163.3227, 163.3231, and 163.3233).

Any action by the BCC to approve or to conditionally approve a development agreement shall incorporate the following findings of fact that, if constructed in accordance with this development agreement, the affected development or project:

- A. Complies with the Highlands County Comprehensive Plan and will be made to conform to the land development regulations of Highlands County for all subsequent local development orders;
- B. Satisfies the minimum requirements for concurrency clearance, as provided in these regulations;
- C. Satisfies the requirements for environmental clearance, as may be applicable and as provided in these regulations;
- D. Satisfies the requirements of F.S. §§ 163.3223, as may be applicable; and,
- E. Provides the terms and conditions which the BCC deems are necessary:
 - 1. To assure orderly physical and economic development;
 - 2. For the mitigation of impacts attributed to the project being approved; and,
 - 3. To maintain the health, safety, welfare, and values of the general public. (Ord. No. 05-06-30, § 82)

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Section 12.13.405. Recordation (cite F.S. § 163.3239).

Within 14 calendar days after the effective date of a development agreement, revocation, cancellation, modification, or extension, the development services director shall record the development agreement in the Public Records of Highlands County. The development services-director shall also submit a copy of the recorded development agreement to the Florida Department of Community Affairs within 14 calendar days after the agreement is recorded.

(Ord. No. 05-06-30, § 82)

Section 12.13.406. Amendment and cancellation (cite F.S. §§ 163.3237, 163.3229, and 163.3241).

A development agreement may be amended, revoked, canceled, modified, extended, or otherwise rescinded in whole or in part by mutual written agreement of the parties to the agreement or by their successors in interest.

- A. As a consequence of laws enacted after the execution of a development agreement, such agreement shall be amended or revoked as necessary to comply with those laws.
- B. In accordance with this section, the BCC may from time to time amend a development agreement in order to grant an extension of time for executing specific performance according to that agreement.

Amendments shall be governed by the same rules governing this section. Prior to amending a development agreement, the commission and the BCC shall hold a public hearing on the proposed amendment, in accordance with this section.

(Ord. No. 05-06-30, § 82)

Section 12.13.407. Effective date (cite F.S. §§ 163.3239 and 163.3229).

The effective date of a development agreement shall be 30 calendar days after the date of its receipt by the Florida Department of Community Affairs. Whenever applicable, no development agreement shall be effective until comprehensive plan amendments relating any and all phase of the development are found in compliance by the Florida Department of Community Affairs.

(Ord. No. 05-06-30, § 82)

Section 12.13.408. Compliance reviews (cite F.S. § 163.3235).

Unless otherwise specified in the development agreement, the planning Department shall conduct an annual review of every development subject to a development agreement, commencing 12 months after the effective date of the agreement. This review shall be called a compliance review.

- A. The planning department shall initiate the compliance review by giving written notice, by certified mail return receipt requested, to the principal contact person specified in the development agreement. Such notice shall include:
 - 1. The commencement date of the compliance review and the time period under review;

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2. The name, office mailing address, and phone number of the County staff person who will conduct the annual compliance review;
 3. A date by which the principal contact person should respond with written testimony, information, and documentation to demonstrate good faith compliance with the terms and provisions of the development agreement during the period under review;
 4. A brief description of the compliance review process and time-frame; and,
 5. As may be necessary for clarification purposes, a copy of the development agreement with a general description of those provisions or compliance issues under review and requiring a response.
- B. If the development services director finds that the affected development or project has complied in good faith with the development agreement during the period under review, the development or project shall be deemed in compliance with the development agreement for that time period and the compliance review shall be concluded with no further action being required.
- C. If the development services director concludes that there is a violation of or a failure to comply with terms, provisions, or conditions set forth in a development agreement, the development services director shall instruct the code enforcement officer to:
1. Prepare a notice of violation which cites the specific terms, provisions, or conditions of the development agreement concluded to be in violation or noncompliance; copies of this notice of violation shall be submitted to the BCC, the board attorney, and a copy shall be mailed by certified mail return receipt requested to the principal contact person identified in the development agreement; and,
 2. Schedule and notice for an abatement hearing pursuant to these land development regulations; and,
 3. At the election of the principal contact person, schedule a meeting between responsible agencies of County staff and the private parties of interest or their agents or assigns in order to consider remedial measures and corrective action to abate the cited violations of the development agreement and bring about compliance to same within a reasonable period of time. This meeting shall be conducted at a place specified by the development services director at least ten business days prior to the abatement hearing date. Any remedial measures or corrective actions resulting by mutual consent of the parties in negotiation shall be favorably recommended over to the abatement hearing, but shall not be presumed or deemed binding upon the development services director or the BCC in that hearing.

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- D. Upon conclusion of the abatement hearing, and upon consideration of the facts, recommendations, and testimony presented, the development services director or the BCC shall take either of the below actions:
1. A finding that the developer has demonstrated good faith compliance with the terms and conditions of the development agreement for the period under review. Such action shall conclude the annual compliance review, with no further action being required: or,
 2. A finding that, on the basis of substantial competent evidence, there has been a violation of or a failure to comply with the cited portions of the development agreement for the period under review, in which any of the following further actions may be taken separately or in combination:
 - a. To make an uncontested stipulated settlement providing that all or any combination of the remedial measures or corrective actions which were arrived at by mutual consent of the parties prior to the abatement hearing are sufficient and satisfactory for the continued execution of the development agreement;
 - b. To amend the development agreement in accordance with this section as a means to bring action for or to require specific performance, to the extent that such modifications shall be probationary over the next annual review time period and are deemed necessary to assure reliable performance on and a faithful execution of the development agreement;
 - c. To cause the revocation of the development agreement in accordance with this section, including all appertaining local development orders and permits;
 - d. To cause a reconsideration of the merits, of the approved development, in whole or in part, and to amend the local development orders and permits in accordance with these land development regulations;
 - e. To issue a stop work order until acceptable corrective actions are taken;
 - f. To invoke whatever monetary penalties or cost recoveries are allowed under the development agreement; and/or,
 - g. To take any other actions allowed by law.
- E. Should the development services director determine that the evidence for violation or noncompliance is of such magnitude, scope, or negligence so as to reliably constitute bad faith actions on the part of the developer within the context of the development agreement, or so as to pose a substantial or an immediate threat or hazard to the public health, safety, or welfare if allowed to continue, the development services director may immediately petition the BCC for an action to 1) table all applications for development approval then under consideration by the County and/or 2) issue a stop work order for construction activities to cease at the development site until such time as the abatement hearing prescribed by this section are concluded.

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- F. Notwithstanding the compliance review time frame, the code enforcement officer operating with and executing under the directive of the BCC, shall have authority to take the above actions at any time against a developer or a development project for which a development agreement is in effect.

(Ord. No. 05-06-30, § 82)

Section 12.13.409. Enforcement (cite F.S. § 163.3243).

For purposes of this section, enforcement, inspection, and review shall direct to the specific County authorities having jurisdiction or purview, as provided for hereinabove, including but not limited to the BCC, the board attorney, the development services director, the chief building official, the code enforcement officer, the County engineer, or other such persons so designated by the BCC.

- A. Any party, any aggrieved or adversely affected person as defined in F.S. §§ 163.3215(2) or the state land planning agency may file an injunctive relief in the circuit court where the local government is located to enforce the terms of a development agreement or to challenge compliance of the agreement with the provisions of F.S. §§ 163.3220--163.3243.

- B. Reserved.

(Ord. No. 05-06-30, § 82)

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ARTICLE 14.

PUBLIC FACILITY STANDARDS

DIVISION 1.

POTABLE WATER STANDARDS

Section 12.14.100. Manufactured home and seasonal park requirement.

Notwithstanding any other requirements, all manufactured home and seasonal parks shall provide and maintain a central public potable water system. This requirement may be met either by connection to an existing system or by providing an onsite system meeting the requirements of these regulations.

(Ord. No. 05-06-30, § 83)

Section 12.14.101. Mandatory connection to public water system.

All new development and redevelopment containing dwelling units, or lots smaller than one acre in size to provide central public potable water as follows:

- A. Redevelopment shall include, but not limited to, any application for a final development order to enlarge the existing project area or to increase the number of lots or dwelling units. Total project water storage capacity for redevelopment shall be based on both the existing and proposed water system demand.
 - 1. Developments of 50 or more dwelling units (regardless of parcel size) or 50 or more lots smaller than one acre in size shall be required to:
 - a. Connect to an existing system if it is within one-quarter mile of the project unless refused by the operator of the system;
 - b. Connect to an available system beyond the one-quarter mile limit; or
 - c. Construct or guarantee to construct an approved central public potable water system or sufficiently upgrade an existing system to serve the entire proposed project.
 - 2. Developments consisting of 50 through 149 dwelling units (regardless of parcel size) or 50 through 149 lots smaller than one acre in size shall be required to provide or guarantee to provide a central public potable water system designed to provide for future fire suppression requirements including hydrant connections.
 - 3. Developments with 150 or more dwelling units (regardless of parcel size) or 150 or more lots smaller than one acre in size shall be required to provide or guarantee to provide central public potable water system having fire suppression capability with hydrants as a part of the initial improvements for the entire proposed project.
- B. Developments of less than 50 dwelling units (regardless of parcel size) or less than 50 lots smaller than one acre in size shall not be required to meet these requirements of this section, but phased

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developments shall be required to comply with these requirements retroactively as the number of accumulative dwelling units/lots reaches thresholds described in this section (i.e. an initial 25 lots of a 50 lot subdivision shall be required to comply with A.1. and 2. of this section for all 50 lots when the additional 25 lots are developed). This requirement shall be vested in the land and not the developer.

- C. Incremental installation of the central public potable water and fire suppression system to accommodate phased development may be allowed upon approval by the BCC.
- D. Private drinking water systems shall be required to meet the level of service standards set forth in sections 12.14.103 and 12.14.104.
- E. Commercial uses, utilizing central public potable water, shall connect to an existing public water system if within one-quarter mile of an available system.

(Ord. No. 05-06-30, § 83)

Section 12.14.102. Public water system design and construction standards.

Design and construction standards for central public potable water systems including general requirements, technical specifications, and water distribution systems are found in the *Highlands County Technical Standards Manual*, current edition. Every application for a final development order which incorporates within the project, a central public potable water system, shall provide complete documentation to indicate compliance with such standards.

(Ord. No. 05-06-30, § 83)

Section 12.14.103. Residential design standards.

All new development or redevelopment shall meet or exceed the standards established herein unless lesser flows/capacities are demonstrated by the owner's engineer to be adequate to serve the project. Any reduced standards shall first be approved by the County engineer and fire marshal. The following minimum design standards are hereby established for residential water systems:

- A. **Seasonal park.** 75 gpcd.
- B. **Manufactured home park.** 100 gpcd.
- C. **Single-family or multi-family residential** 120 gpcd.

Section 12.14.104. Water storage capacity.

A. All new development and redevelopment shall provide a total project water storage capacity (in combination with standby pumping capacity) of at least 50 percent of the maximum daily water system demand. Minimum water pressure for fire-flows shall be 20 pounds per square inch residual, with minimum flow capacity as follows:

- 1. **Residential:** 500 gallons per minute
- 2. **Commercial:** 750 gallons per minute

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3. **Large commercial and industrial:** 1,000 gallons per minute

- B. All new development or redevelopment shall meet or exceed the standards established herein unless lesser flows/capacities are demonstrated by the owner's engineer to be adequate to serve the project. Any reduced standards shall first be approved by the County engineer and fire marshal.

(Ord. No. 05-06-30, § 83)

Section 12.14.105. Abandonment of wells.

Public potable water wells shall be abandoned in accordance with Chapter 17-532, F.A.C. The County will cooperate with the water management districts in identifying candidate wells for proper abandonment.

(Ord. No. 05-06-30, § 83)

Section 12.14.106. Applications for final development orders.

- A. Every application for a final development order which involves the construction of a new or the retrofit of an existing public water system, as defined by Chapter 62-550, F.A.C., shall be accompanied by proof of notification to the agencies listed in this section. Transmitted information to the various agencies shall include copies of the application for a final development order including all attachments. This proof of notification shall be in the form of copies of transmittal letters to the various agencies, and a signed and sealed certificate prepared by the project engineer noting the date that the copies were forwarded. Notification letters shall be dated a minimum of 30 calendar days prior to submission of the application for the final development order. The transmittal letter shown in the *Highlands County Technical Standards Manual*, current edition, official forms, which asks the agencies to respond directly to Highlands County, shall be used. Highlands County will not commence review of the application until this proof of notification is received. The agencies to be notified are as follows:

1. Florida Department of Environmental Protection (FDEP);
2. Florida Department of Health and Rehabilitative Services (HRS); and
3. South Florida or Southwest Florida Water Management District (SFWMD or SWFWMD).

- B. The County's final development order shall be conditioned upon the permit requirements expressed by any of these agencies which respond within 30 calendar days. Failure of an agency to respond in the allotted time will not prevent the County from issuing a final development order and any required permits in a timely manner, but neither does it relieve the applicant of his responsibility to obtain all appropriate state and federal permits.

(Ord. No. 05-06-30, § 83)

Section 12.14.107. Construction standards for deep wells.

All water wells extending deeper than the surficial aquifer shall be cased and continuously grouted from the surface to the confining layer of that aquifer. The construction, repair, and abandonment of water wells shall be in accordance with the rules of the Florida Department of Environmental Protection and either the South Florida Water Management District or the Southwest Florida Water Management District.

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Section 12.14.108. Potable water well installation.

All public potable water wells shall be installed by state certified well drillers. When a well is to be installed as part of a development, the name and certification number of the well driller shall be submitted to the County engineer along with the final site plan or improvement plan. A final development order shall not be issued without this information.

(Ord. No. 05-06-30, § 83)

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DIVISION 2.

SANITARY SEWER SYSTEMS

Section 12.14.200. Manufactured home and seasonal park requirement.

Notwithstanding any other requirements, all manufactured home and seasonal parks shall provide and maintain a central wastewater system. This requirement may be met either by connection to an existing system or by providing an onsite system meeting the requirements of these regulations.

(Ord. No. 05-06-30, § 83)

Section 12.14.201. Central wastewater system requirement.

When domestic sewage flows are expected to exceed 10,000 gallons per day per establishment (pursuant to Chapter 64 E-6, Florida Administrative Code) or, notwithstanding the property's zoning district, all new residential development proposing 50 or more dwelling units or lots, and approved for a net density of four or more dwelling units per acre shall be served by a central wastewater system, such as a regional wastewater treatment facility or an onsite wastewater treatment plant.

(Ord. No. 05-06-30, § 83)

Section 12.14.202. Connection to an interceptor sewer network.

All newly, constructed, private central sewage treatment systems shall be engineered for eventual integration into a publicly operated interceptor sewer network.

- A. All new establishments and residential subdivisions, that are subject to these requirements to be served by a central wastewater system, shall connect to and utilize such system whenever it is within one-quarter mile from the property line boundary, as measured and accessed via existing easements or rights-of-way.
- B. Whenever connection to a private or public central wastewater system is refused by an operator; is unavailable at the time of construction; or, whenever connection points to an interceptor are more than one-quarter mile from the property line boundary of the project, the County shall require connection to a central sewage treatment system at the time such connections become available. The BCC may approve an incremental or phased installation of a central wastewater system to accommodate the development.

(Ord. No. 05-06-30, § 83)

Section 12.14.203. System design and construction standards.

Design and construction standards including general requirements, technical specifications, and wastewater collection systems, wastewater pump stations, and sewer force mains and chambers are found in the *Highlands County Technical Standards Manual*, current edition.

(Ord. No. 05-06-30, § 83)

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Section 12.14.204. Level of service (LOS).

The following level of service design standards for collection and treatment of wastewater are hereby established:

- A. **Seasonal park.** 75 gpcd.
- B. **Manufactured home park.** 100 gpcd.
- C. **Single-family or multi-family residential.** 120 gpcd.
(Ord. No. 05-06-30, § 83)

Section 12.14.205. Methods of compliance.

An application for a final development order shall indicate that one of the requirements listed herein has been met.

- A. Capacity exists at an existing wastewater treatment facility, either private or public, to serve the project or the first phase of the project. Determination of the existence of capacity shall be based upon estimated demand of the proposed project, consideration of other approved but not built developments to be served, the actual capacity authorized by a FDEP operating permit, and the actual flow at the time of application.
- B. Capacity shall exist at the time of occupancy of each phase at an existing wastewater treatment facility concurrent with need, based upon capacity considering the valid operating permit and valid construction permit issued pursuant to F.S. § 403.087, and Section 62-4.070, F.A.C. Calculations shall consider projected flow requirements compared to actual flow, committed flow, and the permitted capacity of the wastewater treatment facility.
- C. No existing facility/capacity exists or is expected to exist to provide service to the proposed development, however, onsite wastewater treatment is proposed through either:
 - 1. A package treatment plant with sufficient capacity to meet the needs of the proposed development; or
 - 2. Individual septic tanks on lots meeting the minimum lot area standards of these regulations; a developer or owner of an individual lot shall be considered to have complied with the requirements of this division upon furnishing evidence from the Highlands County Director of Environmental Health that HRS will issue a septic tank permit for the individual lot or group of lots as development proceeds and building permits are requested.

(Ord. No. 05-06-30, § 83)

Section 12.14.206. Septic tank systems.

All septic tanks and drainfield systems shall be designed and constructed in conformance with Florida Administrative Code 64E-6, Standards for on-site sewage disposal systems. In addition, where unsuitable soils or seasonal flooding is encountered, any development proposal shall include minimum performance

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specifications for determining the size, design and location of drainfields. Placement of septic tanks and drainfields above seasonal high water; and setback restrictions from potable wells, natural water bodies, and protected environmental resources, shall be as mandated by these regulations, Section 64E-6, F.A.C., and other applicable sections of the Florida Administrative Code.

(Ord. No. 05-06-30, § 83)

Section 12.14.207. Failure to meet requirements.

If individual lots within a residential project cannot meet the requirements of section. 12.14.206 of this division, then no final development order shall be issued for such lots until provisions are made for these lots to connect to a private or public central wastewater system.

(Ord. No. 05-06-30, § 83)

Section 12.14.208. Mandatory connection to central wastewater.

Whenever connection to a private central wastewater system is unavailable at the time of construction, or whenever connection points to a public interceptor are more than one-quarter mile from the property line boundary of the project, the County shall require connection to a central sewage treatment system at the time such connections become available.

(Ord. No. 05-06-30, § 83)

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DIVISION 3.

UTILITY PERMITS

Section 12.14.300. Purpose and intent.

This division is established to regulate the location, manner, installation and adjustment of utility facilities along, across, under or on any right-of-way under the jurisdiction of Highlands County. The section also regulates the issuing of permits for such work which is in the interest of safety, protection, utilization, and future development of the County's roads and streets with due consideration given to public service afforded by adequate and economical utility installations as authorized under this section of these regulations and F.S. §§ 337.401--337.404. Adherence shall be required under the circumstances set forth in this division.

- A. **Utilities liaison.** Recognizing that all utility owners serving the public have a common obligation to provide their services in a cost effective manner, Highlands County will coordinate its advance planning of road projects with the affected utilities to facilitate the relocation of the utility in order to eliminate costly construction delays. As part of its project planning and development process the County will consider the cost of utility work necessary for the proposed project. The County will keep utility agencies informed of future transportation projects and request the utility agencies to advise the County of existing and proposed structures within proposed work areas.
- B. **Authorization by Highlands County required.** No person shall enter upon any right-of-way under the jurisdiction of Highlands County to construct, alter, operate, maintain or relocate any utility installation without first being issued a permit to do so.
- C. **Issuance of utility permits.** The County engineer has been assigned the responsibility and granted the authority to review permit applications and issue permits for construction and maintenance of utilities within County rights-of-way. When an application is approved, a utility permit will be issued in conformity with this section of these regulations.
- D. **Transmission lines.** Applications for permits to construct and maintain aboveground and underground transmission lines shall be submitted to the County engineer in the same manner as other applications for utility permits, but approval must be authorized by the BCC before the County engineer issues the utility permit. (Distribution lines are exempt from this provision of BCC approval, but still subject to the application requirements for a utility permit.)
- E. **Appeals.** Where actual field conditions vary from those outlined in this section, differences may arise as to what accommodation criteria is appropriate under the actual conditions. When such differences cannot be resolved by the applicant and the County engineer, the applicant may appeal the County engineer's decision as provided for in section 12.04.119 appeals.

(Ord. No. 05-06-30, § 83)

Section 12.14.301. Existing facilities.

Existing aboveground and underground utility facilities in County rights-of-way as of the date of adoption of this section of the regulations will be presumed to be properly permitted in accordance with the existing guidelines in effect at the times of their installation whether or not documentation to the effect can be

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found. Occupying the right-of-way without written documentation being on file carries with it the same responsibility as that of a bona fide permit holder. Review of disputes shall be as provided for in section 12.14.300 of this division.

(Ord. No. 05-06-30, § 83)

Section 12.14.302. Joint use of land.

Where the utility agency/owner (UAO) has a compensable interest in the land occupied by its facilities and such land is to be jointly owned or used for road and utility purposes, Highlands County and the UAO shall agree in writing as to the obligations and responsibilities of each party. In any event, the interest to be acquired by or vested in the County in any portion of the right-of-way of a road project to be vacated, used or occupied by utilities or private lines shall be of a nature and extent adequate for the construction, safe operation and maintenance of the road project.

(Ord. No. 05-06-30, § 83)

Section 12.14.303. Prohibited use of County right-of-way.

No individual, firm, company or governmental agency may be permitted to use the County right-of-way for monetary gain except where provided for by the public service commission, Federal Energy Regulatory Commission, Federal Communications Commission, or Highlands County.

(Ord. No. 05-06-30, § 83)

Section 12.14.304. General permit conditions.

A permit to a UAO must be approved by the County engineer before any utility is installed on a County right-of-way, whether it is for aerial or underground installations or attachment onto bridge structures, except as noted in this division of these regulations. A Highlands County Utility Permit application/permit form may be obtained from the office of the County engineer. The permit application fee will be as established by the BCC. When approved and issued, the utility permit will authorize utility construction within a County right-of-way as described in the application and detailed on accompanying drawings. In accepting the permit the applicant/UAO agrees to be bound by this section of these regulations including, but not limited to, the conditions listed below.

- A. The construction and maintenance of such utility shall not interfere with the property and rights of other existing occupants.
- B. All work shall be done in keeping with standards of the County engineering department and subject to the approval of the County engineer.
- C. All materials and equipment shall be subject to inspection by the County engineer.
- D. During construction all safety regulations shall be observed and the County shall be relieved of all responsibility from damage of any nature arising from this permit.
- E. All County property shall be restored to its original condition as far as practical.
- F. All construction shall conform to the standards and requirements of this section. If at any time during the utility installation/construction, the County engineer finds that the permit conditions have been violated,

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the County engineer may issue an immediate stop work order. The stop work order shall be in effect until the operation is brought into compliance with the permit. Failure to perform satisfactory construction may result in the County's not issuing additional permits to the applicant until deficiencies are corrected.

- G. The attached drawing is made a part of the permit.
- H. It is expressly stipulated that the permit is a license for permissive use only and that the placing of facilities upon public property pursuant to this permit shall not operate to create or to vest any property right in said holder.
- I. The permit shall state whether it is granted in perpetuity or for a term of years and in either event that:
 - 1. The permit is subject to termination by the BCC without compensation in the event the road or highway is closed, abandoned, vacated, discontinued, or reconstructed; and
 - 2. In the event of widening, repair, or reconstruction of any such road, the permittee shall move or remove such utility facilities at no cost to the County.
- J. Whenever necessary for the construction, repair, improvement, alteration, or relocation of all, or any portion of said road or street as determined by the County engineer, any or all of said poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be immediately removed from the said road or street, or reset or relocated thereon, as required by the County engineer and at the expense of the holder.
- K. The permittee shall complete permitted construction within 365 calendar days from date of said permit.
- L. Applicant declares that prior to filing this application he has ascertained the location of all existing utilities, both aerial and underground. Applicant also declares that due notice of work under application was furnished to each utility involved and that copies of letters addressed to said user are attached.
- M. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the County's right, title and interest in the land to be entered upon and used by the holder and the holder will at all times assume all risk of and indemnify, defend, and save harmless Highlands County from and against any and all loss, damages, cost or expense arising in any manner on account of the exercise or attempted exercises by said holder of the aforesaid rights and privileges. During construction, all safety regulations of the Florida Department of Transportation shall be observed and the holder must take such measures, including placing and display of safety devices, as may be necessary in order to safely conduct the public through the project area.
- N. The office of the County engineer shall be notified 24 hours in advance before starting work.
- O. The permittee agrees to accept maintenance of any road cut or subterranean crossing for a period of 36 months after the County engineer's office is notified of completion of construction.

(Ord. No. 05-06-30, § 83)

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Section 12.14.305. Application.

- A. **Drawings.** Schematic installation drawings of the proposed installation, to scale unless otherwise approved by the County engineer, shall accompany each copy of the utility permit application. The following shall be shown on the drawings:
1. North arrow.
 2. Road name.
 3. Offset from the centerline of the roadway to the proposed utility installation.
 4. Right-of-way limits.
 5. Pavement width.
 6. Distance from edge of pavement to utility installation.
 7. Distance from nearest major intersection, nearest town, railroad crossing, and/or other physical features.
 8. Bridge locations with numbers where applicable.
 9. Information such as materials to be used, pipe or conduit size, use of the facility (power with voltage, gas with maximum allowable operating pressure, etc.) and other pertinent details.
 10. One or more typical cross sections as required to adequately reflect the proposed location of the utility.
 11. The minimum vertical clearance above or below the pavement.
 12. A statement that all disturbed area in the County right-of-way shall be restored to its original configuration.
 13. All known involved utilities in the proposed installation area; however, if only aerial facilities requiring no additional poles are involved, then only aerial facilities need be shown on the permit drawing; if overhead or underground facilities involve only one side of the right-of-way, then only involved utilities on that side of the right-of-way need be shown on the permit drawing; this subsection does not apply to gas distribution and transmission lines which must be shown in their entirety on the drawing.
- B. **Special requirement for utility construction within the vicinity of existing gas pipelines.** F.S. § 553.851, provides for the protection of underground gas pipelines. It includes (1) "definitions," (2) "notice and marking requirements for excavation," and (3) "excavation; liability for negligence; notice of damage or dislocation; emergencies". In order for both the UAO applicant and the County to comply with this section of the Florida Statutes, every application for a utility permit submitted to the County

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engineer's office shall contain the following certification by the UAO with an original signature: The undersigned certifies that he has complied with the provisions of F.S. § 553.851(2)(a), as amended, concerning requesting gas pipeline location information and will comply with the provisions of paragraphs (2)(c) and (2)(f) of the same section concerning notifying pipeline owners 48 hours prior to any excavation. An application not containing this certificate shall be returned to the applicant for revision. The paragraphs referenced in the certificate are reproduced here, but the applicant should consult the full text of F.S. § 553.851, as it may be amended, for clarification:

1. F.S. § 553.851(2)(a), states "No excavator shall commence or perform any excavation in any public or private street, alley, right-of-way dedicated to public use, or gas utility easement without first obtaining information concerning the possible location of gas pipelines in the area of the proposed excavation from any person having the right to bury gas pipelines within the public or private street, alley, right-of-way, or gas utility easement. Such information may be requested by telephone, letter, telegraph, or messenger or in person, at the prework conference for the job requiring the proposed excavation, or by calling a utility notification center operating in the area."
 2. F.S. § 553.851(2)(c), states "The excavator shall notify the owner in the manner prescribed in subsection (1) so that the owner receives notification at least 48 hours, excluding Saturdays, Sundays, and legal holidays, prior to starting excavation."
 3. F.S. § 553.851(2)(f), states "Should any permit for excavation as described in paragraph (e) be held for more than 30 days prior to excavation, the excavator shall be required to again notify the owner not less than 48 hours or more than five days prior to commencing excavation."
- C. **Notification to other right-of-way users.** In all cases, the applicant shall submit copies of letters that have been mailed to other possible right-of-way users in the proposed construction area; the letter shall serve to notify other users that application is being made to Highlands County for a utility permit and asking that both the applicant and the County engineer be notified whether or not other users have facilities in the proposed construction areas with which the proposed construction might be in conflict. Any objection to the proposed construction by another UAO must be forwarded to both the County engineer and the applicant within seven working days of the applicant's notification letter. Such objections must be specifically described.
- D. **Plans preparation by others.** Plans and drawings not prepared by employees of the UAO or persons under contract to the UAO and under the immediate supervision of UAO employees must be signed and sealed by a registered professional engineer and approved by the UAO.
- E. **MOT requirement.** Whenever utility installation, adjustment or maintenance activity will affect the movement of traffic or traffic safety, the UAO shall implement a traffic control plan and utilize traffic control devices as necessary to ensure the safe and expeditious movement of traffic around the work site and to ensure the safety of the utility work force in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), current edition and the Florida Department of Transportation's Roadway and Traffic Design Standards (Index Series 600), current edition.

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- F. **Attachments to structures.** For attachment to structures, the application shall include as an exhibit, all applicable construction plans and specifications for the accommodation of the utility. Plans for attachments to structures must be prepared, signed and sealed by a registered professional engineer, licensed by the State of Florida.
- G. **Corporation requirement.** When the permittee is a corporation or a public body, the permit must have a corporate seal and must be attested to by the corporation secretary or by the empowered public official, unless a current waiver of corporate seal and attestation by the secretary or by the empowered public official is on file with the State Utility Office, State of Florida, Tallahassee, and so noted on the permit. The state utility office will, upon request, furnish instructions and forms for waiver of corporate seal to a corporation. This waiver will be recognized by the County.
- H. **Proprietorship requirement.** When the applicant/permittee is the owner of the utility, which is not a corporation, then his signature must be witnessed by two persons whose signatures must likewise be on the permit. All signatures must be original. The names of all persons signing the permit application must be typed or printed directly below their signature resolutions.

(Ord. No. 05-06-30, § 83)

Section 12.14.306. Processing.

- A. The applicant shall submit three originals, prepared as described in this division, to the office of the County engineer for review and processing.
- B. Each permit shall be processed in an expeditious manner in order to minimize any unnecessary delays for the applicant. The County engineer's office will notify the applicant if processing is expected to exceed ten working days.
- C. Upon completion of the permitted utility construction, the applicant shall notify the County engineer's office within 48 hours. The UAO or applicant to which the permit is issued has the responsibility to insure that all construction is performed and completed according to the approved permit and accompanying drawings. Failure to perform satisfactory construction may result in the County's not issuing additional permits to the applicant until deficiencies are corrected.

(Ord. No. 05-06-30, § 83)

Section 12.14.307. Installations requiring utility permits.

Unless specifically provided for under section 12.14.309 blanket utility service drop permits or section 12.14.310 blanket utility maintenance permits of this division, the following installations will require utility permits:

- A. All underground installations and all overhead lines and crossings.
- B. All lines crossing the right-of-way.

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- C. All additional facilities when.
1. It is necessary to place a pole within the right-of-way on the opposite side where there is not an existing pole line.
 2. It is necessary to place a pole adjacent to a buried cable where the existing permit does not include a pole line.
 3. It is necessary to place a pole beyond the limits of an existing approved pole line; for purposes of this provision, the limits of an existing approved pole line shall be the distance from the edge of the pavement (or traveled way) to the approved pole line plus a maximum of ten percent of that distance, but still within the right-of-way and no closer to the edge of the pavement.
- D. All above-ground facilities placed in connection with underground installations when not included in the original permit; these include marker poles and riser poles, including pole mounted telephone closures for test or splice purposes; these poles and closures shall be located in accordance with applicable criteria in FDOT's Roadway and Traffic Design Standards (Index Series 700), current edition.
- E. Installation of a complete street or highway lighting system including installation on existing poles where the existing poles are there by virtue of a permit
- F. Installation of a new pole within the right-of-way to accommodate a private or area light regardless of the direction of the light pattern
- G. Where existing facilities are to be relocated permanently to another location within the right-of-way, whether caused by a betterment program of the right-of-way user, or by road construction
- H. Improvements or betterments requiring a physical change of existing facilities.
(Ord. No. 05-06-30, § 83)

Section 12.14.308. Installations not requiring utility permits.

- A. The following installation will not require utility permits provided the UAO is a holder of a current Highlands County Blanket Utility Service Drop Permit:

Service drops or span guys emanating from and/or attached to poles covered by an existing permit, including those crossing roadways.

Underground service connections provided that they do not cross or begin in the pavement, and trenching is at a right angle to the pavement; however, notice will be given to the County engineer prior to construction in all instances, and the permittee shall notify all known underground UAOs of the pending excavation at least 48 hours in advance.

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- B. The following installation will not require utility permits provided the UAO is a holder of a current Highlands County Blanket Utility Maintenance Permit:
1. Any new poles to be placed within an existing permitted pole line as established in accordance with section 12.12.307.C.3., of this division
 2. Routine maintenance or minor alterations such as changes in communications cables, transformer capacity, wire size, of secondary circuits and primary circuits of a one mile segment or less of an existing utility installation
 3. Temporary relocation as directed by the County engineer during road construction projects
 4. Insertion or realignment of any utility facility in an existing conduit or pipeline made by the permitted UAO provided there is no pavement cutting; the UAO shall give 24 hours' notice, identify which permit is affected and submit "as built" plans to be attached to the affected permit.

Note: The permittee shall give 24 hours' notice to the County engineer's office prior to any construction or excavation.

(Ord. No. 05-06-30, § 83)

Section 12.14.309. Blanket utility service drop permits--Purpose of permit.

When approved and issued to the UAO, the blanket utility service drop permit authorizes the construction and maintenance of service drops to provide customer service without individual applications for the period October 1 through September 30 of each year. The fee will be as established by the BCC. By accepting the permit, the UAO binds itself to the requirements of the following 12 general conditions and eight specific conditions:

A. General conditions.

1. The construction and maintenance of such utility shall not interfere with the property and rights of a prior occupant.
2. All work shall be done in keeping with standards of the County engineering department and subject to the approval of the County engineer.
3. All materials and equipment shall be subject to inspection by the County engineer.
4. During construction all safety regulations shall be observed and the County shall be relieved of all responsibility from damage of any nature arising from this permit.
5. All County and state property shall be restored to its original condition as far as practical.
6. All construction shall conform to the standards and requirements of this section. If at any time during the utility construction/maintenance, the County engineer finds that the permit conditions have been violated, the County engineer may issue an immediate stop work order. The stop work order shall be in effect until the operation is brought into compliance with the permit. Failure to

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perform satisfactory construction may result in the County's not issuing additional permits to the applicant until deficiencies are corrected.

7. The attached sketch covering details of this installation is made a part of the permit.
8. It is expressly stipulated that the permit is a license for permissive use only and that the placing of facilities upon public property pursuant to this permit shall not operate to create or to vest any property right in said holder.
9. Whenever necessary for the construction, repair, improvement, alteration, or relocation of all, or any portion of said road or street as determined by the County engineer, any or all of said poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be immediately removed from said road or reset or relocated thereon, as required by the County engineer and at the expense of the holder.
10. The permittee shall complete any construction commenced under the terms of this permit within 60 working days.
11. Applicant declares that prior to commencing work under this application he will ascertain the location of all existing utilities, both aerial and underground, and furnish due notice of proposed work to each utility involved.
12. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the County's right, title and interest in the land to be entered upon and used by the holder and the holder will at all times assume all risk of and indemnify, defend, and save harmless Highlands County from and against any and all loss, damages, cost or expense arising in any manner on account of the exercise or attempted exercises by said holder of the aforesaid rights and privileges. During construction, all safety regulations of the Florida Department of Transportation shall be observed and the holder must take such measures, including placing and display of safety devices, as may be necessary in order to safely conduct the public through the project area.

B. Specific conditions.

1. The permit authorizes service drops from existing non-permitted lines or cable where construction can be performed without placing additional poles or terminals in the right-of-way. Parallel construction (of service drops only) is permitted. Water and wastewater connections are permitted, but mains may not be extended.
2. When service drops are made from a previously permitted line or cable, additional poles or terminals may be placed in the right-of-way within the pole or cable lines as defined in this section to facilitate the connection. However, additional poles or terminals may not be placed beyond the original permit limits in any direction. Parallel construction is permitted, but only within the limits of the original permit and only for the purpose of making a service drop. Water and wastewater connections are permitted, but the mains may not be extended beyond the limits of the original permit.

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3. The permittee accepts road maintenance responsibility for any underground crossing for a period of 36 months from the date of construction.
4. All former state secondary roads (numbered roads) and those roads designated as collectors or arterials by the County's comprehensive plan, as amended, must be crossed using the "Jack and Bore" method and a casing left in place under the road.
5. No open road cuts are authorized by this permit.
6. The placing of additional poles or terminals within the right-of-way for any reason other than to facilitate a service drop is not authorized by this permit.
7. All disturbed area within the public right-of-way shall be restored to its original configuration.
8. All construction shall conform to the attached sketch and the most current edition of Manual of Uniform Standards for Design, Construction and Maintenance of Streets and Highway, current edition, prepared by the Florida Department of Transportation.

(Ord. No. 05-06-30, § 83)

Section 12.14.310. Blanket utility maintenance permits--Purpose of permit.

When approved and issued to the UAO, the blanket utility maintenance permit authorizes the maintenance of existing utility construction within County rights-of-way without individual applications for the period October 1 through September 30 of each year. The fee will be as established by the BCC. By accepting the permit, the UAO binds itself to the requirements of the following 11 general conditions and six specific conditions:

A. General conditions.

1. The maintenance of existing utility construction shall not interfere with the property and rights of other occupants.
2. All work shall be done in keeping with standards of the County engineering department and subject to the approval of the County engineer.
3. All materials and equipment shall be subject to inspection by the County engineer.
4. During construction all safety regulations shall be observed and the County shall be relieved of all responsibility from damage of any nature arising from this permit.
5. All County and state property shall be restored to its original condition as far as practical.
6. All construction shall conform to the standards of this section. If at any time during the operation, the County engineer finds that the permit conditions have been violated, the County engineer may issue an immediate stop work order. The stop work order shall be in effect until the operation is brought into compliance with the permit. Failure to perform satisfactory

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maintenance may result in the County's not issuing additional permits to the applicant until deficiencies are corrected.

7. It is expressly stipulated that the permit is a license for permissive use only and that the placing of facilities upon public property pursuant to this permit shall not operate to create or to vest any property right in said holder.
8. Whenever necessary for the construction, repair, improvement, alteration, or relocation of all, or any portion of said road or street as determined by the County engineer, any or all of said poles, wires, pipes, cables or other facilities and appurtenances authorized hereunder, shall be immediately removed from said road or street or reset or relocated thereon, as required by the County engineer and at the expense of the holder.
9. The permittee shall complete any construction commenced under the terms of this permit within 60 working days.
10. Applicant declares that prior to commencing work under this application he will ascertain the location of all existing utilities, both aerial and underground, and furnish due notice of proposed work to each utility involved.
11. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the County's right, title and interest in the land to be entered upon and used by the holder and the holder will at all times assume all risk of and indemnify, defend, and save harmless Highlands County from and against any and all loss, damages, cost or expense arising in any manner on account of the exercise or attempted exercises by said holder of the aforesaid rights and privileges. During construction, all safety regulations of the Florida Department of Transportation shall be observed and the holder must take such measures, including placing and display of safety devices, as may be necessary in order to safely conduct the public through the project area.

B. Specific conditions.

1. Maintenance is defined as the repair or replacement of poles, wires, pipes, cables, terminals or other facilities and appurtenances in the same position and of approximately the same size. Construction resulting in an increase in utility capacity is not considered maintenance.
2. The maximum time that any excavation may be left open for maintenance is one week. When the maintenance will require an open excavation for a longer length of time, a regular utility permit, which explains the necessity, complete with detailed drawings, must be secured.
3. Maintenance of both the permitted and non-permitted utility construction, including service drops, must conform to the requirements of this permit.
4. Emergency repair of utilities under both paved and unpaved roads is authorized by this permit. These emergency repairs include open cutting a paved road or trenching across an unpaved road when necessary, but the permittee will first make a diligent effort to notify the County engineer

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of the emergency. All excavation shall be covered before leaving the work site. No notice is required for work outside the traveled way.

5. The permittee will repair the road as directed by the County engineer and accept road maintenance responsibility for the repair of the cut or underground crossing for a period of 36 months from the date of repair.

6. All disturbed area within the public right-of-way shall be restored to its original configuration.

(Ord. No. 05-06-30, § 83)

Section 12.14.311. Accommodation standards.

A. Basic requirements.

1. The basic requirements governing location of utility installations will be as shown in section 12.14.318 location criteria for utilities, of this [division]. The primary concerns in the design and location of utility installations are the protection of the road facility and the safety of the road user; the design of the utility installation shall give full consideration to these concerns and to economic factors, and it shall employ sound engineering principles.
2. For the installation of overhead utilities, one side of the right-of-way is usually reserved for communication lines and the other side is reserved for power lines. In situations where underground and overhead utilities occupy the same side of the roadway, the overhead facility should be placed on the outside of the underground facility to provide the maximum possible clear roadside recovery area. In cases where more than one UAO proposes an aerial installation on the same side of the right-of-way, a joint-use arrangement must be agreed to by the UAOs.
3. Only single pole lines shall be permitted on each side of a County right-of-way. This requirement does not prohibit a single UAO from occupying both sides of the right-of-way when there are no objections from other UAOs, when proper justification is provided to the County, and when there is only one pole line on each side of the right-of-way.
4. A second pole line to support roadway illumination may be allowed on one side where the need for roadway illumination is properly documented, and provided traffic safety requirements are met.
5. In cases where the UAOs cannot agree on use of the right-of-way, the dispute shall be referred to the County engineer whose determination shall be final. Either UAO may appeal the County engineer's decision to the BOA as provided for in Appeals, of these regulations.
6. Scenic enhancement shall be considered on permit applications. The type and size of utility facilities and the manner and extent to which they are permitted along or within County rights-of-way can materially alter the scenic quality, appearance and view of the roadside and adjacent areas. For these reasons additional controls are applicable in certain areas such as recreation areas, public parks, residential subdivisions, and rights-of-way adjacent to these developments and facilities.

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7. New underground utility installations may be permitted within such lands where they do not require extensive removal or alteration of trees or other natural features visible to the road user or do not impair the visual quality of the lands being traversed. New aerial installations are to be avoided at such locations where there is a feasible and prudent alternative to the use of such lands by the aerial facility. Exceptions will be considered only where:
 - a. Other locations are unusually difficult and unreasonably costly, or are more desirable from the standpoint of visual quality.
 - b. Underground installation is not technically feasible or is unreasonably costly.
 - c. The proposed installation can be made at a location and will employ suitable designs and materials which give adequate attention to the visual quality of the areas being traversed.
8. All new or relocated longitudinal underground utility facilities shall be placed outside the toe of the front slope except where no other safe and practical alternatives are available.
9. When encasement is used and designed as a pressure vessel, the encasement pipe will have strength equal to or exceeding the carrier pipe; however, where the casing is not a pressure vessel, the casing pipe shall be capable of supporting a minimum external load of 2,200 PSF at 30 inches minimum depth. Gas and liquid petroleum pipelines shall be designed and constructed to conform, with 49 CFR, Part 192, Transportation of Natural Gas by Pipeline or Part 195, Transportation of Liquids by Pipeline, as applicable. The maximum allowable operating pressure for gas mains must be shown on permit applications.
10. When an emergency condition warrants immediate action by the UAO, such as a break in a fluid or pressure line or any situation creating a danger to the public welfare, the UAO should proceed immediately with repairs necessary to safeguard the public. The County engineer shall be notified as soon as possible but no later than the next scheduled working day. All such final repair work to the County's facilities must be approved by the County engineer. If it is the type of work that would normally require a permit, the UAO will be required to prepare and submit a permit application after the work is completed. In any case, restoration of the right-of-way will be in accordance with all applicable County requirements and at the expense of the UAO.

B. Crossings.

1. **General.** Crossings under existing pavement will be made without cutting the pavement except as provided for in subsection C., pavement cutting, of this section. Underground crossings made by methods other than by open cutting and direct burial shall conform to the provisions of section 12.14.320, Jacking and Boring, of this division. The proposed means of placing the pipe shall be stated on the permit application, and conditions which are generally unsuitable or undesirable for pipeline crossings shall be avoided. Clearance requirements for both aerial and underground crossings are given in section 12.14.318, location criteria for utilities, of this division.

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2. **Miscellaneous.**

- a. When casings are used for crossings of flammable gases or fluids, the casing should extend to the toe of the front slope and shall be vented at or outside of the right-of-way line. Welded steel pipelines transmitting gas or liquid petroleum may be installed without encasement provided such pipeline conforms with 49 CFR, Part 192, Transportation of Natural Gas by Pipeline, or Part 195, Transportation of Liquids by Pipeline, as applicable. The pipeline shall be designed to withstand internal design pressures and the superimposed loads of the roadway and traffic.
- b. Casing will be required for crossings of underground utilities where the carrier conduit is of insufficient strength due to composition or depth of cover.
- c. Casing will be required for crossings jacked under existing pavement where the carrier is of composition such that it cannot be jacked.
- d. Where it is necessary to place aerial crossings which will interfere with traffic, careful planning of work with regard to the safety of vehicular traffic is mandatory. No temporary supports will be allowed closer than the minimum clearance under section 12.14.318, of this division, unless incorporated with approved barrier systems or other approved work zone traffic control devices.
 - (1) No work of this type will commence without a 24-hour prior notification to the County engineer and the Highlands County Sheriff's Department.
 - (2) Traffic control shall be in accordance with the Manual on Uniform Traffic Control Devices, current edition, FDOT Roadway and Traffic Design Standards (Index Series 600), current edition, FDOT Standard Specifications for Road and Bridge Construction, current edition and recommendations of the County engineer.
 - (3) Flaggers will be posted to warn oncoming motorists during the entire crossing operation.
 - (4) Such temporary construction shall be completed in the minimum amount of time possible as approved in the permit.
- e. Where the applicant wishes to connect any surface or subsurface (stormwater) drainage system to the County road system, the applicant shall apply for a permit to allow this connection using the procedures of these regulations. The applicant shall provide for both water quality and water quantity.

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3. **Pavement cutting.**

- a. Open cutting of existing pavement on County right-of-way generally will not be allowed if any of the following conditions exist:
 - (1) The pipe to be placed under the road is six inches or less in diameter.
 - (2) The road at the proposed cut location has a minimum five inches shellrock or limerock base.
 - (3) The road is a former state secondary road that has been transferred to the County for maintenance (numbered road, i.e., C-621).
 - (4) The road is rated good to fair under the County's current road classification policy.
- b. The County engineer may grant an exception to a. Above, and approve open cutting where any of the following exceptions are found to exist:
 - (1) The road is on an approved resurfacing list and is scheduled to be resurfaced within 12 months following the date of the proposed cut
 - (2) The County engineer determines that existing field conditions prohibit use of the jack and bore method because of certain conditions such as subsurface obstructions, limited space for jacking, high water table, substandard roadway surface, or alternatives are unreasonably costly to the public.
- c. Where open cutting is approved, the County engineer may require that the permittee overlay the complete width of the road with a minimum of one inch of Type S-III asphalt for a distance of 25 feet on each side of the open cut. The applicant shall submit roadway restoration plans, signed and sealed by an engineer registered in Florida, providing details of the proposed cut, backfill, and overlay, all of which are in compliance with the requirements of these regulations. The engineer shall submit an "as built" and a certificate of completion of the road work.
- d. In any analysis of a request for open cutting, primary considerations will be given to the safety and convenience of the public. The applicant shall provide written justification for approval of open cutting.
- e. Before traffic is to be placed on a cut area, a temporary patch with a smooth all-weather surface must be provided.
- f. A County inspector must be on site when an open cut permanent repair is being made.
- g. All open cut road repairs shall be maintained by the permittee for a period of 36 months from the date the repair is completed.

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- h. Open cutting of existing paved driveway connections will be permitted, provided that for the convenience of the users, the users are notified and pavement is restored in accordance with this section. Notification may be accomplished by the use of a door-hanger type notice, or onsite signage as appropriate and approved by the County engineer.
- i. Where an open road cut is made under the emergency repair provisions of this section of these regulations, the UAO shall make a diligent effort to notify the County engineer of the emergency. All excavation shall be covered before leaving the work site. Where such emergency open road cut is made, the applicant shall make temporary and permanent repairs according to the requirements of this section and submit "as built" plans and a certificate of completion signed and sealed by an engineer registered in Florida providing details of the emergency cut, backfill, and overlay, all of which shall be in compliance with the requirements of these regulations. Failure of the UAO to make the road repairs and submit required plans and certificates may result in the County's withholding future utility permits until the repairs are completed.

C. Attachment to structures.

1. General.

- a. Highlands County may consider allowing attachment to structures to accommodate utility construction under the terms set forth in this section. However, if any of the following conditions would be created by the attachment, the attachment will not be approved:

An obvious hazard to the public will be created.

The integrity of the structure will be affected.

Inspection and maintenance operations of the structure will be unreasonably hindered.

Aesthetics of structures which are located in aesthetically sensitive environments will be adversely affected.

- b. Details of utility attachments including loads, attachment positions, detail dimensions, material type, plans, specifications and corrosion certification forms will be prepared by or prepared under the responsible supervision, direction and control of a qualified professional engineer registered in the State of Florida, unless exempt from registration under F.S. Ch. 471. These plans and specifications shall be signed and sealed by the engineer, and the information shall be suitable for inclusion in the Florida Bridge Management Inventory System (BMIS) file.
- c. Permit applications for installation onto existing structures shall be reviewed by the County engineer. Development of construction plans for the accommodation of utilities

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onto structures to be constructed shall be the responsibility of the designer and not Highlands County. All details shall comply with the requirements of these regulations.

2. **Responsibility.** The UAO is totally responsible for the design, safety, inspection and maintenance of its facilities and supporting hardware accommodated onto County owned bridge structures if the County determines that the utility will be ;accommodated, the County engineer has the responsibility to determine that the UAO has complied with the requirements of these regulations and that the structure will support the utility in addition to other loads in a safe manner, and that accommodation of the utility will not significantly reduce the live load capacity of the bridge. The County engineer is the final authority in all disputes that may possibly develop. The UAO is advised to review the FDOT's Five-Year Work Program and the County's current capital improvements plan to determine if an existing bridge is scheduled to be replaced, rehabilitated or widened.
3. **Criteria.** Where attachments are permitted, the criteria listed below must be met as conditions for issuing the permit:
 - a. Designs for utility attachments shall be in compliance with all applicable federal, state, and local regulations, rules, and Codes.
 - b. No construction or maintenance will be accomplished upon a structure without a written approval from the County engineer or his designee. The UAO or its contractors working within the County's right-of-way shall comply with the requirements of these regulations and with FDOT's Standard Indexes, current edition.
 - c. Utilities attached to bridge structures shall maintain a vertical clearance at least equal to that of the structure.
 - d. Utility cables or conductors shall be encased in conduit so that maintenance can be accomplished from the ends of the structure.
 - e. All electrical cables two KV and above shall be shielded cable with an insulated concentric neutral and be grounded at one end of the bridge.
 - f. Metallic pipes or conduits shall be electrically insulated from the structure by redundant insulators. Metallic pipes or conduits shall be supported by insulating pipe roller or specifically designed sliding or elastomeric bearings. Insulating pipe rollers (rollers constructed from dielectric material) shall be used unless the loads will permanently strain the roller material beyond the elastic limit.
 - g. All utilities shall be isolated and insulated from the structure to ensure that corrosion cells do not develop because of the attachment of the utility.

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- h. Utility attachments should be designed to pass through the backwall of the abutment when practicable.
 - (1) Pipe may be routed around the abutment when the abutment backwall design prohibits a pass through due to dimensional constraints, thickness, material composition or reinforcement. The permittee will consult with the County engineer or his designee concerning the County's requirements at each site. Also see subsection 7. of this section concerning thermal expansion.
- i. All pressure lines attached to bridges shall have shut-off systems so that the pipe segment at the bridge can be isolated.
- j. All lines carrying hazardous material (flammable, toxic or corrosive) shall be designed to be in compliance with the U.S. Department of Transportation Pipeline Safety Standards 49 CFR, Part 192 or Part 195, as applicable, for a class four location. Only steel pipe with welded or flanged joints and conforming to AOPI Standards shall be used.
 - (1) Accommodation of pipes transmitting hazardous materials with line pressures in excess of 250 psi should be reviewed in light of the added safety concerns. A 250 psi gage pressure is the suggested upper limit of line pressure for attachment to bridge structures. When a bona fide hardship exists, consideration may be given to accommodating transmission lines with pressures exceeding 250 psi.
- 4. **Location.** Utilities should be located underneath the cantilever portion of the bridge structure deck overhang. If unique circumstances exist, attachment to the deck underside at other locations could be considered. Under no circumstances should any UAO be allowed to attach onto bridge girders. Locating the utility under the deck overhang is the best location because it minimizes interference with bridge inspection and future girder maintenance.
- 5. **Materials.** Only materials that are listed on the qualified products list by the FDOTs State Materials Office in Gainesville, Florida, shall be used for utility conduit, pipe coatings and concrete repairs on bridges. Selection of material type is governed by project location. Conduits shall be supported so that long term deflection between supports, when fully loaded, shall not exceed five-eighth-inch. Examples of approved conduits for utility cables or conductors for outdoor exposure locations are listed below.
 - a. Fiber reinforced epoxy (FRE) rigid conduit which is listed by Underwriters Laboratories Files E-53373, E-78442 and conforms to the National Electrical Code, Section 346.1.
 - b. Polyvinyl Chloride (PVC) Rigid Conduit schedule 40 or 80, which conforms with Underwriters Laboratories Section 651, the National Electrical Code Section 347 and National Electric Manufacturers Association TC-2. For conduit supporting only communications cables, Polyvinyl Chloride "D" duct which meets or exceeds National Electric Manufacturers Association TC-10 is acceptable.

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- c. All utility supporting hardware shall be constructed of the same metal material. No combinations of dissimilar materials will be allowed (threaded inserts included) unless the materials are separated by flanged bushings constructed from non-conductive materials. Supporting hardware is defined as any and all threaded inserts, bolts, nuts, washers, hangers, or brackets. Approved materials for supporting hardware are listed below.
 - (1) Alloy 6061 T6 Aluminum; 316 Stainless steel; hot dipped galvanized steel in accordance with ASTM Specifications, Structural Shapes A-123; Hardware A-153; Bolts A-307, or other equal materials as determined by the FDOT State Corrosion Engineer.
 - (2) All support metal devices, except stainless steel, shall have a minimum thickness of three-sixteenth-inch. The use of threaded inserts cast into the concrete or retrofitting with adhesive anchors are required to attach the utility to the bridge deck. The use of expansion anchors is prohibited.
- 6. **Corrosion mitigation.** All attachments to bridge structures shall be designed to minimize any danger of corrosion activity by stray current flow into the structure from the utility. The utility shall be encased in a conduit constructed of nonconductive material or shall be separated from the supporting hardware by an insulating roller or other nonconductive material. All bolts entering the bridge structure should be separated from supporting brackets by the use of flanged insulating bushings or redundancy accomplished by other means.
 - a. Metallic utility pipes shall be supported on insulating rollers or other non--conductive material. Utility pipes transporting fluids and using mechanical joints shall be equipped with joint restraints. Use of pipe couplings, other than expansion couplings (expansion joints), shall be avoided on bridge structures.
 - b. If pipe couplings are used, restraint shall be provided to prevent pipe movement at the coupling and the pipe system shall be designed to restrict all movement to expansion couplings. All gas lines or other cathodically protected lines shall be equipped with both insulating joints and electrical test leads at both ends of the bridge.
- 7. **Thermal expansion.** Methods to compensate for thermal expansion, expansion joints or expansion loops, shall be designed for all bridge structure utility attachments except those utility attachments onto structures with an overall length of less than 35 feet. The utility attachment shall transmit no longitudinal or thrust loads to the structure at the abutment. Loads caused by thermal expansion and transmitted to the bridge structure shall be minimized. The expansion method shall be engineered, detailed, and located on the plans when submitted for approval. Adequate supports shall be provided near expansion joints equally spaced each side of and near to the joint, to assure proper alignment of the joint.
 - a. Expansion joint details shall indicate joint opening settings which compensate for temperature at the time of installation.

(Ord. No. 05-06-30, § 83)

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Section 12.14.312. Special requirements for installation, restoration of right-of-way and maintenance of utility.

All right-of-ways shall be restored, as a minimum, to their original condition, in accordance with FDOT Standard Specifications for Road and Bridge Construction, current edition and these regulations, including temporary erosion control methods, and in a manner satisfactory to the County engineer. Pavement restoration should be in accordance with the illustration, pavement restoration detail, in the *Highlands County Technical Standards Manual*, current edition. In the case of requirement conflicts, the most restrictive and/or stringent shall control. If the permittee fails to restore the right-of-way to the satisfaction of the County engineer, the County engineer may, at his option, repair the right-of-way and submit an affidavit of cost to the UAO or to the State's Attorney Office for collection. The following guidelines are established for this purpose:

- A. All affected side drains, side ditches and storm sewers will be identified and referenced as to grade and location prior to construction.
- B. At each open cut crossing, the backfill material shall be placed and compacted per FDOT Standard Specifications for Road and Bridge Construction, current edition, Section 125-8, and/or per special provision B1210000 (flowable fill). This requirement holds for embankment, subgrade and base. Density tests shall be made by a certified laboratory under the supervision of the permittee's engineer. A copy of all density test reports shall be furnished to the County engineer.
- C. Drawings showing proper replacement must accompany the permit application when open cutting is allowed. Written documentation shall be required showing why deviation from FDOT and/or County requirements should be allowed.
- D. Temporary patches will be maintained to provide a smooth, all weather surface at all times. Temporary patches shall be replaced by permanent patches as soon as all other installation work is completed. The County engineer will be notified 48 hours prior to application of the permanent patch. The permittee will be required to maintain the patch for a period of 36 months after the replacement is completed.
- E. Shoring will be required to conform with the Florida Safe Trench Act requirements where necessary to protect existing pavement, structures, and foundations.
- F. Excavated material in excess of the quantity for backfill in County rights-of-way and considered usable by the County engineer, shall be hauled by the permittee, at his cost and expense, a maximum distance of three miles from the trench excavation and stockpiled in those areas as directed by the County engineer. The County engineer may also, at his discretion, require the permittee to assume ownership of the excess material and dispose it offsite. Excess excavated material considered unusable by the County engineer shall be disposed of at the permittee's expense unless otherwise directed by the County engineer. This subsection does not apply to materials contaminated with hazardous waste or pollutants.
- G. All correspondence regarding construction procedures will be handled directly with the permittee and not through the permittee's consultants, contractors or subcontractors.
- H. At such locations where County signs and/or reflectors will interfere with proposed construction, the permittee will notify the County engineer 48 hours in advance of starting work. All signs and reflectors

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will be moved or relocated by County forces or as designated on the permit. Any signs or reflectors damaged, destroyed, removed or relocated will be replaced by the County at the expense of the permittee.

- I. All trees and shrubbery damaged or disturbed during construction shall be replaced by the permittee at his expense as directed by the County engineer. Any plants that have been planted by property owners shall be removed and replaced to the satisfaction of the County engineer. All debris shall be removed by the permittee at his expense.
- J. Sodding and, when approved by the County engineer, grassing and mulching operations shall begin within three weeks after utility is installed except in cases of front and back slopes which shall be done immediately. All requirements regarding sodding, seeding and mulching shall be in accordance with FDOT Standard Specifications for Road and Bridge Construction, current edition. Any yard or part of right-of-way in front of private property that has a grass mat will be resodded with like sod, or otherwise to the satisfaction of the County engineer. The permittee shall maintain that portion of the right-of-way affected by the permit installation until acceptable vegetation is established.
- K. The permittee shall immediately cease operations and notify the County engineer, or if on a construction project, the project engineer, if substances or material suspected of being hazardous, asbestos, oil of any kind or in any form, gasoline, pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas, are discovered in the portion of the right-of-way where work is authorized by the permit.
- L. The County shall notify the permittee of the suspension or revocation of the permit until contamination assessment and remediation under Rule Chapter 62-770 FAC, has progressed to a state that all environmental regulatory agencies having jurisdiction have approved the site of the contamination for resumption of construction and utility work. At that time the County will notify the UAO and provide an opportunity for the UAO to obtain an amended permit subject to any conditions imposed by said environmental regulatory agencies. The UAO shall comply with all conditions of the amended permit.

(Ord. No. 05-06-30, § 83)

Section 12.14.313. Maintenance of vegetation.

- A. Maintenance of vegetation includes any method or technique to alter or regulate the normal growth process of vegetative plant materials within the County rights-of-way. Techniques of manual or mechanical methods or the use of herbicides or plant growth regulators may be allowed on a site specific basis.
- B. For the purpose of this division, vegetation is defined as all trees, shrubs, vines, legumes, grasses or other plant material existing within the County rights-of-way. Safety, aesthetics and the preservation of desired vegetation are prime considerations in the maintenance of vegetation. Vegetation maintenance will not detract from the natural beauty of the roadside and shall not provide or appear as an abrupt change in roadside vegetation conditions. Except for tree trimming in this division, the removal, cutting, marring, defacing or destruction of any vegetation within County rights-of-way is prohibited unless specifically authorized by a utility permit or otherwise by the County engineer. A 48-hour minimum notice shall be given to the County engineer prior to the performance of operations.

(Ord. No. 05-06-30, § 83)

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Section 12.14.314. Tree trimming.

F.S. § 337.405, which regulates the removal or damage to trees in state, right-of-way, is hereby adopted to regulate such removal or damage to trees in County rights-of-way. The trimming of trees where required to ensure and maintain the safe operation of utility facilities is authorized by a County utility maintenance permit, providing such trimming is performed in accordance with recognized and approved principles of modern arboriculture methods with emphasis on tree health. Such trimming shall not damage trees and shrubs that are intended to remain in the work area. All waste and debris associated with the trimming shall be removed from County rights-of-way unless otherwise approved in writing by the County engineer.

(Ord. No. 05-06-30, § 83)

Section 12.14.315. Removal of vegetation.

Manual or mechanical cutting of vegetation will be permitted on a routine or periodic basis, provided that the limits of work do not extend beyond the limits necessary for the proper maintenance. Grasses shall be mowed or cut at a height and in a manner that promotes low growing ground cover species. Areas dominant in brush may be cut as close to the ground line as practical. Mowing equipment shall be so equipped and operated in a manner to preclude the throwing of debris that would create a safety hazard. Brush cuttings or debris discharged into the routine maintained limits of the right-of-way shall be removed.

(Ord. No. 05-06-30, § 83)

Section 12.14.316. Chemical control of vegetation.

The use of herbicides or plant growth regulators for the purpose of chemically maintaining vegetation may be approved by the County engineer on a site or location specific basis. Authorization for chemical control will be considered on an individual basis and shall not be interpreted as authorization to extend beyond the specified limits or the provisions of the work. All requests shall be submitted in a written proposal that outlines the extent of the proposed work, the type of herbicides or plant growth regulators including labels and material safety data sheets that are proposed to be used, and the intended timing and techniques of application. The UAOs applicator shall secure all necessary permits from jurisdictional state, federal, and local agencies, and copies of these permits shall be submitted to the County engineer along with the request for the use of chemical control.

- A. When the use of herbicides is permitted for control of vegetation, liability for damage to adjacent property and the County's right-of-way rests solely and entirely with the UAO. The use of herbicides will be authorized only if they are applied as a part of a definite scheduled program intended to control undesirable tree and brush growth.
- B. In the initial application browning of vegetation will be permitted, however, subsequent applications on trees and brush should use individual stem, basal bark or stump treatments. The initial application will be followed by periodic, selective or spot treatments until undesirable tree and brush growth has been replaced by low growing ground covers. No application will be permitted on vegetation greater than three feet in height that will create an undesirable appearance or undesired browning or color change of vegetation. Special height considerations may be given to locations where physical manmade obstructions preclude or prevent the reduction of vegetation to the three-foot height. In no case will applications be allowed at a height of greater than six feet. Vegetation that is to be maintained chemically shall be treated while in the first growing season after mowing or before it has reached a

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height of three feet. Locations with exceptional rapid plant growth conditions may be exempted provided the dead plant material is removed following successful performance of the herbicides. Herbicide applications that indiscriminately kill grass or other desired vegetation will not be permitted. Uncontrolled or indiscriminate use of highly residual or non-selective herbicides or the use of restricted use herbicides will not be permitted. Application of herbicides that are harmful to existing grasses, legumes or other low-growing ground cover plants will not be allowed on:

1. Roadway cut or fill slopes, where such vegetation has been planted or has become established naturally.
 2. Roadway shoulders and slopes between the pavement surface and the established County mowing limits.
 3. Other areas where it is evident that mowing is done as a part of routine roadside maintenance or locations where such applications would be detrimental.
- C. Applications that are conducive to the non-selective control of vegetation that will produce undesired bare ground will not be permitted. Individual stem and solid stream treatments that result in spot or narrow band control may be permitted provided that the field conditions and adjacent land use are compatible to such treatments.
- D. Where specific plants have been selected and preserved, they shall be protected against damage by the herbicide treatment of adjacent vegetation. Careless or excess applications will not be tolerated. Special precautions must be taken with all herbicide applications to ensure that they are made in accordance with all environmental considerations and associated regulations.
- E. Personnel shall be trained, experienced, and competent in the particular type of work they are engaged in and licensed according to applicable law. Only experienced personnel having a thorough understanding of herbicide application and the technical complexities in this field of expertise are to be allowed to apply these chemicals.
- F. A complete copy of the records detailing the dates, location, materials, rates, weather and other relevant data shall be maintained by the UAO and provided to the County engineer upon request.
- G. Authorization to control vegetation chemically must be secured in advance, in writing, with 48-hour minimum notice given to the County engineer prior to the application of chemicals. Misuse or unsatisfactory performance results or failure to comply with these provisions will be sufficient cause for the denial of future use of chemicals for vegetation control.

(Ord. No. 05-06-30, § 83)

Section 12.14.317. Maintenance of traffic.

A. Background.

1. Whenever work is done on or near the roadway, drivers are faced with changing and unexpected traffic conditions. These changes may be hazardous for drivers, workers, and pedestrians unless strict protective measures are taken.

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2. Since drivers do not make a distinction between construction, maintenance or utility operations, proper traffic control and safety are needed for all types of work.
 3. Part 6 of the MUTCD, current edition, is the national standard for all traffic control devices used during construction, maintenance and utility activities. Florida has adopted this manual as the state standard to be used on all streets and highways open to the public. As supplements to this Manual the FDOT publishes Roadway and Traffic Design Standards (Index Series 600), current edition and the Standard Specifications for Road and Bridge Construction, current edition.
- B. **Traffic control plan.** When a permit for utility installation, adjustment, or maintenance activity is required under this section, a proposed traffic control plan shall be submitted with the permit application. Site condition changes that warrant a change to the proposed MOT plan will require the UAO to notify the County engineer. The proposed and final traffic control plan shall be designed in accordance with the standards set forth in the MUTCD, current edition, the FDOT Roadway and Traffic Design Standards (Index Series 600), current edition and the FDOT Standard Specifications for Road and Bridge Construction, current edition.
- C. **Training and job control.** The UAO is responsible for insuring that each person supervising the selection, placement and maintenance of traffic control devices in utility work zones shall be certified by attending a FDOT approved MOT training course or the UAOs approved training course through work zones. When changes are made to the MUTCD, current edition, Roadway Design Standards (Index Series 600), current edition and/or the Standard Specifications for Road and Bridge Construction, current edition, the UAO will update its training program to reflect such changes. UAOs will furnish the County engineer with a list of all personnel in its company certified in MOT when requested.
- D. **Non-compliance.** Upon notification by the County engineer of deficiencies in the traffic control plan or other matters involving traffic safety, the permittee shall immediately make improvements as directed by the County engineer. Should the County engineer deem conditions to be such that imminent danger is present, all work shall cease automatically until the conditions are corrected.

(Ord. No. 05-06-30, § 83)

Section 12.14.318. Location criteria for utilities.

The following location criteria for utilities shall be observed on all County roads:

- A. **Utility/light poles.** See FDOTs Standard Index No. 700, Design Criteria Related to Highway Safety, current edition.
- B. **Parallel (underground).** Parallel underground installations require a minimum vertical clearance of 36 inches below top of pavement and 30 inches below existing unpaved ground including ditch grade. In rural areas, every effort will be made to locate utility facilities in areas other than between edge of pavement and toe of slope and as near to the right-of-way line as practical. Minimum depth requirement can vary if utility is buried beneath a sidewalk or bike path.

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- C. **Crossing (aerial).** Aerial crossings are permitted and will have a minimum of 18 feet vertical clearance over the roadway. Other governmental agencies or codes may require a greater clearance for certain voltages. The greater clearance required prevails as the rule.
- D. **Crossing (underground).** Underground crossings require a minimum vertical clearance of 36 inches below top of pavement and 30 inches below unpaved ground line including ditch grade.
- E. **Operating railroad corridors.** All utility location criteria shall be in accordance with the criteria set forth by the FDOT Standard Application Package, current edition for operating railroad corridor use and/or occupancy.
- F. **Airport/airport properties.** All utility location criteria shall be in accordance with the criteria set forth by the airport jurisdiction or as provided in F.S. Ch. 333.

(Ord. No. 05-06-30, § 83)

Section 12.14.319. General requirements.

General requirements for utility construction in County rights-of-way are listed below.

- A. Devices such as signal strain poles, fire hydrants, down guys, telephone load pedestals and other items whose construction and size would cause extensive damage to a vehicle if struck are to be located according to the standards for utility poles. See FDOT's Standard Index 700, current edition, for location criteria.
- B. For the purpose of this section, frangible base poles will be accepted if in accordance with FDOT's Roadway and Traffic Design Standards, current edition.
- C. On projects where the four feet minimum offset would place the utility or other obstruction in substantial conflict with the sidewalk and in the case of power poles, would create an unreasonable conflict with requirements of the National Electrical Safety Code and other alternatives are deemed impractical, the minimum may be reduced to one and one-half feet from the face of the curb. The permittee shall insure that a minimum 36 inch accessible route is maintained as per F.S. § 553.48, and the requirements of the "Americans with Disabilities Act."
- D. Where possible, excavation will not be allowed within eight feet of the edge of the pavement. See section 12.14.320, jacking and boring, of this division.
- E. Clearances for above ground parallel lines will be 16 feet minimum except where the utility line crosses a connecting side road in which case an 18-foot minimum shall be required. This, criteria, shall not be applied to a minor segment of an existing utility installation in such a manner as to result in misalignment of the installation or adjustment of the entire installation.
- F. The roadside clearances for above ground utility facilities shall be consistent with those clearances applicable to other roadside obstacles on the type of highway involved, reflecting good engineering and economic considerations.

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- G. Where feasible and practical, luminaries should be attached to utility poles which otherwise meet the offset criteria, thereby eliminating unnecessary number of poles along roadway facilities.
- H. Manholes shall be outside the traveled lanes, to the greatest extent possible. The manhole ring, cover and pad must support the traffic for the area where it is being constructed and be finished flush with the existing grade.
- I. Out of service or deactivated underground utility facilities must be removed under the permit conditions, but may be permitted to remain in place provided no future operations of the County are affected, as decided by the County engineer or his designee. As a condition of permit for such facility, the UAO shall submit and maintain survey records of their location and type of material. Such underground facilities shall be shown on utility relocation plans required by the County. The County reserves the right to require the UAO seeking to leave its deactivated underground facilities within the County right-of-way, to be responsible for any costs, claims, damage, or injury, which result from said UAOs facilities and to enter into an agreement for the same.
- J. Deactivated underground gas lines shall be shown on the utility relocation plans and shall be deactivated in accordance with 49 CFR, Part 192 and the rules of the public service commission.
- K. Appurtenances.
1. Should be aesthetically acceptable and in compliance with industry standards
 2. Shall be placed so as to provide minimum interference to traveling public and road maintenance operations
 3. Must not conflict with other existing facilities
 4. Shall be located as close to the right-of-way limits as practical.
- L. If any utility relocation is necessary to provide entrance to the roadway from adjacent property, the relocation expense should be borne by the secondary permittee and the permittee shall not interfere with the rights granted to any prior permittee. (This provision does not apply to public designated rights-of-way connecting to County roads, i.e., other County roads, city streets, state parks). If a dispute arises, the relocation expense should be considered a matter between the property owner and the prior permittee. In the case of an appeal, the final location will be determined by the County engineer whose decision may be appealed to the BOA as provided in section 12.04.119 appeals, of these regulations.
- M. With the exception of utility or single pole appurtenances mounted 15 feet or higher above the ground, appurtenances larger than eight cubic feet must have their location and size, in cubic feet, shown on the permit.
- N. Underground appurtenances less than 30 feet from the edge of pavement, excluding those considered not in traffic areas of curb and gutter sections, shall be designed to carry traffic. Those located in non-traffic areas of curb and gutter sections and those located greater than 30 feet from the edge of pavement shall be designed to support the County's maintenance equipment. The minimum wheel load, underground

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appurtenances should be designed for is 16,000 pounds. This value in no way guarantees the UAO that these appurtenances will not be subject to grater loads.

- O. Installation of above ground appurtenances larger than 80 cubic feet and any size appurtenances, which do not meet these guidelines must be submitted to the County engineer.
- P. All new or replaced underground facilities within the right-of-way shall be detectable.
- Q. The removal, encapsulation, or enclosure of materials containing asbestos may require a licensed consultant/contractor under F.S. §§ 455.301--455.309.

(Ord. No. 05-06-30, § 83)

Section 12.14.320. Jacking and boring.

- A. **Purpose.** The purpose of this section is to expand and standardize the guidelines pertaining to underground utility crossings by methods other than open cutting. The guidelines contained herein are intended solely to prevent unnecessary failures and to provide sufficient detail to insure uniform application of the guidelines.
- B. **Scope.** The guidelines set forth in this division are to regulate and control all aspects of underground utility crossings by jacking, driving, pushing, boring, tunneling, pulling, or combination thereof and other methods except open cutting or trenching. The guidelines established herein are to provide such regulation and control and are not intended to provide complete step by step instructions for a proper underground crossing operation. These guidelines do, however, specify a wide range of procedural precautions necessary to insure that the very basic, essential aspects of a proper crossing operation are adequately controlled. In all cases the ultimate success or failure of a crossing will depend upon the experience and skill of the permittee or permittee's contractor. Furthermore, the wide range of possibilities concerning job site conditions, economics and future technological improvements dictate that this division be used as a guide. However, strict adherence shall be required under specifically covered conditions outlined herein.
- C. **Material.** All material used in the execution of work authorized by the utility permit shall be as described in this section.

1. Encasement material including material for uncased carrier pipe.

- a. **Composition and strength.** All casings shall conform to the applicable ASTM standards and additional requirements listed below.
 - (1) The material must be chemically compatible with any material it is to transport or otherwise contact.
 - (2) Unless otherwise tested and approved by the County engineer prior to beginning work, all encasement pipes or uncased carrier pipes shall be new and of round, smooth wall, leak proof construction. Used pipe in good condition may be used if approved by the County engineer prior to beginning work.

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- (3) The use of casings (not encased carriers) with wrapped protective coverings will not be allowed.
- (4) Plastic pipe. Plastic pipe may be installed by jacking and boring except when used as pressurized carrier pipes containing gases or fluids. Closed end jacking of plastic pipe, or open end jacking without an auger for continuous cleanout of the bore as the jacking progresses, will not be allowed.
- (5) Plastic pipe must meet or exceed the following strength and composition standards:

| | | |
|-----------|--|-----------------------|
| PVC | (Polyvinyl-Chloride) | ASTM D 1785 |
| PE | (Polyethylene) | ASTM D 2447 |
| PE | (Polyethylene - Gas pipe over three and one-half inches) | ASTM D 2513 |
| PB | (Polybutylene) | ASTM |
| D 2662CAB | (Cellulose Acetate Butyrate) | ASTM D 1503 |
| ABS | (Acrylonitrile-Butadiene Styrene) | ASTM D 1527 |
| RTRP | (Reinforced Thermosetting Resin Pipe) | ASTM D 2296 or D 2997 |

- (6) For all plastic pipe used, an air pressure test for leaks shall be conducted in the presence of the County engineer or his representative immediately upon completion of each crossing at a minimum test pressure of 20 psi. The test shall be abandoned, if in the opinion of the County engineer, the leaks are potentially damaging to the roadway. Either of the two test methods outlined below will be satisfactory.
 - (a) Standard 24 pressure test with recording chart.
 - (b) Pressure test utilizing a dragnet type leak detecting device, or other equivalent testing equipment capable of detecting pressure drops of one-half psi. Length of test is to be recommended by the testing equipment manufacturer for the conditions of the particular job.
- (7) Immediately following the pressure test, the results shall be furnished to the County engineer or his representative. Leaking pipes that cannot be repaired to meet pressure tests are to be filled with concrete by pressure grouting or other approved means and placed out of service if in the opinion of the County engineer the leaks are potentially damaging to the roadway.

2. **Length.** Casings and uncased carrier pipes shall be of sufficient length to extend under all pavements and in no case shall the end of the casing be closer than eight feet from the pavement edge, or four feet from back of curb plus additional length as necessary to extend to the excavated slopes of the jacking and receiving pits. Slope requirements are detailed in section 12.14.320.F. 2.d. jacking pits, of this section. The ends of casings for flammable materials shall be no closer to the pavement edge (including paved shoulders) than the toe of the front slope.

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3. **Joints and couplings.**

a. **Steel pipe.**

- (1) **Couplings.** Couplings shall be tight, tack welded if necessary, and sufficiently rigid (no noticeable movement in joint) to prevent misalignment during driving or pushing operation. Tack welding of couplings is only required where necessary to ensure the integrity of the joint.
- (2) **Welded joints.** Joint welds shall be made in a neat workmanlike manner by a certified welder and shall be air tight and continuous over the entire circumference of the pipe with a bead equal to the minimum wall thickness, and shall increase the outside diameter by no more than three-quarter-inch total.

b. **Plastic pipe.**

- (1) **Couplings.** Plastic pipe couplings shall meet or exceed all applicable ASTM strength and composition standards for the particular type being used.
- (2) **Joints.** Plastic pipe joints shall be made in accordance with applicable ASTM standards. In all cases, the joints shall be made sufficiently strong to withstand the stresses of jacking, with joints completely set and cured prior to placement of the pipe.

c. **Coupling thickness.** Coupling thickness shall be such that the overall casing diameter is increased by no more than three-quarter-inch total. All couplings shall be leak proof.

4. **Drilling fluids.** If drilling fluids are used to lubricate the auger and facilitate the removal of cuttings, they shall consist of a mixture of water and gel-forming colloidal material such as bentonite, or a polymersurfactant mixture producing a slurry of custard-like consistency. Plain water may be used if appropriate under the conditions outlined in section 12.14.320.F.2.f., (50(b)2.) of this section.

5. **Shoring and bracing material.** Materials used for sheeting, sheet piling, cribbing, bracing, shoring and underpinning shall be in good serviceable condition, and timbers shall be sound, free from large or loose knots and of proper dimensions, as required by OSHA regulations.

D. **Equipment.** In keeping with the overall objective of this section, this section is intended to set forth guidelines for the use of equipment solely to prevent unnecessary stoppages and subsequent damage to the roadway. All equipment used in the execution of work covered under the utility permit shall have the built-in capacity, stability and necessary safety features required to fully comply with the specifications and requirements of this section without showing evidence of undue stress or failure. It shall be the responsibility of the permittee to assure that the equipment to be used in the crossing operation is in sound operating condition. Backup equipment may be required where job site conditions indicate that severe damage to the roadway or a hazardous condition may result because of an equipment breakdown

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and where the condition of the equipment to be used indicates that routine component replacement or repair is likely to be necessary during the crossing.

1. **Auger power units.** These are power units providing rotational force to the cutting head and/or the auger used to remove spoil material as the bore progresses, and may also provide power for jacks used to push the casing. Power units shall be in proper operating condition and shall have sufficient power to satisfactorily complete the proposed crossing according to the manufacturer's recommendations.
2. **Augers.** These are screw-type steel drive tubes or shafts with one male end and one female end for coupling and welded steel fighting (threads).
 - a. Auger shafts shall be straight and otherwise undamaged.
 - b. Fighting shall be undamaged and securely welded to the body of the auger shaft and be continuous with no gaps from end to end of each auger section.
3. **Cutting heads.** These are boring attachments fastened to the leading end of first auger section equipped with special teeth, bits, blades, chippers or cutters used to cut or chip away rock or hard soils in advance of auger.
 - a. Cutting heads shall be undamaged and have no missing or broken teeth or bits.
 - b. Pinned or hinged wing cutters must be constructed in such a manner as to ensure over-boring does not exceed limits specified in section 12.12.320.F.2.e.(4), methods of reducing skin friction, of this section.
4. **Auger tracks.** These support the boring machine and provide line and grade control.
 - a. Tracks shall be straight and otherwise undamaged with no broken welds.
 - b. Tracks shall be constructed so as to remain rigid at joints and allow no appreciable flexing as power unit passes.
5. **Jacks.** These are hydraulic, mechanical, or manual power units providing horizontal thrust for pushing casing or carrier pipe. Jacks shall have sufficient power to satisfactorily complete the proposed crossing according to the manufacturer's recommendations.
 - a. **Hydraulic.** Hydraulic jacks shall be in sound operating condition. Hoses shall not be cracked or split; all couplings and fittings shall be tight and entire system reasonably free from leaks. Hydraulic cylinder rods should be clean and smooth to prevent damage to cylinder seals.
 - b. **Mechanical.** Mechanical jacks include manual, power drive, and ratchet type jacks, and winch and pulley systems. All mechanical jacking systems shall be in sound operating condition with no broken welds, excessively worn parts, broken teeth, or badly bent or

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otherwise misaligned components. All ropes, cables, clamps and other non-mechanical but essential items shall be in sound condition.

- c. **Other.** Devices or systems for providing horizontal thrust other than those previously defined in the preceding section shall not be used unless approved for use by the County engineer prior to commencement of work. Consideration for approval will be made on an individual basis for each properly permitted crossing. The proposed device or system will be evaluated prior to approval or rejection on its potential ability to complete the crossing satisfactorily without undue stoppage and to maintain line and grade within the tolerances prescribed by the particular conditions of the job. Jetting or water sluicing methods, jetting with compressed air, or boring or tunneling devices with vibrating type heads that do not provide positive control of line and grade shall not be allowed.
6. **Anchors and braces.** These are jacking bases or deadmen used to provide a rigid base from which the horizontal thrust from the jacking unit is transferred to the casing. The jacking base or dead man must be sufficiently strong to withstand the pressures generated by the jacking unit throughout the jacking operation without appreciable movement or deformation.
7. **Dewatering equipment.** Equipment used to evacuate ground and surface water from jacking and receiving pit areas and along the path of a proposed bore.
 - a. **Pump.** The pump shall be in proper operating condition and of sufficient capacity to satisfactorily dewater the pit and bore areas under the conditions of a particular job.
 - b. **Header line.** This line is a collector pipe connecting the pump with individual swing joints, risers and well points in a well point dewatering system. Header line shall be straight, free from large dents, kinks, or cracks and sufficient in size to pass the anticipated flow.
 - c. **Swing joints or half swings.** These are hoses or pipes that connect individual well points and risers to the header line. Swing joints shall be undamaged and feature a workable stop cock or equivalent device for controlling air intrusion into the system.
 - d. **Risers .** These pipes connecting well points to swing joints should be reasonably straight and otherwise undamaged.
 - e. **Well points.** These connect to the bottom end of a riser pipe and are perforated and screened to draw water from surrounding area without allowing the intrusion of soil. Well points must be undamaged with clear and unclogged screens.
8. **Directional boring.** A directional bore must use an auger or mechanical cutting type head and shall be controlled as to depth and angle while boring. The distance between the top elevation of the bore (pipe) and the surface must be at least three and one-half times greater than the outside diameter of the bore (pipe). In all cases, the top elevation of the bore (pipe) must be equal to or greater than the requirements found elsewhere in this section. When directional boring is used, the UAO shall furnish the County engineer with elevation readings every five feet on the "as

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built" drawings, or as otherwise directed by the County engineer. The maximum diameter on any directional bore or pull back can only be up to six inches inside diameter unless approved by the County engineer or his designee.

- a. **Horizontal boring equipment.** This equipment includes locking devices, surveying instruments, power plants, hydraulic motors and attachments as mud mixing units and related equipment.
- b. **Proof of competence.** The UAO shall require all directional boring contractors to provide proof of competence from the FDOT before any permit could be approved.

NOTE: A County inspector should be on job sites for all directional bores crossing a County roadway.

9. **Other equipment.** Any equipment used on the job that has not been defined and covered previously in this section must be in proper working order and otherwise conform to the requirements as outlined in this section.

E. **Personnel requirements.**

1. A responsible representative of the permittee must be present at all times during the actual crossing operation on all crossings.
2. The permittee or the permittee's contractor shall have a sufficient number of competent workers on the job at all times to insure the crossing is made in a timely and otherwise satisfactory manner. Adequate personnel for carrying out all phases of the actual crossing operation must be on the job site at the beginning of work. These shall include, where applicable, boring machine operator, certified welder(s) for joining additional casing sections, crane or lift operator for removing spoil material, and laborers as necessary for various related tasks. A competent and experienced supervisor representing the contractor, who is thoroughly familiar with the equipment, and type of work being performed, must be in direct charge and control of the operation at all times. In all cases the supervisor must be continually present at the job site during the actual crossing operation.
3. As stated in the utility permit, the office of the County engineer must be notified 24 hours in advance of starting work. In addition, the actual crossing operation shall not begin except as otherwise allowed by this section until the County engineer or his designee is present at the job site and agrees that proper preparations for the crossing have been made. The County engineer's approval for beginning the crossing shall in no way relieve the permittee of the ultimate responsibility for satisfactory completion of the work as authorized by the utility permit. The County engineer or his designee must be present on the job site at all times during the actual crossing operation on "major crossings", or where plastic pipe is used.
4. It shall be the responsibility of the County to provide inspection personnel at such times as appropriate without causing undue hardship by reason of delay to the permittee or the permittee's contractor. If the permittee or permittee's contractor fails to begin the crossing operation at the

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agreed time, the County engineer or his designee will establish the next mutually convenient time to begin. On the other hand, the permittee or permittee's contractor shall not be required to delay the operation beyond the agreed starting time if the County fails to have its representative present at that time. To avoid undue hardship on either party, reasonable and mutual cooperation should be exercised where starting times are concerned. If one party fails to meet the agreed schedule, the other party is expected to consider a delayed start if the crossing can be completed during daylight hours in keeping with the requirements of section 12.14.320.F.2.(f), crossing operation, of this section.

F. Procedure.

1. **Safety.** Erection or installation of appropriate safety and warning devices shall be complete prior to beginning work. See section 12.14.317 of this division for MOT requirements.
2. **Subsurface soil and drainage investigation.**
 - a. In general, the greatest influences on the success or failure of an underground crossing are the existing subsurface soil and water conditions. To correctly plan individual crossing procedures such as de-watering, use of cutting heads, and positioning of auger within the casing, and to accurately locate potential problem areas, a subsurface investigation must be made by the permittee or permittee's contractor.
 - b. Prior to beginning work on "major crossings," and when requested, the permittee must submit to the County engineer a report of subsurface soil and ground water conditions as they exist in the area of the jacking pits and along the path of the proposed crossing. The purpose of the report is to insure that the subsurface conditions are known to the permittee or his contractor and his proposed crossing procedure is based on factual information. The report must be in writing and contain:
 - (1) General classification of soils along the path of a proposed crossing.
 - (2) Ground water elevation(s) along the path of a proposed crossing.
 - (3) Location and size of underground utilities or obstructions discovered during the investigation that were not shown, or were shown inaccurately on the utility permit sketch.
 - (4) Invert elevations of proposed bore, and existing utilities and obstructions.
 - (5) Jacking and receiving pit floor elevations(s)
 - (6) Profile drawing showing roadway cross section and subsurface conditions such as location, cover, diameter, type of material and carried product of all known existing utilities along the path of a proposed bore, with pertinent information clearly labeled and dimensioned

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- (7) Project identification and testing log.
 - (a) Utility permit number and location of project.
 - (b) Name of person collecting data, firm employed by, and position with firm.
 - (c) Dates and times of ground water observations including the time and date the test hole was made.
 - (d) Equipment used in making the tests.
 - (e) Comments and pertinent information not shown in the body of a report, including any information concerning the subsequent design of a de-watering system that might not have any other effect on the proposed crossing procedure.
 - I. For example, a thin but impervious layer of clay that would have little or no effect on jacking procedure itself could indicate a perched water table that would certainly have to be considered in the design of a de-watering system.
 - II. The purpose of the subsurface investigation report must be considered foremost in collecting the required data. The detailed classification of soils necessary for most engineering purposes would be difficult to interpret and relate to the job at hand from a boring contractor's view-point.
 - III. Therefore, rather than utilizing one of the several formal soil classification systems currently in use, the data should be separated into broad categories of materials that have a direct and clear bearing on what procedure should be followed on an individual crossing.
 - IV. The determination of ground water levels is an important aspect of a sub-surface investigation. Saturated soil conditions along the path of a proposed crossing dictate a crossing procedure quite different from that of a crossing through dry materials. Every effort should be made therefore, to secure accurate and complete water table information.
 - V. The method of obtaining the required data will vary depending upon the type of roadway facility and the nature of the utility involved; for example, for small diameter crossings under rural two lane roads where solid conditions are not subject to great variation, a test hole on either side of the pavement made with a post hole digger or hand auger might be sufficient.

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- VI. The other extreme would be a large diameter bore under a multilane facility in an urbanized curb and gutter section where the possibility of a damaging and possibly hazardous failure due to unknown subsurface problems requires that considerably more effort be made in the subsurface investigation. Core borings through the pavement slightly offset from the proposed bore might be in order. The corings would be spaced at intervals dictated by sound local practice that will produce an accurate profile of subsurface conditions.
- VII. Corings through pavement would be unnecessary in areas known to have no significant soil variations; however, when pavement coring is in order it shall be done by qualified persons with appropriate equipment and with the test holes being properly refilled and patched at the end of each operation.
- VIII. If de-watering is required, (see section 12.14.320.F. 2.c.) one test hole on either side of the pavement and in median areas where applicable, shall be cased for use as piezometers to monitor ground water levels during the actual crossing. The casings will be allowed to protrude above ground only when adequately delineated and while work is in progress.
- IX. Prior to conducting a subsurface investigation, the proposed means of obtaining the required data and corings through any paved area must be approved in advance by the County engineer.
- X. If the subsurface conditions are known to the permittee or his contractor by previous work done in the immediate vicinity of the area, the information can be recorded in the subsurface investigation report with no physical testing required.
- XI. If the permittee or permittee's contractor is not adequately equipped or experienced to satisfactorily meet the requirements of this section of these regulations, or if preceding subsurface investigation reports as submitted for previous jobs proved to be significantly inaccurate, the County engineer may require that the subsurface investigation and report be done by the permittee's choice of reputable soils engineering firms experienced in the type of work herein required.

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- c. **De-watering.** This process is the evacuation of ground and surface water from jacking and receiving pits and from the path of a proposed crossing.
- (1) Where the ground water level is above the invert of the proposed crossing, or above the floor level of the jacking pits, de-watering is necessary to reduce the water level to below the jacking pit floors and the invert of the proposed crossing, and must be designed, installed and in operation prior to beginning the crossing as follows:
 - (a) On all "major crossings" except where rock is present throughout the length of the bore and no likelihood of sand pockets exists
 - (b) On a crossing not otherwise classified as major where the existing groundwater level and particular soil type involved indicated that excessive flowback of spoil material as the jacking progresses is likely.
 - (2) De-watering shall not be necessary where remote-powered hydraulic equipment is used to make the crossing underwater.
 - (3) When de-watering is necessary, and if requested, a plan showing the proposed method must be submitted to the County engineer prior to beginning work. It must be in writing and should be included with the subsurface investigation report. The de-watering report shall contain where appropriate:
 - (a) Plan and profile drawing of the area to be de-watered, showing:
 - I. Location on plan view of pumps, headers, well points, berms, sump holes, discharge points and their relationship to the roadway, jacking pits and path of the proposed crossing.
 - II. Elevations or depths on profile view of the same features and equipment as above.
 - (b) Project identification and system design information as follows:
 - I. Utility permit number and location of project.
 - II. Name of person who designed the proposed de-watering system, firm employed by, and position with the firm.
 - III. Data upon which the design is based.
 - i. Subsurface investigation as previously required.
 - ii. Previous experience in the same area.

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- iii. Other data (describe).
 - IV. Party responsible for operation and maintaining the proposed system.
 - V. Comments and pertinent information not otherwise given.
- (4) The importance of a properly functioning de-watering system cannot be overemphasized. If the permittee or his contractor does not possess the experience and expertise necessary to properly design, operate and maintain the de-watering system as dictated by individual project conditions, the County engineer may require that the system be designed and/or operated by the permittee's choice of reputable firms specializing in de-watering operations. De-watering systems shall be in conformance with all applicable federal, state, County, and local pollution control and environmental protection regulations.
- d. **Jacking pits.** These are excavated areas from which jacking and receiving operations are accomplished.
- (1) **Jacking pit excavation.** Pit excavation shall be no closer than eight feet from the roadway pavement edge or four feet from back of curb, whichever is applicable. When deemed necessary for safety, the County engineer may require a greater distance than eight feet from the edge of pavement.
 - (a) The pit dimensions shall be large enough to provide a safe, adequate working area with slopes no steeper than allowed by the Florida Safe Trench Act.
 - (b) All soil classifications shall be the same as OSHAs.
 - (c) Slopes shall extend from the proposed casing invert elevation to the existing ground level. Slopes are not required in solid rock.
 - (d) If slopes are not used, the pit walls shall be shored, sheeted, braced or otherwise supported by means of sufficient strength to protect the employees and inspectors working within them.
 - (2) **Pit floor stabilization.** Where necessary to insure a solid, stable base for boring machinery, some means of stabilizing the pit floor must be provided. Stabilizing may vary, depending upon job site conditions, from timber supports under tracks, addition of clean sand or gravel to pit floor, or in some cases construction of concrete slabs on the pit floor. All stabilizing materials other than sand, gravel, and like materials must be removed upon completion of the project.

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e. **Equipment set-up.**

- (1) **Aligning and leveling of auger tracks.** To properly control line and grade during the crossing operation, it is imperative that the jacking unit tracks be rigidly set to the predetermined level and alignment requirements of the job. Control should be insured by the use of appropriate engineering instruments.
- (2) **Auger and casing section lengths.** These should be determined prior to beginning the crossing operation to insure that the leading end of the first casing section will not be under, or within three feet of, any roadway pavement when the crossing operation is halted to join new auger and casing sections.

As an exception, in areas where jacking pit space is restricted by narrow County right-of-way, or obstructions and will not allow continuous operations under paved areas as stipulated in this section, all preparations for adding additional casings and augers should be made prior to stopping under the pavement and joint made as quickly as possible.

- (3) **Exceptions.** Crossings made by closed end jacking method or crossings made in materials other than loose unstable soils, are not subject to the provisions of this section.
- (4) **Methods of reducing skin friction.** Friction between the outer surface of the casing and the surrounding soil may be reduced by increasing the diameter of the casing hole by no more than three-quarter-inch greater than the outside diameter of the casing itself, and may be accomplished as described below.
 - (a) **Over-boring.** Use of a cutting head with an overall diameter of no more than three-quarter-inch greater than the casing diameter. Maximum diameter includes wing cutters which must be securely blocked to limit the overall diameter in order to meet this requirement.
 - (b) **Use of bands.** Couplings, collars or welds will be allowed, provided the casing diameter is increased by no more than three-quarter-inch. Any such device or method used shall be rigidly affixed and shall in no way weaken the leading edge of the casing. Collars and couplings used to reduce skin friction on steel pipe must be welded in place when cutting heads are used, eliminating the possibility of the cutting head unscrewing or dislodging the collar or coupling during the operation.
 - (c) Use of lubricating materials on the outer surface of the casing to reduce skin friction is acceptable, subject to the requirements of the Florida Department of Environmental Protection.
 - (d) Flaring of the casing end will be allowed provided that the original casing diameter is exceeded by no more than three-quarter-inch.

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- (5) Any cuts, tears, or cracks made to facilitate flaring shall be repaired and reinforced by welding to ensure that the strength of the flared section is equal to or greater than the original section. The use of a misaligned, undersized auger to cut an oversized hole is prohibited.
- (6) **Relationship between auger or cutting head to the leading end of the first casing section.** The leading end of the first casing section shall be straight cut ninety degrees to the centerline of the casing; and the distance between the back of the cutting head or leading edge of the first bare auger section, to the leading end of the casing shall be as follows under the appropriate soil condition.
- (a) **Rock.** On crossings made through solid rock, where the cutting head must precede the casing, the space between the back of the cutting head and the end of the casing shall be limited to the clearance necessary to allow the cutting head to function without coming in contact with the end of the casing. In areas where sand pockets may be encountered the cutting head must be constructed so that it can be retracted into the casing, to within the limits specified below for the particular material encountered.
- (b) **Hard pan, clay, hard sand-clay and stable cohesive soils.** As in rock, the cutting head should normally precede the casing but the type of cutting head used must allow no more than two inches between the back of the head and leading end of the casing. Cutting heads with cylindrical, pointed chippers designed for use in solid rock shall not be used.
- (c) **Loose, unstable soil.** The distance between the leading end of the first auger section and leading end of the casing shall be as necessary to maintain a solid plug of spoil material inside the forward portion of the casing.
- (d) For casing diameters eight inches or greater, the minimum space between the leading end of the auger, or cutting head as allowed below, and the leading end of the casing shall be no less than one-half the casing diameter. However, the setback shall be increased if necessary to prevent undue flow back of the spoil material. No setback is required for casing diameters less than eight inches.
- (e) Cutting heads may be used only where the subsurface investigation report or other reliable information indicates the likelihood of encountering a very hard soil, strata, rock, or other obstructions such as tree stumps, and it is determined prior to beginning work that the area of difficulty may be passed by the use of an appropriate cutting head. The cutting head shall remain inside the casing as outlined above except during the passage of such obstructions.

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- (f) On large diameter jacked crossings where cleanout of the bore is accomplished by special digging machinery or by hand, the distance between the leading end of the casing and the actual cleanout operation shall be no less than that necessary to insure that voids will not form around the outside of the casing.
 - (g) The use of tunnel liners will be allowed only where the installation method and soil conditions insure that voids will not be formed around the outside of the liner during installation.
- (7) **Auger size and spacing.** The leading auger section used in conjunction with a cutting head must be full-sized having an outside diameter not less than the inside diameter of the casing less the amount needed to provide the minimum working clearance necessary. In no case shall the auger diameter be less than one-half inch smaller than the inside casing diameter unless some other positive means of restricting the movement of the cutting head as previously required is assured. Less than full-sized augers that are large enough to remove spoil satisfactorily will be allowed when the auger is not used in conjunction with a cutting head and is to remain within the casing at all times, except as follows:

| Crossing Conditions | Minimum Length in Feet of Full-Sized Auger from Leading End of Casing | | | |
|---|---|----|--------|----|
| Rock | 0 | | | |
| Hard Pan, clay, hard sand-clay | (dry) | 0* | (wet) | 20 |
| Stable cohesive soils | (dry) | 0 | (wet) | 20 |
| Loose unstable soils | (dry) | 20 | (wet) | 40 |
| Crossings requiring de-watering are to be considered as wet in the above table. | | | | |
| *Full-sized augers are not required if lateral movement of the cutting head has been otherwise restricted in a satisfactory manner. | | | | |

- (8) **Steel shelving.** Steel shelving welded inside the casing at the leading end to prevent undue flowback of spoil material, must be approved by the County engineer or his designee prior to use. The casing, auger and cutting head requirements specified for the most restrictive condition to be encountered shall govern the set-up procedure for a particular crossing.

f. **Crossing operation.**

- (1) The actual crossing operation shall be accomplished during daylight hours and shall not begin after the hour pre-established as the latest starting time that will allow completion during daylight hours except as allowed by (2) below.

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- (2) In emergency situations, or where delay would increase the likelihood of a failure, night time work will be allowed to complete a delayed crossing. In addition, where the obvious hazards of nighttime work are carefully considered and determined to be insignificant, nighttime work will be allowed to complete a properly planned crossing if the County engineer agrees that the delay was caused by reasonably unavoidable circumstances, when such nighttime work is necessary to avoid placing an undue economic hardship on the permittee or his contractor.
- (3) Planned nighttime work is expressly prohibited and will not be allowed except as allowed in the special conditions of the utility permit.
- (4) Any nighttime work shall be in strict conformance with section 12.14.317 maintenance of traffic, of this division.
- (5) Crossing operation requirements under the appropriate method used and subsurface conditions are as follows:
 - (a) **Driving or jacking, without auger.** For casings with outside diameters of three inches or less, at a minimum depth of 36 inches, and up to five inches outside diameter for depths of cover exceeding six feet, closed end jacking or driving is permitted.
 - (b) **Hydraulic or mechanical jacking, with auger.** The use of an auger is required by the County on all crossings using casings greater than five inches outside diameter (greater than three inches outside diameter if less than six feet deep) and is intended to prevent the formation of a rigid plug of spoil material at the head of the casing.
 - I. If a drilling fluid is used to lubricate the outside of the casing, or the auger and cuttings, it shall not be pumped under pressure great enough to cause any jetting action whatsoever, or to otherwise saturate the soil ahead of the casing.
 - II. External drilling fluid carriers shall be no larger than three-quarter-inch O.D. and must be permanently fastened to the casing with the leading end shielded from damage.
 - III. In soils with a, high clay content only, plain water may be used to clean the augers as necessary to prevent binding. When plain water is used, it must be hand pumped or gravity fed through a carrier pipe permanently and securely fastened to the casing.
 - IV. The point at which the water enters the casing shall be no closer to the leading end of the casing than one-half the casing diameter or 12 inches, whichever is less.

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g. **Equipment breakdowns or other unforeseen stoppages.**

- (1) If forward motion of the casing is halted at any time other than for reasons planned for in advance (addition of casing and auger sections, etc.) and prevention of voids under paved areas cannot be assured, the casing must be filled with concrete by pressure grouting as soon as possible and abandoned. If removal of the augers from a casing to be abandoned will allow voids to form under paved areas at the casing head, the augers must be abandoned also.
- (2) When an obstruction is encountered that cannot be passed or an existing utility is damaged, cutting of the pavement for inspection will be approved by the County engineer, but only after careful consideration if all pertinent facts indicate that such action would offer the most practical solution to the problem for all parties concerned. Any such authorized pavement opening shall be performed and repaired according to the requirements of section 12.14.311 of this division, pavement cutting.

h. **Permit on job site.** A copy of the approved utility permit and plan sheet(s) with the County approved MOT plan shall be kept by the permittee or permittee's contractor at the job site at all times. If a subsurface investigation report and/or de-watering plan is required, they too shall be kept at the job site along with the other required documents, and shall be shown to the County's representative upon request.

G. **Waiver of requirements.** The requirements and recommendations contained in this division are appropriate for the most common crossing situations. Under unusual conditions, not adequately covered herein, these requirements may be altered or waived when their strict adherence would increase the likelihood of a crossing failure. Any such alteration or waiver shall be based on sound engineering judgment and must be fully documented. The applicant may also appeal any decision of the County engineer to the BOA as provided in section 12.04.119 of these regulations.

H. **New techniques.** Notwithstanding the provisions of this section relating to jacking and boring, other methods and techniques for installing utility crossings may be used subject to the approval of the County engineer on a case by case basis.

(Ord. No. 05-06-30, § 83)

Section 12.14.321. Bridge attachment, corrosion certification guidelines.

A. **Bridge attachment guidelines.** Listed below are guidelines to assist in the proper design of bridge attachments regarding corrosion certification. These basic criteria are used to minimize the amount of corrosion interference resulting from the attachment of utilities to bridge structures.

1. Provide a dielectric barrier between the utility and bridge structure which will insulate them electrically. This objective can be accomplished by using a non-metallic material for mounting hardware, supporting the pipe on an insulating pipe roll, encasing the utility in non-metallic pipe or providing a coating or wrapping such as neoprene between the utility and the mounting hardware. Additional precautions shall be taken by avoiding contact between metal components in the bridge and metal inserts and anchor bolts. Where the pipe or utility is mounted on saddles

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and guides to allow for movement, additional provisions should be made to compensate for wear. All contact between dissimilar metals should be avoided.

2. The installation of insulating joints in the utility on each end of the bridge structure will help reduce the possibility of corrosion interference. Electrical test leads installed on each side of an insulated joint will provide the necessary means for periodic testing.
3. One utility shall not have electrical continuity with another in any of the sections attached to the bridge. Individual isolation will allow for correction of future problems which might occur and will expedite periodic maintenance checks and tests.
4. Where the utility passes through any part of the concrete bridge structure into the soil or water, provisions shall be made to separate the contact area. This task can be accomplished by installing a non-metallic sleeve through the concrete or by wrapping the utility with a mastic or neoprene material. Consideration should be given to separating the utility and concrete in buried thrust blocks.
5. Selection of the proper materials is extremely important. Corrosion resistant material, such as stainless steel or galvanizing, for mounting hardware is necessary. It is the responsibility of each permittee/UAO to install and maintain its facilities and not create undue maintenance problems for other utilities or the bridge structure. Such conditions as rust streaks, discoloration and deterioration can be eliminated through proper material selection.

B. Coating system for pipe attachments.

1. **Coating requirements.** Materials and procedures described in Subsections a. through d. should be used for potable water mains attached to bridges and bridge appendages. Those described in subsections a. through c. should be used for gas, sewer or other ferrous piping systems attached to bridges and bridge appendages.
 - a. **Surface preparation.** Near white metal blast cleaning with silica sand (1.0 to 3.0 mil anchor pattern) according to SSPC-CP 10-63.
 - b. **Exterior metal surface (excluding pipe flange face).**
 - (1) **Primer coat.** 3.0 mils to 5.0 mils (dry mils) of a two package self-curing alkyl silicate inorganic zinc rich primer (80 percent to 85 percent metallic zinc in cured dry film);
 - (2) **Intermediate coat.** 4.0 mils to 6.0 mils (dry mils) of catalyzed polyamide epoxy (white)
 - (3) **Top coat.** 2.0 mils to 4.0 mils (dry mils) of catalyzed aliphatic polyurethane (grey color matching color no 36622 of the Federal Standard No. 595a). Color banding should be used at the abutments and at 500 feet intervals along pressure pipe. This

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band, six inches wide, should conform with OSHA color codes according to the material being transmitted.

- c. **Pipe flange face primer coat.** 3.0 mils to 5.0 mils (dry mils) of a two package self-curing alkyl silicate inorganic zinc rich primer (80 percent to 85 percent metallic zinc in cured dry film). No intermediate coat or topcoat should be applied to the pipe flange face.
- d. **Internal metal surfaces.** Internal metal surfaces must be lined with cement or other linings. An alternate to lining the pipe would be to coat the surfaces as described below.
 - (1) **Primer coat.** 5.0 mils to 8.0 mils (dry mils) of potable water approved catalyzed high build epoxy (grey)
 - (2) **Top coat.** 5.0 mils to 8.0 mils (dry mils) of potable water approved catalyzed high build epoxy (white).

- 2. **Coating products approval.** All coating products used are subject to the approval of the Bureau of Materials and Research, Florida Department of Transportation, Gainesville.

(Ord. No. 05-06-30, § 83)

Section 12.14.322. Archaeological or historic remains.

Notwithstanding the UAOs preconstruction efforts to determine, locate and/or identify all known archaeological and historical sites within the route of its utility facility, either through the use of local, state and federal listings and notices or through the on-site preliminary reconnaissance of an accredited consultant, artifacts of undetermined significance may be unearthed during construction. In event that such an encounter shall occur, construction activity in the immediate vicinity of the discovery shall be temporarily discontinued, and the procedure cited in Article 15, Division 2, Archaeological Resources, shall be initiated.

(Ord. No. 05-06-30, § 83)

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ARTICLE 15.

CULTURAL RESOURCES

DIVISION 1.

HISTORIC PRESERVATION

Section 12.15.100. Historic preservation purpose.

The BCC intends to promote the educational, cultural and economic welfare of the public by the creation of a historic preservation commission and by establishing uniform procedures to preserve the County's historic resources and by enhancing public participation and involvement in the preservation and protection of such resources, including buildings, structures, monuments and other historic resources.

(Ord. No. 91-07, 1; Ord. No. 92-22, 1)(Ord. No. 05-06-30, § 84)

Section 12.15.101. Designation of historic districts and properties.

- A. **Boundaries of historic districts.** Boundaries of historic districts shall be specified on tax maps and shall be described in the separate ordinances designating such districts. The properties within such historic districts shall be evaluated and classified as follows:
1. **Contributing historic.** More than 50 years old and possessing architectural, cultural or historical significance or contributing character.
 2. **Contributing non-historic.** Less than 50 years old, possessing architectural, cultural or historical significance or contributing character.
 3. **Non-contributing.** Less than 50 years old and which do not contribute to the historical character of the district.
- B. **Application for designation.** Any historical society, neighborhood association, property owner or group of property owners may apply for designation of a historic district or a historic property upon a form provided by the HPC. Designation may also be initiated by the HPC or the BCC. However, the BCC is not to adopt by ordinance any designation of a historic property or historic district without the property owner(s) approval.
- C. **Required public hearings.** The BCC shall hold a public hearing on each proposed designation. Notice of such hearing shall be published at least once a week for two weeks in a newspaper of general circulation within the County, and written notice of the hearing shall be mailed to all owners and occupants of the subject properties, all at the expense of the applicant. The last notice shall be published and the notice shall be mailed not less than seven nor more than 20 days prior to the date set for the public hearing. A notice sent by United States mail, postage prepaid, to the last known address of the occupants and owners of the properties, as shown on the latest tax roll and a current utility bill, shall constitute legal notification under this chapter. The notification of the property owners and occupants shall describe the property to be designated, shall set forth the names of the owners of the property and shall provide that a certificate of appropriateness will have to be obtained from the historic preservation

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commission prior to any material change in the appearance of the property if it is so designated. All designations shall be made by Highlands County by ordinance adopted as provided by law.

D. **Designations.** The criteria for the designation of historic properties and historic districts shall be that such property or districts must have significant character, interest or value as part of the historical, cultural, archaeological, aesthetic or architectural heritage of the County, and shall meet one or more of the following criteria:

1. **Historical or cultural significance:**

- a. Is associated in a significant way with the life or activities of a major historic person; or
- b. Is the site of a historic event with significant effect upon the community, city, state or nation; or
- c. Is associated in a significant way with a major historic event whether cultural, economic, military, social or political; or
- d. Exemplifies the historical, cultural, political, economic or social trends of the community; or
- e. Is associated in a significant way with a past or continuing institution which has contributed substantially to the life of the County.

2. **Architectural significance:**

- a. Portrays an era of history characterized by one or more distinctive architectural styles; or
- b. Embodies those distinguishing characteristics of an architectural style, or period, or method of construction; or
- c. Is an outstanding work of a prominent designer or builder; or
- d. Contains elements of design, detail, materials or craftsmanship of outstanding quality or which represent a significant innovation or adaptation to the County's environment.

3. **Aesthetic significance:**

- a. By being part of or related to a subdivision, park, environment feature or other distinctive area, should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or
- b. Because of its prominence or spatial location, contrasts of siting, age or scale, is an easily identifiable visual feature of a neighborhood of the County, and contributes to the distinctive quality or identity of such neighborhood or of the County.

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4. **Archaeological significance:** Has yielded, or may be likely to yield, information important in prehistoric history or history.
- E. **Notification of adoption of designation.** Within 30 days following the adoption of the designation, all owners and occupants of each designated historic property and of each property within each designated historic district shall be given written notice of such designation by the HPC, which notice shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to the undertaking of any material change in appearance of the historical property or any property within the historic district.
- F. **Notification of other agencies.** The HPC shall notify all appropriate agencies within and without the County, and the local historical organizations of such designation.
- G. **Moratorium on building or demolition permits pending determination of request for designation.** If a proposal for designation is being considered, the BCC may impose a moratorium on building, demolition and moving permits in regard to that property for a period of up to six months while the HPC and BCC considers the appropriateness of designation. The owner of property shall have the right to obtain a permit, irrespective of the existence of the moratorium, if the owner applies for and obtains a certificate of appropriateness from the HPC, as if the property had been so designated.

(Ord. No. 91-07, 6; Ord. No. 92-22, 1)(Ord. No. 05-06-30, § 84)

Section 12.15.102. Certificate of appropriateness required; application.

- A. **Alterations of existing buildings, sites and monuments.** After the designation by ordinance of a historic property or historic district, no material change in the exterior architectural features or material change in the appearance of such historic property or of any structure, site or monument within such historic district shall be made or permitted to be made, unless or until application for a certificate of appropriateness has been submitted to and approved by the HPC or, under specific conditions, its staff. All alterations shall conform to the plans submitted and approved, except as provided herein.
- B. **New construction within historic district.** No new construction shall be begun within a historic district until an application for a certificate of appropriateness has been submitted to and approved by the HPC. New construction shall conform in design, scale and setback to the character of the historic district as specified in the HPCs design guidelines.
- C. **Demolition or relocation applications.** Anyone requesting a permit to demolish or relocate a structure within a historic district or any structure that has been classified as a historic property shall first apply to the historic preservation commission for a certificate of appropriateness.
- D. **Application.** Applications for certificates of appropriateness shall be on such forms as may be designated by the HPC and be accompanied by such drawings, photographs or plans as may be required by the HPC. The application shall also include the post-demolition and/or relocation plans for the property and the plans and specifications of any building that will replace the structure.
- E. **Delegation of review authority.** The HPC may establish specific guidelines within which its staff may issue certificates of appropriateness without review by the HPC. Should an application be denied by staff, the same shall be referred to the HPC for further consideration, as if it were a new application.

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- F. **Review by historic preservation commission.** The HPC shall review all applications which are not subject only to staff review and all applications which are not approved by staff within the guidelines established by the HPC for staff approval. After such review, the HPC shall either:
1. Approve the application and issue a certificate of appropriateness if it finds that the proposed changes in the appearance would not have a substantial adverse effect on the historic property or the historic district. In making this determination, the HPC shall consider, in addition to any other appropriate factors, the historical and architectural value and significance, architectural style, general design arrangement, texture and materials of the architectural features involved and the relationship thereof to the architectural style and pertinent features of the other structures in the immediate neighborhood; or
 2. Deny the application and not issue a certificate of appropriateness if it finds that the proposed changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district or if it finds that insufficient information, plans or specifications have been submitted by applicant.
- G. **Time limit on making decisions.** A decision shall be made by the HPC within 90 days after the filing of a complete application. Failure of the HPC to act within such 90 days shall constitute approval and a certificate of appropriateness will be promptly issued thereafter. This time limit may be waived at any time by mutual written consent of the applicant and the HPC.
- H. **Decision of denial in writing.** In the event the HPC denies the application, it shall state its reasons for doing so in writing, and shall transmit a record of such actions and reasons to the applicant and the BCC. The HPC may also suggest any alternative course of action it believes proper and the applicant, if he or she so desires, may modify the plans and resubmit the application.

(Ord. No. 91-07, 7; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.103. Duration.

Certificates of appropriateness shall be valid for a period of 18 months and shall be renewable for good cause shown. Any certificate of appropriateness upon which construction has not been commenced within six months from the date of issuance shall be canceled and shall be of no further force or effect.

(Ord. No. 91-07, 11; Ord. No. 92-22, 1)(Ord. No. 05-06-30, § 84)

Section 12.15.104. Appeals.

Any person adversely affected by any decision of the HPC may appeal such decision to the BCC, in writing, within 30 days after the decision is rendered. The BCC may approve, modify or reject the decision of the HPC upon such appeal. Appeals from any decision of the BCC may be taken to circuit court in the manner provided by law. (Ord. No. 91-07, 8; Ord. No. 92-22, 1)(Ord. No. 05-06-30, § 84)

Section 12.15.105. Variances.

Where by reason of unusual circumstances, the strict application of any provision of this chapter would result in exceptional practical difficulty or undue hardship upon any owner of a property, the HPC may vary or

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modify strict adherence to such provision so as to relieve the difficulty or undue economic hardship, providing such variance does not detract from the general purpose and intent of this chapter and so long as the architectural or historical integrity, or character of the property, shall be conserved. In granting such variances, the HPC may impose such reasonable and additional conditions as will, in its judgment, best fulfill the purpose of this chapter. An undue economic hardship or exceptional practical difficulty must be unique to a specific property, shall not have been created by an owner or occupant of the property and the granting of the variance must not create a conflict with any other County ordinance. If a property owner is able to demonstrate, to the historic preservation commission's reasonable satisfaction, that a historic property, or a structure located in a historic district, is incapable of earning an economic return on its value, as appraised, and the HPC has otherwise refused to issue a certificate of appropriateness for demolition, a variance will be granted and a permit for demolition will be issued after the delay established on the schedule set forth below. Such delay shall begin upon the granting of the variance and a notice shall thereafter be promptly posted on the premises, at a location clearly visible from the street, of sufficient size and language so as to give interested persons within the County, including historical societies or organizations, the opportunity to attempt to acquire or otherwise arrange for the preservation of such structure. The delay shall be:

- A. For buildings rated contributing historic--12 months;
- B. For buildings rated contributing non-historic--12 months; and
- C. For buildings rated nonconforming--No delay.

The HPC may, at any time during such stay, approve a certificate of appropriateness, in which event the permit for demolition shall be issued without further delay.

(Ord. No. 91-07, 9; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.106. Changes in approved work.

Any change in work proposed subsequent to the issuance of a certificate of appropriateness shall be received by the HPCs staff and, if the staff finds that the proposed change is minimal and does not materially affect the aesthetic character, or is otherwise in accordance with guidelines established by the HPC, it may approve the change, otherwise a new application for a certificate of appropriateness will be required.

(Ord. No. 91-07, 10; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.107. Maintenance.

Nothing in this chapter shall be construed to prevent the ordinary maintenance of any exterior element of any building or structure which does not involve a change of design, appearance or material and which does not require a building permit. If the HPC determines that any historic property or any structure within a historic district is endangered by lack of ordinary maintenance and repair or that any improvement in visual proximity to a historic property or historic district is endangered by lack of ordinary maintenance and repair to such extent that it detracts from the desirable character of the historic property or historic district, the HPC may request the building official, the code enforcement officer or any other appropriate official or agency of the County to require correction of such deficiency under the authority and procedures of applicable ordinances, laws and regulations.

(Ord. No. 91-07, 12; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

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Section 12.15.108. Unsafe structures.

In the event the building official determines that any historic property or any structure within a historic district is unsafe, pursuant to Highlands County Code of Ordinances, the building official will immediately notify the HPC and submit to them copies of his findings. Where appropriate, and in accordance with applicable ordinances, the building official will attempt to have the structure repaired rather than demolished, and will take into consideration any comments and recommendations by the HPC. The HPC may also endeavor to negotiate with the owner and any interested parties, providing that such actions do not interfere with the building official's duties and within such reasonable time limits as may be established by the building official.

(Ord. No. 91-07, 13; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.109. Emergency conditions.

For the purpose of remedying emergency conditions determined to be imminently dangerous to life, health or property, nothing contained herein will prevent the making of any temporary construction, reconstruction, demolition or other repairs to a historic property or a structure within a historic district. Such temporary construction, reconstruction or demolition will take place pursuant to permission granted by the building official, and then only for such work as the building official may determine to be reasonably necessary to correct such condition.

The owner of a historic property or an improvement in a historic district which is damaged by fire or natural calamity will be permitted to immediately stabilize the improvement and to rehabilitate it later under the procedures required by the ordinances of the County, so long as the property is secured to the satisfaction of the building official and a permit is obtained to commence restoration within such time period as deemed reasonable by the building official. The owner may request a special meeting of the HPC to consider an application for a certificate of appropriateness which would provide for repairs of a more permanent nature.

(Ord. No. 91-07, 14; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.110. Reserved.

Section 12.15.111. Demolition by neglect.

In the event that the HPC reasonably believes that an historic property or a structure or building in a historic district is being demolished by neglect, as defined by this chapter, the HPC shall notify the owner of record by certified mail of its preliminary findings and its intent to hold a public hearing within 30 days to determine evidence of neglect. The owner shall have until the time of the public hearing to make necessary repairs to rectify the evidence of neglect as identified in the notice. If the owner fails to rectify the structural, health or safety hazards identified in the initial notice within such 30 days, the HPC shall hold a public hearing to consider recommending to the code enforcement officer that the owner be issued a citation for code violation. The owner shall have the right to any rebuttal at that public hearing. If the HPC finds that the structure is being demolished by neglect pursuant to this chapter, the HPC shall recommend to the code enforcement officer that the owner be issued a citation for code violation and that penalties be instituted pursuant to the code enforcement ordinance and/or this chapter.

(Ord. No. 91-07, 15; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

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Section 12.15.112. Enforcement, violations and penalties.

- A. The historic preservation commission, the County, building official and/or the code enforcement officers are hereby designated and authorized to enforce the terms of this chapter.
- B. Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be required to restore the subject improvement, feature or site in accordance with a certificate of appropriateness approved by the HPC.
- C. Any person found guilty of violating any provisions of this chapter shall be punished by a fine not exceeding \$500.00 or by imprisonment in the County jail for not more than 60 days, or by both such fine and imprisonment.

(Ord. No. 91-07, 16; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.113. Existing building codes.

Nothing in this chapter shall be construed as exempting any property owner from complying with existing or future the County, building codes, nor as preventing any property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.

(Ord. No. 91-07, 17; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.114. Affirmation of existing zoning.

This historical preservation ordinance is not a use ordinance and all the County zoning laws remain in effect unless and until specifically modified.

(Ord. No. 91-07, 19; Ord. No. 92-22, 1) (Ord. No. 05-06-30, § 84)

Section 12.15.115. Review of national register nominations.

The HPC shall evaluate national register nomination proposals received for completeness in a timely manner. Should the nomination proposal not be technically completed, the HPC shall notify the proposal's sponsor in writing, identifying the technical deficiencies, within 30 days after receipt of the nomination proposal. The proposal shall be in the form, and contain all information and attachments as required by the National Park Service, as set forth at 36 CFR part 60, incorporated herein by reference. If the nomination proposal is technically complete, the HPC shall place the item on its agenda for the next meeting or, should notification provisions set forth below make this impossible, for the earliest possible regular meeting. The HPC shall notify the persons set forth below of its intention to consider a nomination proposal. In all cases, such notification shall occur at least 30 days but not more than 75 days prior to the HPC meeting at which the nomination proposal will be considered. (Ord. No. 99-2; 3-23-99)

- A. **Owner(s) of record of the property.** The list of owners shall be obtained from official tax records. Where there is more than one owner on the list, each separate owner shall be notified.
- B. **Appropriate local official.** This is the chairman of the BCC. Within 30 days after receipt of the nomination proposal, the appropriate local official shall submit in writing to the HPC a recommendation as to whether or not the property shall be nominated to the National Register.

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- C. **State historic preservation officer.** Nomination proposals shall be considered by the HPC at a public meeting, and all votes on nomination proposals shall be recorded and made a part of the permanent record of the HPC meeting. All nomination proposals shall be forwarded, with a record of official action taken by the HPC and the recommendation of the appropriate local official, to the state historic preservation officer within 30 days after the HPC meeting at which they were considered.
- D. **Permanent ordinance.** Any person or organization which supports or opposes the nomination of a property to the National Register shall be afforded the opportunity to make its views known in writing. All such correspondence regarding a nomination proposal shall become part of the permanent record concerning that proposal and shall be forwarded with approved proposals to the state historic preservation officer. In the case of disapproved nomination proposals, letters of support or comment shall be made a part of the permanent record concerning that proposal, and a list of such letters shall accompany the official copy of the disapproved nomination proposal when it is forwarded to the state historic preservation officer.
- E. **Public inspection.** Nomination proposals to be considered by the HPC shall be on file at the HPC's administrative office for at least 30 days but not more than 75 days prior to the HPC meeting at which they will be considered. A copy will be made available by mail when requested by the public and shall be made available at a location of reasonable local public access, so that written comments regarding a nomination proposal can be prepared.
- F. **Objections by property owners.** Objections by property owners must be in the form of a written, notarized statement certifying the owner's objection to the nomination.
- G. **Criteria for evaluation.** The following criteria shall be used by the HPC in evaluating properties for nomination to the National Register.
1. **Quality.** The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:
 - a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
 - b. That are associated with the lives of persons significant in our past; or
 - c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - d. That had yielded, or may be likely to yield, information important in prehistory or history.
 2. **Criteria considerations.** Ordinarily, cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have

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been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria of subsection (1) if they fall within the following categories:

- a. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- b. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
- c. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life; or
- d. A cemetery which derives its primary significance from graves of persons of transcendent importance from age, from distinctive design features, or from association with historic events; or
- e. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- f. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
- g. A property achieving significance within the past 50 years if it is of exceptional importance.

H. **Appeals.** Any person may appeal the decisions of the HPC regarding nominations or proposals to the National Register. Appeals shall be directed to the state historic preservation officer in writing within 30 days after the decision by the HPC.

(Ord. No. 05-06-30, § 84)

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DIVISION 2.

ARCHAEOLOGICAL RESOURCES

Section 12.15.200. Intent.

This section establishes procedures for identifying and investigating, prior to the issuance of a County development order or permit, those sites within the unincorporated area of Highlands County, Florida, which may contain an archaeological resource. It further sets forth requirements for the protection of significant archaeological resources pursuant to a County development order or permit or whenever such resources are encountered during construction or other activities involving the physical disturbance of land.

(Ord. No. 97-1, 2-11-97) (Ord. No. 05-06-30, § 84)

Section 12.15.201. Purpose.

Existing in Highlands County, Florida, are sites and artifacts, which can be of inestimable value in understanding the history and prehistory, of the early inhabitants of this County, the Central Florida region, and the state. Therefore, it is in the public interest to preserve the integrity of the County's archaeological record in a manner that prevents its loss or degradation and in a manner which protects these resources for scientific and educational study into the future. It is the intent of this section that, to the extent possible, significant archaeological resources shall be preserved in an undisturbed state until such time as they can be scientifically examined, cataloged, and excavated under the supervision of a qualified archaeological agent.

(Ord. No. 97-1, 2-11-97) (Ord. No. 05-06-30, § 84)

Section 12.15.202. Application.

When evaluating the significance of any archaeological resource for preservation, regard shall first be given to the artifacts it contains and its potential for contributing to the scientific record of prehistoric or historic Florida. Evidence for such archaeological records includes artifacts of early inhabitants or evidence of their activities which particularly express the historic or cultural significance the archaeological resource has to:

- A. Native American cultures and their modern descendants;
- B. Early European exploration and settlements in the Americas; or
- C. The pioneer movement of the State of Florida.

(Ord. No. 05-06-30, § 84)

Section 12.15.203. Archaeological investigation required.

- A. An archaeological reconnaissance survey and report are required before the issuance of any development order or the commencement of work whenever development activity, construction, or any other physical disturbance of land:
 - 1. Takes place within a designated archaeologically sensitive area, and, is listed in the FMSF as "significant" or as "significance unknown" requiring further investigation; or

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2. Takes place within a recently discovered site that has not yet been entered into the FMSF; or
3. Will involve disposition of buried human remains as directed by F.S. Ch. 872; and
4. Will involve the movement, displacement, or excavation of earth to a depth of six or more inches below existing grade, including
 - a. Grading and trenching;
 - b. Paving, concrete flatwork, and foundation work;
 - c. Installation of underground structures and flood control or drainage improvements;
 - d. Tilling or disking of undisturbed soils;
 - e. Land clearing; and
 - f. Mining.

B. Undiscovered archaeological resource. An archaeological reconnaissance survey shall be required whenever a previously undiscovered archaeological resource is encountered during development, construction, or other activities involving the physical disturbance of land. All activities which may disturb the resource shall be immediately stopped and an archaeological confinement zone established. Notification of any such find shall be given to the planning department within two business days from the date of its discovery. In the event the archaeological resource that is encountered is considered significant, as determined by the HPC from an archaeological reconnaissance survey, an archaeological reconnaissance report shall be required guided by the requirements cited below.

C. Report previously filed. An archaeological investigation shall not be required if an archaeological site reconnaissance report for the affected property within an archaeologically sensitive area is on file at the Highlands County Planning Department, or, if a certificate to proceed has been issued indicating that no significant archaeological resources exist on the site. However, this shall not be construed so as to exempt any affected party from satisfying the requirements of these provisions or from the necessity to update such reports in accordance with these provisions or from the necessity to prepare such a report for another archaeological resource on the site.

D. Contents of archaeological reconnaissance report. The archaeological investigation shall be conducted by a qualified archaeological agent, who shall prepare an archaeological reconnaissance report consistent with the professional criteria and standards established by the guidelines manual that is most recently published by the Florida Division of Historic Resources. At a minimum, archaeological reconnaissance reports shall contain the following information:

1. An aerial photographic map - or an aerial topographic map, where available - which identifies the location and perimeter of the archaeological resource in relationship to property lines, physical features, and development features of the site;

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2. A description of the content, physical form, and other attributes of the archaeological resource;
3. An analysis of the quality and integrity of the archaeological resource;
4. A statement of finding which determines whether or not the archaeological resource is significant;
5. Recommended measures for:
 - a. The permanent protection of any significant archaeological resource found at the site; or
 - b. Mitigating impacts to the archaeological resource resulting from any land use activities on the site, including options for on-site preservation, restoration, relocation, or scientific excavation.
 - c. Proper procedures for scientific excavation of the archaeological resource;
 - d. Temporary measures to protect the archaeological resource from disturbance during site preparation and construction; and
6. Appendices containing. citations of applicable federal and state laws and Florida Administrative Codes; a bibliography of reference documents that were used; all supporting documentation for the analysis, the statement of finding, and report recommendations; plus, background information on federal tax credits for easement dedications, donation of artifacts, etc.

Note: Property tax abatements or reductions for a dedicated area may be available via the Highlands County Property Appraiser's office.

- E. **Archaeologist recommendations.** In reporting their recommendations, qualified archaeological agents shall:
1. Address a preferred method for permanent identification of the archaeological resource, such as recording the archaeological survey map in the Official Records of Highlands County, or record to deed restrictions, and plat notations, inclusion to the Florida Master site file and, if applicable, the National Register of Historic Places; and
 2. Incorporate provisions for a qualified archaeological agent to inspect site development plans and to conduct field inspections as minimum measures to assure conformance with those recommendations which are made part of the County's action.
 3. Recommendations shall explain how a scientific excavation of the archaeological resource shall be conducted by a qualified archaeological agent. Whenever deed restrictions are recommended as a means to protect the archaeological resource on the site, such deed restrictions shall be noted on the appropriate plat or site plan and incorporated into the development order so as to prohibit any disturbance to or degradation of the resource without prior written authorization from the County.

(Ord. No. 05-06-30, § 84)

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Section 12.15.204. Planning department review.

- A. **Verifying the presence of an archaeological resource.** The planning department shall review all applications for a County development order in accordance with the provisions of this section for the purpose of verifying the presence of an archaeological resource which may be affected by the proposed use of land or activity thereon. In the event the historical/archaeological portion for the conservation overlay map series indicates the site addressed in the application encompasses an archaeological resource, or is within a portion of a 300-foot radius from a known archaeological resource that requires further investigation as determined by the FMSF, the applicant will be required to initiate an archaeological reconnaissance survey with a report submitted to the planning department.
- B. **Distribution of reports.** The planning department will send the report to the HPC for their recommendation within five working days after receiving the report from the applicant. The HPC will make an appropriateness determination according to this division. When an archaeological reconnaissance report has been filed for the site, the HPC will issue a certificate of appropriateness within five working days of their determination.
- C. **Verified archaeological resource.** Whenever the presence of an archaeological resource is verified and is determined significant and for which no archaeological reconnaissance report exists, the planning department shall, within five working days of their determination, notify the applicant by certified mail, with return receipt requested, of the following:
1. The reason why an archaeological reconnaissance report must be submitted before the application can be deemed complete for processing; and
 2. The requirement that the applicant select a qualified archaeological agent to prepare an archaeological reconnaissance report. (a list of qualified archaeologists as approved by the Highlands County HPC is maintained by the planning department.)
- D. **Discovered archaeological resource.** Whenever the presence of an unknown archaeological resource is discovered notice shall be given to the planning department. The planning department shall post the approximate limits of the archaeological confinement zone and notify all affected property owners by certified mail of the following within two working days of receiving notice:
1. That all activities within the posted archaeological confinement zone must cease until an archaeological investigation is conducted in accordance with these provisions;
 2. The reason why an archaeological reconnaissance report must be submitted before the application can be deemed complete for processing or before the recommencement of work can be authorized; and
 3. The requirement that the applicant select a qualified archaeological agent to perform the field investigation and to prepare the report.

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- E. **Other notification.** The Highlands County Planning Department shall also give similar notifications by regular mail to those interested parties, agencies, and organizations who file a written request to be notified of impending archaeological clearance reviews.
- F. **Planning department transmits recommendation.** No action shall be taken on a County development order, nor shall activities be recommenced within an archaeological confinement zone, until the planning department transmits the recommendation of the HPC by means of their certificate of appropriateness to the County authority responsible for issuing the development order or for authorizing the commencement of activities.
- G. **Complete application.** When the archaeological reconnaissance report is filed with the planning department, any affected application for a County development order will be deemed complete for processing.
- H. **Sufficient report.** Upon the submittal of the archaeological reconnaissance report to the planning department, copies of the report shall be transmitted to the HPC, to the Florida Division of Historic Resources, and to the County authority that will act upon the affected development order. A 30-calendar day review period shall commence from this transmittal date. Comments received during this time period from any government agency and interested and affected persons will be entered into the record for consideration at the HPC's next available meeting date after the 30-day review period. Upon review of the archaeological reconnaissance report and in consideration of the comments, documents, and testimony presented at its meeting from responding government agencies, County staff, and affected and interested persons, the HPC shall make any one of the following findings for the record:
1. That the investigated archaeological resource qualifies as a significant archaeological resource and may be detrimentally impacted by the uses proposed or the activities occurring thereupon; or
 2. That the investigated archaeological resource does not exist on the property or does not qualify as a significant archaeological resource; or
 3. That the archaeological reconnaissance report does not contain sufficient information about the archaeological resource to make either of the above findings.
- I. **Insufficient report.** Whenever the HPC finds the archaeological reconnaissance report is insufficient pursuant to section 12.12.416, it shall instruct the preparer to supplement the report in writing, with information it reasonably requires, to make a finding. The preparer shall have 30 calendar days to augment the initial report with the information requested by the HPC. However, the preparer shall have the option to request an additional 30 calendar days to provide this requested information, which the planning department shall grant upon receipt of a written reasonable request. In the event the requested additional information is not received, the HPC may return the report and all supporting material to the planning department. The procedure in section 12.12.416 shall be repeated with any re-submission to the planning department.
- J. **Significant archaeological resource not present.** Whenever the HPC finds that a significant archaeological resource is not present, it shall issue a certificate to proceed and recommend to the

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planning department that processing of the application for a County development order may proceed or that activities within the archaeological confinement zone may recommence.

- K. **Significant archaeological resource present.** Whenever the HPC finds that a significant archaeological resource is present pursuant to section 12.12.416, it shall issue a certificate of appropriateness and recommend to the planning department whatever measures it deems necessary to protect, preserve, or conserve the resource.
- L. **Condition to development order.** A County development order for a development site which contains a significant archaeological resource or an order allowing the recommencement of activities within an archaeological confinement zone shall incorporate the conditions transmitted by the planning department, and shall issue them in accordance with the recommendations of the HPC. At a minimum, the following shall be incorporated into the development order or recommencement action:
1. That a location map of the resource be recorded in the Public Records of Highlands County and be filed with the Florida Division of Historical Resources.
 2. That plats and plans note and locate the existence of all significant archaeological resources, specifying setbacks, easements, dedications, or protection measures pertaining thereto.
 3. That complete and accurate records of field investigations and excavations be filed with the Florida Department of Historical Resources and the Highlands County Planning Department.

(Ord. No. 05-06-30, § 84)

Section 12.15.205. Kissimmee River archaeologically sensitive area.

There are areas along the river and within the County where prehistoric or historic habitation has occurred. The Kissimmee River and its adjacent embankment and floodplain is an archaeological confinement zone, with a depth of 500 feet existing westward from the river's mean annual flood zone within Highlands County. For clarification, "river" may mean the C-38 canal or an old run of the Kissimmee River, which ever constitutes the most westerly bank within the County. Any development proposed within this potential resource area will be required to submit a preliminary archaeological reconnaissance survey with their application for a development order.

(Ord. No. 05-06-30, § 84)

Section 12.15.206. Archaeological site protection/mitigation.

- A. **Protection.** Measures taken to protect an archaeological site may be either temporary or permanent. When a site is to be protected, it is to be shielded from deterioration, damage, and from artifact collection by other than the professional archaeologist designated by the property owner to assess the site's significance. Site protection is designed to sustain the existing form and integrity of the site. Protective measures actually adopted are site specific, and may include (but not be limited to) the following steps and considerations where appropriate:
1. Designing the development site plan to avoid significant archaeological sites and/or to include them in natural open space preservation area. This design action will require the establishment of

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protective covenants or preservation easement between the County and the property owner, those proposing to develop the property, or any other authorized entities.

2. Satisfactory protection may also be achieved, under appropriate circumstances, by means of fencing, on-site public notices, covering with fill or paving over buried archaeological resources, stabilization or a combination of these.
3. Even though basic protective measures have been agreed upon at a development site, care must be taken to avoid indirect impact to the archaeological resources as a result of development site preparation and constructive activities. Examples of indirect impact are disturbance by the maneuvering of heavy equipment, delivery of construction materials and digging of utility line trenches.

B. **Mitigation.** The term "mitigation" refers to professional archaeological excavation of that portion of a significant archaeological site which is threatened by an adverse impact and which cannot be preserved.

1. If feasible, an archaeological site which has been designated a significant should be preserved and protected from adverse impact.
2. If it is not feasible to preserve the site, then the portion to be impacted should be excavated by professional archaeologists in order to recover and interpret the information which the site contains. The excavation should be conducted by a professional archaeologist in accordance the Section 4.6 of the guidelines contained in the Historical Preservation Compliance Review Program of the Florida Division of Historical Resources.
3. Since the goal of archaeological mitigation is to recover the information contained within a site, mitigative excavation projects also include analysis of recovered materials (artifacts, faunal material, botanical material, radiocarbon samples, etc.) and the preservation of the findings in a detailed technical report.

(Ord. No. 05-06-30, § 84)

Section 12.15.207. Penalty for unauthorized disturbance.

- A. **Site disturbance.** It shall be unlawful to willingly and knowingly excavate, deface, degrade, or disturb in any fashion whatsoever any significant archaeological resource existing within the unincorporated area of Highlands County, except in accordance with this section. Any person convicted of violation of any of the provisions of this section shall be punished by a fine not to exceed \$500.00 or by imprisonment in the County jail for a period not to exceed 60 days, or both such fine and imprisonment. Violation shall also constitute cause for the reconsideration or revocation of a County development order, denying an application for a County development order, or prohibiting the recommencement of activities within an archaeological confinement zone.
- B. **Burial disturbance.** To knowingly disturb human burial remains is a third degree felony in the State of Florida. Individuals who do so can be prosecuted under Chapter 872, F.S.1987 (Offenses Concerning Dead Bodies and Graves). The law includes prehistoric as well as historic period interments, aboriginal burial mounds and cemeteries, including historic period cemeteries. Procedures for dealing with the discovery of unmarked human burials are outlined in F.S. § 872.05(4). If unmarked human burials are

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suspected in an area that will be subject to ground disturbing activities, the area should first be surveyed by a professional archaeologist in order to locate such remains. Procedures for dealing with human remains during an archaeological investigation are present in F.S. § 872.05(5)--(7). Any located human interments should be preserved in place, if possible, or if it is necessary to excavate or otherwise move the remains, efforts should be made to identify and contact persons who may have a direct kinship, tribal, community or ethnic relationship with the deceased in order to arrange for their appropriate disposition.

(Ord. No. 05-06-30, § 84)

Section 12.15.208. Appeal procedure.

- A. **Notice of appeal.** A property owner or authorized agent desiring to appeal the determination of the HPC shall file a verified notice of appeal within 30 days after the date of mailing of the determination by certified mail or personal delivery to the office of the County administrator.
- B. **Appeal procedure.** A property owner or authorized agent may appeal the determination of the HPC to a hearing officer, pursuant to Division 2 of Article 2 of this Code.
- C. **Appeal from decision of hearing officer.** An aggrieved party may appeal a final order of the hearing officer to the Circuit Court in Highlands County, Florida, within 30 days after the filing of such decision in the office of the County administrator but not thereafter. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

(Ord. No. 05-06-30, § 84)

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ARTICLE 16.

BUILDING CODE

DIVISION 1.

TITLE AND SCOPE

Section 12.16.100. Title and scope of the code.

The provisions of the following paragraphs shall constitute and be known and be cited as "The Standard Administrative Code for Highlands County, Florida," hereinafter known and referred to as the "administrative code."

(Ord. No. 05-06-05)

Section 12.16.101. Maintenance.

All building, structures, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by any applicable codes when constructed, altered, or repaired shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical, and plumbing systems.

(Ord. No. 05-06-05)

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DIVISION 2.

BUILDING DEPARTMENT AND BUILDING OFFICIAL

Section 12.16.200. Building department.

There is hereby established a department to be called the "building department" and the person in charge shall be known as the "building official." (Ord. No. 05-06-05)

Section 12.16.201. Building official qualifications.

The building official shall have at least ten years experience or equivalent, as an architect, engineer, inspector, contractor, or superintendent of construction, or any combination of these, five years of which shall have been in responsible charge of work. The building official should be certified as a building official through a recognized certification program. The building official shall be appointed or hired pursuant to the Highlands County Personnel Rules and Regulations Manual. (Ord. No. 05-06-05)

Section 12.16.202. Powers and duties of the building official.

The building official is hereby authorized and directed to enforce the provisions of this and the technical codes. The building official is further authorized to render interpretations of these codes, which are consistent with their spirit and purpose. (Ord. No. 05-06-05)

Section 12.16.203. Right of entry.

Whenever necessary to make an inspection to enforce any of the provisions of this or the technical codes, or whenever the building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this Code, provided that if such building or premises is occupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such an entry request. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry. When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to the code. (Ord. No. 05-06-05)

Section 12.16.204. Stop work orders.

Upon notice from the building official or his designee, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this building code or the technical codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the building official shall not be required to give written notice prior to stopping the work. (Ord. No. 05-06-05)

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Section 12.16.205. Revocation of permits.

- A. **Misrepresentation of application.** The building official may revoke a permit or approval issued under the provisions of this or the technical codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- B. **Violation of code provisions.** The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with the provisions of this or the technical codes. (Ord. No. 05-06-05)

Section 12.16.206. Chief inspector qualifications.

The building official, pursuant to the Highlands County Personnel Rules and Regulations Manual may designate chief inspectors to administer the provisions of the building, electrical, gas, mechanical and plumbing codes. They shall have at least ten years' experience or equivalent, as an architect, engineer, inspector, contractor, or superintendent of construction, or any combination of these, five years of which shall have been in responsible charge of the work. They should be certified through a recognized certification program for the appropriate trade. Removal from office shall be pursuant to the Highlands County Personnel Rules and Regulations Manual. (Ord. No. 05-06-05)

Section 12.16.207. Inspector qualifications.

The building official, pursuant to the Highlands County Personnel Rules and Regulations Manual, may appoint or hire a number of officers, inspectors, assistants and other employees as shall be authorized from time to time. A person shall not be appointed or hired as inspector of construction who has not had at least five years experience as a building inspector, engineer, architect, or as a superintendent, foreman or competent mechanic in charge of construction. The inspector should be certified, through a recognized certification program for the appropriate trade. (Ord. No. 05-06-05)

Section 12.16.208. Deputy building official.

The building official may designate as his deputy an employee in the department who shall, during the absence or disability of the building official, exercise all the powers of the building official. The deputy building official should have the same qualifications as listed in section 12.16.201 of this division. (Ord. No. 05-06-05)

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Section 12.16.209. Restrictions on employees.

An officer or employee connected with the department, except one whose only connection is a member of the board established by this Building code, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any other work which is inconsistent with his duties or in conflict with interests of the department. (Ord. No. 05-06-05)

Section 12.16.210. Records.

The building official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection. (Ord. No. 05-06-05)

Section 12.16.211. Liability.

Any officer or employee, or member of the construction licensing enforcement and appeals board charged with the enforcement of this or the technical codes, acting for the BCC in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any provision of this or the technical codes shall be defended by the County until the final termination of the proceedings. (Ord. No. 05-06-05)

Section 12.16.212. Reports.

The building official shall submit, annually a report covering the work of the building department during the preceding year. The building official may incorporate in said report a summary of the decisions of the construction licensing, enforcement and appeals board during said year. (Ord. No. 05-06-05)

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DIVISION 3.

BUILDINGS, PERMITS, INSPECTIONS, AND CERTIFICATES

Section 12.16.300. Unsafe buildings or systems.

All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Standard Unsafe Building Abatement Code or by the Highlands County Standard Housing Code.

(Ord. 99-20) (Ord. No. 05-06-05)

Section 12.16.301. Requirements not covered by code.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing systems, or for the public safety, health and general welfare, not specifically covered by this or the technical codes, shall be determined by the building official.

(Ord. No. 05-06-05)

Section 12.16.302. Information required.

- A. Prior to issuance of permits for development as defined by this Code, there shall first be on file approved by official County action, a final development order pertaining to a plat, site plan, or improvement plan pursuant to the requirements of Article 4 of this chapter for the project, unless the project qualifies for an exemption. In addition, the contractor must obtain a residential driveway permit from the County engineer's office.
- B. Each application for a permit shall contain a general description of the proposed work and a boundary survey prepared by a Florida Professional Surveyor or Mapper on a new residence or new commercial building. The following are exempted from the requirement for a boundary survey:
 - 1. Parcels over one acre;
 - 2. All mobile home parks that are owned by one person;
 - 3. All mobile home parks in the M-2 zoning district;
 - 4. All CG-1, CG-2, CG-3, and RV-FUD campgrounds or parks.
- C. Building permits applications for single-family residential, duplex, and manufactured home are pursuant to the requirements of section 12.08.107, dwelling building permit requirements for single-family, manufactured home and duplex dwellings.
- D. A signed and sealed site plan prepared by a licensed professional engineer or an architect in the State of Florida and submitted at the time of a building and driveway permit shall be required when the finished

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floor elevation of the proposed structure is two feet or greater or two feet or less than the adjacent property elevation and the proposed side slopes along the property lines exceed 1:4 (V:H). Said site plan shall include proposed structures, appurtenances, slopes, grading plan, and adjacent property elevations. The runoff from the property into the adjacent properties shall not exceed the pre-development conditions.

- E. Drawings and specifications. When required by the building official, three or more copies of specifications, and drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall be in conformance with the Florida Building Code and Florida Fire Prevention Code. The building official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the building official to be prepared by an architect or engineer shall be affixed with their official seal. (Ord No. 06-07-37 § 9)

(Ord. No. 05-06-05; Ord. No. 05-06-30, § 85; Ord. No. 06-07-29, § 4; Ord. No. 06-07-37, § 9)

Section 12.16.303. Public right-of-way.

A permit shall not be given by the building official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley or public land, or for the placing on any lot or premises, unless the applicant has made application at the office of the County engineer for the lines of the public street on which he proposes to build, erect or locate said building; and it shall be the duty of the building official to see that the street lines are not encroached upon except as provided for in Chapter 32 of the Florida Building Code. (Ord. No. 05-06-05)

Section 12.16.304. Contractors responsibilities.

It shall be the duty of every contractor who shall make contracts for the installation or repairs of building, structure, electrical, gas, mechanical or plumbing systems for which a permit is required to comply with state or local rules and regulations concerning licensing, which the BCC may have adopted.

(Ord. No. 05-06-05)

Section 12.16.305. Building permit valuations.

If in the opinion of the building official, the valuation of building, alteration, structure, electrical, gas, mechanical, or plumbing systems appears to be underestimated on the application, permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

(Ord. No. 05-06-05)

Section 12.16.306. Affordable housing expedited permitting.

When requested by an applicant for an affordable housing project, as defined by F.S. Ch. 420, Pt. VI, and the application is determined to be complete, the County shall grant first priority in review and processing to expedite the issuance of all building permit applications, preliminary and a final development orders, and all

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applicable development permits. To affect the successful issuance of a development order and/or permit, the County shall continually monitor the progress of the application. The project, however shall comply with all requirements of these regulations not elsewhere exempted.

(Ord. No. 05-06-05; Ord. No. 05-06-30, § 86)

Section 12.16.307. Existing building inspections.

Before issuing a permit the building official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. The building official shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems from time to time, during and upon completion of the work for which a permit was issued. The building official shall make a record of every such examination and inspection and of all violations of the technical codes.

(Ord. No. 05-06-05)

Section 12.16.308. Manufacturing and fabricators.

When deemed necessary the building official shall make, or cause to be made, an inspection of material or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes.

(Ord. No. 05-06-05)

Section 12.16.309. Inspection service.

The building official may make, or cause to be made, the inspections required by this division. The building official may accept reports of inspectors of recognized inspection services if satisfied as to their qualifications and reliability. A certificate called for by any provision of the technical codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

(Ord. No. 05-06-05)

Section 12.16.310. Form board survey required.

- A. A form board survey shall be required when buildings exceed the minimum required zoning setbacks by less than 18 inches or are closer than 18 inches to existing easements; and
- B. Any contractor or owner-builder who has received a variance on a zoning setback from the BOA after commencement of a permitted building or structure, shall be required to submit a form board survey on subsequently permitted buildings and structures prior to completion of the initial building inspection for a period of three (3) years from the date the variance is granted; and
- C. Any contractor or owner-builder who, after January 1, 2009, receives a vacation of a portion or all of a drainage and/or utility easement from the Board of County Commissioners after commencement of a permitted building or structure shall be required to submit a form board survey on subsequently permitted buildings and structures prior to completion of the initial building inspection for a period of three (3) years from the date the vacation is granted; and
- D. The form board survey shall be performed by a registered land surveyor and shall show all zoning setbacks, all easements, and the location of the building form boards relative to the property lines. The

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County building official and the Development Services Director shall maintain a record of anyone who must comply with this requirement.

E. Exempt from this provision are:

1. All sheds or other buildings on skids and above-ground pools that are accessory structures and fences but not pool decks or pool cages;
2. All structures in a mobile home park owned by one person; this exemption does not apply to permanent structures located within eighteen (18) inches of the adjacent perimeter setback of the mobile home park;
3. All structures in mobile home parks in the M-2 zoning district; this exemption does not apply to permanent structures located within eighteen (18) inches of the adjacent perimeter setback of the mobile home park;
- A. All structures in CG-1, CG-2, CG-3 and RV-FUD campgrounds; this exemption does not apply to permanent structures located within eighteen (18) inches of the adjacent perimeter setback of the campground.
- B. If the building exceeds the minimum setback requirement of that district by an additional 25 feet or more.

(Ord. No. 05-06-05; Ord. No. 06-07-29, § 5; Ord. No. 06-07-37, § 10; Ord. No. 08-09-63 § 4)

Section 12.16.311. Building occupancy.

A location survey by a Florida professional surveyor or mapper indicating legal setbacks must be submitted prior to the issuance of certificate of occupancy. Parcels over one acre, all mobile home parks that are owned by one person, all mobile home parks in the M-2 zoning district, and all uses in CG-1, CG-2, CG-3 and RV-FUD are exempted from the requirement of a location survey. (Ord. No. 05-06-05)

Section 12.16.312. Existing building certificate of occupancy.

A certificate of occupancy for any existing building may be obtained by applying to the building official and supplying the information and data necessary to determine compliance with the technical codes for the occupancy intended. Where necessary, in the opinion of the building official, two sets of detailed drawings or a general inspection, or both, may be required. When upon examination and inspection, it is found that the building conforms to the provisions of the technical codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued. (Ord. No. 05-06-05)

Section 12.16.313. Tests.

The building official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner or his agent by an approved testing laboratory or other approved agency.

(Ord. No. 05-06-05)

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DIVISION 4.

CONTRACTORS AND BUILDER-OWNERS

Section 12.16.400. Contractors, specialty contractors and handypersons.

All contractors, specialty contractors and handypersons shall register with the Highlands County Building Department prior to contracting work to be performed in Highlands County, Florida.
(Ord. No. 05-06-05)

Section 12.16.401. Contractors.

For purposes of this Code, contractors are designated as defined in F.S. Ch. 489.
(Ord. No. 05-06-05)

Section 12.16.402. Specialty contractors.

For the purpose of this Code, specialty contractors are designated in the following categories:

- A. **Aluminum contractor.** Those who are qualified to fabricate, install, repair, alter or extend aluminum structures, including screen rooms, with solid or screen roofs, metal siding, soffits, gutters and awnings.
- B. **Aluminum/concrete contractor.** The scope of work of an aluminum contractor shall include and be limited to the fabrication, assembling, handling, erection, installation dismantling, adjustment, alteration, repair, servicing and design work, when not prohibited by law, of aluminum metal, vinyl and fiberglass screening material. The scope of work shall include and be limited to screened porches, screen enclosures, pool enclosures, pre-formed panel-post and beam roofs, mobile home panel roof-overs residential glass window enclosures, vinyl panel window enclosures, single story self contained aluminum utility storage structures (not to exceed 500 square feet), siding, soffit, fascia, gutters and awnings. The scope of work shall include masonry concrete work and be limited foundations, slabs and block knee walls not to exceed four feet incidental to the aluminum and allied materials construction work. This category includes, but is not limited to, metal, canvas and other storm shutters. This contractor shall not perform any work that alters the structural integrity of the building, including, but not limited to, roof trusses, lintels, load bearing walls and foundations.
- C. **Carpentry/framing contractor.** Those who have the knowledge and skill to install any wood products in a building including, but not limited to, rough framing, structural and nonstructural, trusses, sheathing, and metal framing; and the work of the finish carpentry contractor.
- D. **Concrete forming and placing contractor.** Those who are qualified to construct forms and form work for the casting and shaping of concrete, including, but not limited to columns, beams, decks, and window frames; to place and erect concrete reinforcement to batch and mix aggregate cement and water to specification incidental to placing concrete; and to pour, place and finish concrete.
- E. **Concrete placing and finishing contractor.** Those who are qualified to pour, place, and finish concrete flatwork (supported slabs, slab on grade, sidewalks, etc.) including placement of concrete reinforcement, plastic vapor barriers, and edge forms incidental thereto.

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- F. **Cultured marble installer.** Those who are qualified to set cultured marble.
- G. **Finish carpentry contractor.** Those who have the knowledge and skill to install finish wood products including paneling, trim cabinetry, doors, windows (including metal), stair treads and handrails and all hardware incidental thereto.
- H. **Demolition contractor.** Those who are qualified to demolish and remove structures, such as dwellings, commercial buildings and foundations.
- I. **Drywall/stucco/plaster/lath contractor.** Those who are qualified to install gypsum drywall and plaster products to wood and metal studs, wood and steel joists, and metal runners in buildings of unlimited area and height. The scope of the work shall include the preparation of the surface over which the drywall product is to be applied, including the placing of metal studs and runners and all necessary trim. Those who are qualified to coat surfaces with a mixture of sand or other aggregate gypsum plaster, portland cement or quick lime and water, or any combination of such material as to create a permanent surface coating.
- J. **Fence installer.** Those who are qualified to install, replace or repair fencing including, but not limited to, wood, metal, chain link or masonry fences.
- K. **Garage door installer.** A contractor under this classification is authorized to bid and contract for such work as selecting, cutting, surfacing, joining, sticking, gluing wood and other products and materials including metal, but not including ornamental iron, in such a manner, that under agreed specifications, acceptable doors may be installed in building and structures, such installation to include the necessary hardware as is necessary to connecting, closing, and locking such doors in their fabricated and installed framework.
- L. **Glass and glazing installer.** Those who are qualified to select, cut assemble, and install all makes and kinds of glass and glasswork and execute the glazing frames, panels, sash and door and holding metal frames, ornamental decorations, mirrors, tub and shower enclosures.
- M. **Insulation contractor.** Those who are qualified to install, maintain, repair, alter or extend any insulation primarily installed to prevent loss or gain of heat from rooms or buildings.
- N. **Irrigation sprinkler contractor.** Those who are qualified to install, maintain, repair, alter, or extend all piping and sprinkler heads for the irrigation of lawns, including the connection to a water pump.
- O. **Electrical contractor (low voltage - 50 volts or less).** Those who are qualified to install, maintain, repair, alter or extend any low voltage electrical construction less than 50 volts or equivalent rms.
- P. **Marine contractor.** Those who are qualified with the experience and skill to construct sea walls, bulkheads, docks, piers, wharfs, and other marine structures, including pile driving.
- Q. **Masonry/block contractor.** Those who are qualified to select, cut and lay brick and concrete block or any other unit masonry products, lay brick and other baked clay products, rough cut and dress stone,

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artificial stone, and pre-cast block, structural glass brick or block and insulated concrete wall units. This work includes placement of reinforcing steel and concrete forming and placing incorporated into the masonry work.

- R. **Masonry/concrete contractor.** Those who are qualified to do the work of a masonry contractor and to pour, place, and finish concrete flatwork (floors, sidewalks, etc.) including placement of mesh reinforcement, vapor barriers, and edge forms incidental thereto.
- S. **Mobile home installer.** Florida Administrative Code, Rule 15C-2.0073(1), Installer Licensing Procedures and Requirements *This rule states "No person may perform manufactured/mobile home installation unless licensed by the department pursuant to F.S. § 320.8249, regardless of whether that person holds a local installer's license or any other local or state license".
- T. **Painting contractor.** Those who are qualified to use spraying equipment as well as hand tools to finish both exterior and interior work. A painting contractor may do paperhanging, sandblasting, waterproofing, and may clean and coat roofs.
- U. **Sign contractor.** Those who are qualified to erect signs. Such contractor may contract for, and take out permits for the erection of signs.
- V. **Solar heater installer.** Those who have the knowledge to install, alter, repair or replace any solar hot water heating system of residences or for swimming pools, including collectors, storage and expansion tanks, heat exchangers, piping valves, pumps, sensors, and low voltage controls which connect to existing plumbing and electrical stub-outs.
- W. **Structural steel contractor.** Those who are qualified to erect structural steel shapes and plates, including such minor field fabrication as may be necessary, of any profile, perimeter, or cross-section, that are or may be used as structural members for buildings and structures, including metal decking, siding, joists, riveting, welding, and rigging, only in connection therewith.
- X. **Tile and marble contractor.** Those who are qualified to set tile and marble.
(Ord. No. 05-06-05)

Section 12.16.403. Handypersons.

For purposes of this building code, a handyperson may perform work of a casual, minor or inconsequential nature in the categories of work described in F.S. Ch. 489, Pt. I (other than the categories of general contractor, Class A air-conditioning contractor, Class B air-conditioning contractor, commercial pool/spa contractor, residential pool/spa contractor, underground utility and excavation contractor, and pollutant storage systems contractor) for which a building permit is not required, in which the aggregate price for labor, materials, and all other items is less than \$1,000.00 and the construction, repair, remodeling, or improvement is not part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$1,000.00 for the purpose of evading this limitation or F.S. Ch. 489, Pt. I.

Except as allowed by this section 12.16.403, a handyperson shall not perform any work in the categories listed in section 12.16.401 and section 12.16.402 of this article. A person performing work as a handyperson

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pursuant to the exemption provided in F.S. § 489.103(9), and this section shall not advertise that he or she is a "contractor" or otherwise represent that he or she is qualified to engage in "contracting" as those terms are defined in F.S. § 489.105. After September 30, 2000, no person shall perform work for compensation in the categories of work described in F.S. Ch. 489, Pt. I, except as an employee to the extent allowed by F.S. Ch. 489, unless issued a handyperson registration certificate by the County or a state contractor's license or certificate of competency issued by the County for the category of work performed.

(Ord. No. 05-06-05; Ord. No. 05-06-30, § 87)

Section 12.16.404. Certificate of competency.

All persons desiring to engage in the business or act in the capacity of any type of contractor or subcontractor, shall have a state-issued or County-issued certificate of competency and be registered with the State of Florida, in accordance with F.S. Ch. 489. Specialty contractors shall also have a certificate of competency issued by the County.

(Ord. No. 05-06-05)

Section 12.16.405. County certificate of competency for contractors.

In order to obtain a County certificate of competency as a contractor, an individual must:

- A. Provide proof of qualifications and experiences as stated in F.S. Ch. 489, or other proof of competency acceptable to the construction licensing, enforcement and appeals board which shall be approved on a case by case basis.
- B. Provide such other information and documentation as is required by the County building department and the construction licensing, enforcement and appeals board, including, but not limited to, a summary of qualifications, experience, history of employment, record of law violations, credit rating, outstanding judgments, and photograph of the applicant.
- C. Receive final approval after review of all pertinent information by the construction licensing, enforcement and appeals board.
- D. Pass the experior *NAI* block exam designated by the County building department.
- E. Provide certificate of insurance for the coverage required by statute, regulation, ordinance, or resolution, whichever is greater.

(Ord. No. 05-06-05)

Section 12.16.406. County certificate of competency for specialty contractors.

In order to obtain a certificate of competency as a specialty contractor an individual must:

- A. Provide proof of qualifications and experience in his specialty by means of a signed affidavit attesting to at least one year of experience in the specialty field the individual is requesting or other proof of competency acceptable to the construction licensing, enforcement and appeals board approved on a case by case basis.

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- B. Provide such other information and documentation as is required by the County building department and the construction licensing, enforcement and appeals board, including, but not limited to, a summary of qualifications, experience, history of employment, record of law violations, credit rating, outstanding judgments, and photograph of the applicant.
 - C. Receive final approval after review of all pertinent information by the construction licensing, enforcement and appeals board.
 - D. Pass the experior *NAI* block exam designated by the County building department.
 - E. Provide certificate of insurance for the coverage required by statute, regulation, ordinance, or resolution, whichever is greater.
- (Ord. No. 05-06-05)

Section 12.16.407. County handyperson registration certificate.

- A. In order to obtain a handyperson registration certificate, an individual must:
 - 1. Provide proof of qualifications and experience by means of a signed affidavit attesting to experience in five or more of the categories of work described in F.S. Ch. 489, Pt. I, including at least one year of experience in at least one of those categories and other proof of competency acceptable to the construction licensing, enforcement and appeals board. Provide proof of experience in five categories.
 - 2. Provide such other information and documentation as is required by the County building department and the construction licensing, enforcement and appeals board, including, but not limited to, a summary of qualifications, experience, history of employment, record of law violations, credit rating, outstanding judgments, and photograph of the applicant.
 - 3. Receive final approval after review of all pertinent information by the construction licensing, enforcement and appeals board.
 - 4. Provide certificate of insurance for the coverage required by statute, regulation, ordinance, or resolution, whichever is greater.
- B. In order to obtain a County registration for a state certified contractor the licensee must:
 - 1. Provide proof of state certification.
 - 2. Provide certificate of insurance for the coverage required by statute, regulation, ordinance, or resolution, whichever is greater.

(Ord. No. 05-06-05)

Section 12.16.408. Reserved.

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Section 12.16.409. Signs, advertising and contracts.

- A. It shall be unlawful for any person, firm, or corporation that does not have a valid certificate of competency to engage in or represent himself, herself, itself or themselves, as a contractor or to use words in any advertising, sign, or business card which would imply the advertiser to be a contractor or specialty contractor. Telephone or advertisement listing may not appear under categories above the limits of the license holder's qualification to perform said work as set forth in F.S. § 489.105. Example: a class "B" building contractor may not advertise under a "general contractor" heading, but may advertise under "building contractor" or "residential contractor" headings.
- B. It shall be unlawful for any contractor to enter into any written contract unless the State of Florida certification or registration number is displayed on said contract. Specialty contractors shall display their County registration number.
- C. It shall be unlawful for any person to advertise as a contractor in any newspaper, telephone directory, billboard, sign, business card, or any other form of solicitation unless the State of Florida certification or registration number is included in such advertising or solicitation. Specialty contractors shall display their County registration number.
- D. Any person, firm or corporation in legal possession of a valid certificate of competency and engaged in the business of contracting in the County shall display a permanent sign on the place of business and all work vehicles. Such signs shall state the name of the firm or corporation, individual holding said certificate of competency (if substantially different from the firm's name), and State of Florida issued certification or registration number.
- E. It shall be unlawful for any contractor to enter into any written contract unless the state certification number or state registration number is displayed on said contract. Specialty contractors shall display their County registration number.

(Ord. No. 05-06-05)

Section 12.16.410. Owner builder.

The County building department shall require all persons applying for an "owner builder permit" to sign a statement that they will abide by all laws including the hiring of only licensed contractors. The statement will clarify the fact that the home is intended for occupancy by the owner builder for a minimum period of one year from issuance of the certificate of occupancy.

(Ord. No. 05-06-05)

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DIVISION 5.

VIOLATIONS, PROHIBITIONS, ENFORCEMENT, AND PENALTIES

Any person, firm, corporation or agent who shall violate a provision of this or the technical codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing systems, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing systems, in violation of a detailed statement or drawing submitted and permitted there under, shall be guilty of a misdemeanor or a felony, pursuant to F.S. § 489.127. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of code is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state law.

(Ord. No. 05-06-05)

Section 12.16.500. Civil enforcement of violations of prohibited acts.

Pursuant to this section it is the board of County commissioner's intention to enforce the provisions of F.S. § 489.127(1), and F.S. § 489.132(1), against persons who engage in activity for which a County or municipal certificate of competency or license or state certification or registration is required as allowed by F.S. § 489.127(5).

- A. Highlands County designates the Highlands County Building Official and all Highlands County Building Inspectors and any building code enforcement officers who are designated by the building official to enforce, as set out in F.S. § 489.127(5), the provisions of F.S. § 489.127(1), and F.S. § 489.132(1), against persons who engage in activity for which a County or municipal certificate of competency or license or state certification or registration is required.
- B. The citation issued by the Highlands County Building Official or any Highlands County Building Inspector or any building code enforcement officers who are designated by the building official pursuant to F.S. § 489.127(5), shall be in a form prescribed by resolution of the Highlands County Board of County Commissioners having, at a minimum, the content required by F.S. § 489.127(5).
- C. The Highlands County CLEAB shall be responsible for the administration of the citation program and training of the Highlands County Building Official and the Highlands County Building Inspectors and any building code enforcement officers who are designated by the building official issuing citations pursuant to F.S. § 489.127(5). In any appeal arising out the issuance of a citation by the Highlands County Building Official or a Highlands County Building Inspector or any building code enforcement officers who are designated by the building official pursuant to F.S. § 489.127(5), any administrative hearing held pursuant to F.S. § 489.127(5), shall be held by the Highlands County CLEAB.
- D. Any unlicensed person who violates any of the provisions of F.S. 489.127(1), or F.S. § 489.132(1), commits a noncriminal infraction punishable by a civil penalty in the amount of \$500.00 for each violation which shall be assessed by the citation issued by the Highlands County Building Official or Highlands County Building Inspector and any building code enforcement officers who are designated by the building official pursuant to F.S. § 489.127(5).

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- E. Monies collected pursuant to F.S. § 489.127(5), shall be deposited into the general revenue account of the Highlands County Board of County Commissioners.

(Ord. No. 05-06-05)

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ARTICLE 17.

FIRE CODE

DIVISION 1.

GENERAL

Section 12.17.100. Codes adopted by reference.

The following code is hereby adopted by reference as though it was copied fully herein: The Florida Fire Prevention Code as adopted and amended by Florida Statutes.
(Ord. No. 05-06-30, § 88)

Section 12.17.101. Enforcement.

Within such aforementioned codes, when reference is made to the duties of certain officials named therein, designated officials of the BCC of Highlands County, who have duties corresponding to those of the named officials in such code, shall be deemed to be responsible officials insofar as enforcing the provisions of such codes are concerned.
(Ord. No. 05-06-30, § 88)

Section 12.17.102. Title and scope of the code.

The provisions of this article shall constitute and be known and cited, as "The Fire Code for Highlands County, Florida", hereinafter, known and referred to as the "Fire Code".

- A. **Purpose.** The purpose of this fire code is to provide for the administration and enforcement of the applicable codes, standards and rules as adopted by reference and listed in section 12.17.100 of this fire code.
- B. **Remedial intent.** This fire code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof; which are public safety, health, and general welfare; through structural strength, stability, sanitation, adequate light and preventing hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of building, structures, or premises and by regulating the installation and maintenance of all electrical, gas, mechanical or suppression systems, which may be referred to as service systems.
- C. **Quality control.** Quality control of materials and workmanship is not within the purview of this fire code except as it relates to the purposes stated herein.
- D. **Permitting and inspection.** The inspection or permitting of any building, system or plan by any jurisdiction, under the requirements of this fire code, shall not be construed in any court as a warranty of the physical condition of such building, system or plan or the adequacy of them. No jurisdiction nor any employee thereof shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

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E. **Applicability of fire codes.**

1. **Building.** The provisions of this fire code shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures.
2. **Federal and state authority.** The provisions of this fire code shall not be held to deprive any federal or state agency, or any applicable governing authority having jurisdiction, of any power to which it had on the effective date of the adoption of this fire code or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.
3. **Maintenance.** All building, structures, electrical, gas, mechanical and suppression systems, both existing and new, and all parts thereof, shall be maintained in a safe, sanitary and code compliant condition. All devices or safeguards which are required by the fire code when constructed, altered, or repaired shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of building, structures, electrical, gas, mechanical, and suppression systems.

(Ord. No. 05-06-30, § 88)

Section 12.17.103. Fire prevention bureau.

There is hereby established a bureau of the division of fire services to be called the "fire prevention bureau" and the person in charge shall be known as the "fire marshal."

- A. **Restrictions on employees.** An officer or employee connected with the fire prevention bureau, except one whose only connection is a member of the fire safety board of appeals by this fire code, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any other work which is inconsistent with his duties or in conflict with interests of the fire prevention bureau.
- B. **Records.** The fire marshal shall keep, or cause to be kept, a record of the business of the fire prevention bureau. The records of the fire prevention bureau shall be open to public inspection, on an appointment basis.
- C. **Liability.** Any officer or employee, or member of the fire safety board of appeals charged with the enforcement of this fire code, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any provision of this fire code shall be defended by the County until the final termination of the proceedings.

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- D. **Reports.** The fire marshal shall submit annually a report covering the work of the fire prevention bureau during the preceding year. He may incorporate in said report a summary of the decisions of the fire safety board of appeals during said year.

(Ord. No. 05-06-30, § 88)

Section 12.17.104. Buildings.

- A. **Existing buildings.** Alterations, repairs or rehabilitation work may be made to any existing structure, building, electric, gas, mechanical or suppression systems without requiring the building, structure, suppression, mechanical, electric or gas systems to comply with all the requirements of this fire code provided that the alteration, repair or rehabilitation work conforms to the requirements of this fire code for new construction. The fire marshal shall determine the extent to which the existing system shall be made to conform to the requirements of this fire code as for new construction.
- B. **Change of occupancy.** If the occupancy classification of any existing building or structure is changed, the building, electric, gas, mechanical and suppression systems shall be made to conform to the intent of this fire code as required by the fire marshal.

(Ord. No. 05-06-30, § 88)

Section 12.17.105. Powers and duties of the fire marshal.

The fire marshal is hereby authorized and directed to enforce the provisions of this fire code. The fire marshal is further authorized to render interpretations of these codes, which are consistent with their spirit and purpose.

A. **Right of entry.**

1. Whenever necessary to make an inspection to enforce any of the provisions of this fire code, or whenever the fire marshal may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the fire marshal by this fire code, provided that if such building or premises is occupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such an entry request. If entry is refused, the fire marshal shall have recourse to every remedy provided by law to secure entry.
2. When the fire marshal shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the fire marshal for the purpose of inspection and examination pursuant to the code.

- B. **Stop work orders.** Upon notice from the fire marshal, work on any building, structure, electrical, gas, mechanical or suppression system that is being done contrary to the provisions of this fire code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the fire marshal shall not be required to give written notice prior to stopping the work.

(Ord. No. 05-06-30, § 88)

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DIVISION 2.

PERMITS, PLAN REVIEW, INSPECTIONS, AND VIOLATIONS

Section 12.17.200. Permits.

A person, firm or corporation shall not erect, construct, enlarge, install, alter, repair, move, improve, remove, convert or demolish any building, structure, electrical, gas, mechanical or suppression systems in the applicable jurisdiction, or cause the same to be done, without first obtaining a permit for such from the building official and approval by the fire marshal.

- A. **Work authorized.** A building, electrical, gas, mechanical, or suppression permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application of the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.
- B. **Minor repairs.** Ordinary minor repairs may be made with the approval of the fire marshal without a permit, provided that such repairs shall not violate any of the provisions of this fire code.

(Ord. No. 05-06-30, § 88)

Section 12.17.201. Drawings and specifications.

When required by the fire marshal, three copies of specifications, and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall be received at the Fire Prevention Bureau for review, distribution and retention. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with this fire code. Such information shall be specific, and this fire code shall not be cited as a whole or in part, nor shall the term "legal", or its equivalent be used as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design. (Ord. No. 05-06-30, § 88)

Section 12.17.202. Plans.

When the fire marshal approves for a permit, he shall endorse, in writing or by stamp, two sets of plans, "reviewed for code compliance." One set of the permitted drawings will be sent to archives and one set of the permitted drawings shall be kept at the site of work and shall be open to inspection by the fire marshal or his authorized representative. (Ord. No. 05-06-30, § 88)

Section 12.17.203. Fees.

A permit shall not be issued until the fees prescribed in this section have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, suppression, mechanical or gas systems, has been paid.

- A. **Work commencing before permit issuance.** if any person commences any work on a building, structure, suppression, mechanical or gas systems before obtaining the necessary permit, he shall be subject to a penalty as described in the Highlands County schedule of fees.

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- B. **Accounting.** The building and engineering departments shall keep a permanent and accurate accounting of all permit fees and other monies collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.
- C. **Schedule of permit fees.** On all buildings, structures, suppression, mechanical and gas systems or alteration requiring a permit, a fee for each plan review and permit shall be paid as required at the time of filing application, in accordance with the schedule as established by the BCC.
- (Ord. No. 05-06-30, § 88)

Section 12.17.204. Affordable housing expedited permitting.

When requested by an applicant for an affordable housing project, as defined by F.S. Ch. 420, Pt. VI, and the application is determined to be complete the County shall grant first priority in review and processing to expedite the issuance of all preliminary and a final development orders and all other applicable fire clearances. To effect the successful issuance of a development order and/or permit, the County shall continually monitor the progress of the application. The project, however, shall comply with the requirements of these regulations not elsewhere exempted.

(Ord. #98-14, 6-16-98) (Ord. No. 05-06-30, § 88)

Section 12.17.205. Inspections.

- A. **Existing building inspections.** Before approving for a permit the fire marshal may inspect or cause to be inspected any building, electrical, gas, mechanical or suppression systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and suppression systems from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of this fire code.
- B. **Inspections prior to issuance of certificate of occupancy.** The fire marshal shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or suppression system upon completion, prior to the issuance of the certificate of occupancy.
- C. **Required inspections.** The fire marshal, upon notification from the building official or his agent, shall make the following inspections and such other inspections as necessary and shall either release that portion of the construction or shall notify the building official or his agent of any violations which must be corrected in order to comply with this fire code.
1. **Building: Final inspection:** To be made after the building is completed and ready for occupancy.
 2. **Electrical: Final inspection:** To be made after the building is completed, all required emergency lights, shut-down shunts and fire alarm systems are in place and properly connected or protected, and the structure is ready for occupancy.

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3. **Suppression:**

- a. **Rough-in inspection:** To be made after the framing, fire-blocking and bracing is in place and all vent piping is complete and prior to the installation of wall or ceiling membranes.
- b. **Final inspection:** To be made after the building is completed, all suppression fixtures are in place and properly connected, along with the required testing of system and the structure is ready for occupancy.

4. **Mechanical:**

- a. **Rough-in inspection:** To be made after the framing, fire-blocking and bracing is in place and all vent piping is complete and prior to the installation of wall or ceiling membranes.
- b. **Final inspection:** To be made after the building is complete, such as smoke and fire dampers, hood systems and exhaust systems are in place and properly connected, and the structure is ready for occupancy.

5. **Gas: Final inspection:** To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to insure compliance with all the requirements of this Code and to assure that the installation and construction of the gas system is in accordance with reviewed plans and required shut down devices are installed.

(Ord. No. 05-06-30, § 88)

Section 12.17.206. Certificate of occupancy-Building occupancy.

A new building shall not be occupied or a change made in the occupancy, nature or use of a building or part of a building until after the fire marshal has approved for a certificate of occupancy. said certificate shall not be issued until all required electric, gas, mechanical, suppression and fire protection systems have been inspected for compliance with this fire code and other applicable laws and ordinances and released by the fire marshal. (Ord. No. 05-06-30, § 88)

Section 12.17.207. Service utilities.

- A. **Connection of permanent service utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system which is regulated by this fire code for which a permit is required, until released by the fire marshal and a certificate of occupancy is issued.
- B. **Temporary connection.** The building official may authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.
- C. **Authority to disconnect service utilities.** The fire marshal shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this fire code, in case of emergency where necessary to eliminate an immediate hazard to life or property.

(Ord. No. 05-06-30, § 88)

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Section 12.17.208. Tests.

The fire marshal may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner or his agent by an approved testing laboratory or other approved agency.

(Ord. No. 05-06-30, § 88)

Section 12.17.209. Violations and penalties.

Any person found guilty of violating any provisions of this article shall be punished by a fine not exceeding \$500.00 or by imprisonment in the County jail for not more than 60 days, or by both such fine and imprisonment.

(Ord. No. 05-06-30, § 88)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

ARTICLE 18.

CODE ENFORCEMENT

DIVISION 1.

APPLICATION, PROVISIONS AND PROCEDURES

Section 12.18.100. General application.

The BCC through its authority to enjoin and restrain any person found to be in violation of these regulations and by the authority granted to it pursuant to F.S. § 125.69, hereby declares that it is the intention of the BCC to compel wherever practicable strict compliance with the requirements and regulations of this Code by the inspection of lands, water, or structures affected by these regulations and will insure that citations for violations are issued by the enforcement official.

(Ord. No. 05-06-05)

Section 12.18.101. Violations of other regulations.

Violations of these land development regulations may also constitute violations of other state or local regulations. Penalties assessed or remedies taken under these land development regulations shall not substitute for enforcement or penalties available under such other laws or regulations.

(Ord. No. 05-06-05)

Section 12.18.102. Failure to act is a violation.

Whenever, these regulations require the performance of any act or prohibit the performance of any act or impose any limitation on the use or development of any land or water, or on the erection of a structure, the failure to comply with such provisions shall constitute a violation of these regulations.

(Ord. No. 05-06-05)

Section 12.18.103. Notice of complaints.

Whenever a violation of these regulations occurs, or is alleged to have occurred, the enforcement official shall promptly record such complaint, investigate it, and take action thereon as provided by these regulations. The enforcement official shall maintain as a public record, the disposition of the complaint.

(Ord. No. 05-06-05)

Section 12.18.104. Liability.

Any owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent, or other person, firm, or corporation, either individually or through its agents, employees, or independent contractor, who violates the provisions of these regulations, or who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of these regulations, shall be held responsible for the violation and be subject to the penalties and remedies provided herein or as otherwise provided by statute or ordinance.

(Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

DIVISION 2.

PROCEDURES FOR VIOLATIONS

Section 12.18.200. Notification of alleged violation.

Upon the determination that any provision of these regulations is being violated, the enforcement official shall send a written notice by certified mail, return receipt requested, or by hand delivery to the person or persons alleged to have committed such violation. The notice shall indicate the nature of the violation and state such action necessary to correct the violation within a designated period of time. Additional written notices with time extensions to correct the violation may be granted at the enforcement official's discretion. The written notice shall state the action the enforcement official intends to take, if the violation is not corrected within the designated period of time. The enforcement official's order may be appealed to the Highlands County BOA. In the event of a repeat violation, as defined in F.S. § 162.04, the enforcement official shall notify the violator, which notification shall be by certified mail; and, the enforcement official shall seek immediate compliance.

(Ord. No. 05-06-05)

Section 12.18.201. Compliance by map amendment or other provision.

If the violation is of a nature that it may be corrected by an official zoning atlas amendment, or through the granting of a future land use map amendment and consistency rezone, or through the granting of a zoning, land development, or building code variance, or the granting of a land use permit, the enforcement official is authorized to suspend enforcement actions pending the outcome of such proceedings, provided that the person or persons responsible for the violation files the appropriate application forms and fee for same within the time specified by the enforcement official in the written notice. If the outcome of an official zoning atlas amendment or zoning, land development, or building code variance, request or land use permit proceeding does not result in the remedy of the violation, the person or persons responsible for the violation shall have 15 calendar days from the public hearing date to correct the violation, unless granted an extension of time by the enforcement official.

(Ord. No. 05-06-05)

Section 12.18.202. Violations an imminent peril to public safety.

In cases where delay would seriously threaten the effective enforcement of these regulations or pose a danger to public health, safety, morals or welfare, the enforcement official may seek immediate compliance by invoking any of the violation remedies contained in these regulations or otherwise provided by law.

(Ord. No. 05-06-05)

Section 12.18.203. Prosecution under previous regulations.

Any prosecution arising from a violation of any prior code, ordinance, or regulation of Highlands County, which prosecution was pending at the effective date of these regulations, shall be tried and determined exactly as if such prior code, ordinance, or regulation was still in effect. (Ord. No. 05-06-05)

Section 12.18.204. Other enforcement action.

Notwithstanding any regulation or law to the contrary, the BCC shall have recourse to such other remedies as prescribed by law and equity as may be necessary to ensure compliance with the provisions of the land development regulations. (Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

DIVISION 3.

PENALTIES AND REMEDIES

Section 12.18.300. Penalties and remedies.

- A. A person who violates any of the provisions of these regulations or fails to comply with any of its requirements or fails to abide by and obey all orders and resolutions promulgated as herein provided, shall be subject to prosecution in the same manner as misdemeanors are prosecuted, pursuant to the terms of F.S. § 125.69, as amended, and shall be subject to all penalties authorized by the State of Florida for such violation. Upon conviction, such person may be punished by a fine not to exceed \$500.00 or by imprisonment in the County jail not to exceed 60 calendar days, or by both such fine and imprisonment.
- B. Each calendar day that any violation continues after receipt of a written notice of such violation shall constitute a separate violation and a separate offense for purposes of the penalties and remedies specified herein.
- C. To willfully disregard a written notice of a violation shall constitute a separate violation and a separate offense for purposes of the penalties and remedies specified herein.
- D. In addition to the penalties and remedies above, the enforcement official may institute any appropriate actions or proceedings to prevent, restrain, correct, or abate a violation of these regulations.

(Ord. No. 05-06-05)

Section 12.18.301. Enforcement alternatives.

- A. **Cease and desist orders.** The enforcement official is authorized to issue cease and desist orders in the form of written official notices sent by registered mail or hand delivered to the person or persons responsible for the violation. Specific activities or operations may be ordered to be ceased based upon the following conditions:
 - 1. Whenever an emergency situation that poses a serious threat to public health, safety, morals or welfare; or,
 - 2. Whenever an irreversible or irreparable harm may result, in the reasonable opinion of enforcement official, and immediate cessation of the activity is necessary to protect the health, safety, morals or welfare as provided by these regulations.
- B. **Stop work order.** For any violation of the provisions of these regulations, the enforcement official shall have the authority to issue a stop work order to the owner of the subject property, or to his agent, or to the person doing the work where such a violation has been committed or exists. Upon notice that any activities or work are occurring contract to the provisions of these regulations, such activities or work shall immediately be stopped. The notice shall state the conditions under which the activities or work may be resumed. Where an emergency exists, oral notice given by the enforcement official shall be sufficient to issue a stop work order.

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

- C. **Suspension of permits, certificates of occupancy, or other development orders or approvals.** The development services director, or his designee, may suspend any building permit, certificate of occupancy, development order, development permit, or development approval, where an administrative determination has been duly made upon a written finding that an error or omission occurred in the application of provisions and requirements of these regulations, on either the part of the applicant or government agency in the issuance of the development permit or approval. A corrected development permit or approval shall be issued in place of the incorrect or invalid development permit or approval, after correction of the error or omission has occurred.
- D. **Revocation of permits, certificates of occupancy, or other development orders or approvals.** The development services director, or his designee, may revoke any building permit, certificate of occupancy, development order, development permit, or development approval, where an administrative determination has been duly made upon a written finding that the provisions and requirements of these regulations have been violated in that false statements or misrepresentations were made as to material fact or facts in the application or plans upon which the development permit or approval was based.

(Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

DIVISION 4.

APPEALS

Section 12.18.400. Appeals.

Determinations and actions of the enforcement official, pursuant to this section of these regulations, may be appealed to the Highlands County BOA.

(Ord. No. 05-06-05)

Section 12.18.401. Time limit for appeals.

Appeals shall be taken within 30 days, but not thereafter, by filing with the enforcement official and the BOA a notice of appeal specifying the reasons. The enforcement official shall transmit to the all papers constituting the file or record upon which the action being appealed was taken.

The zoning supervisor shall fix a date and time for the hearing of the appeal, give public notice of the hearing as well as notice to the parties in interest according to the hearing procedure established in Article IV of Chapter 2 of this Code. At the hearing, the appellant may appear in person or by agent or attorney.

(Ord. No. 05-06-05)

Section 12.18.402. Appeal to circuit court.

An aggrieved party may appeal a final decision of the BOA to the Circuit Court in Highlands County, Florida, within 30 days after the filing of such decision in the office of the enforcement official, but not thereafter. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

(Ord. No. 05-06-05)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

ARTICLE 19.

STANDARD HOUSING CODE

(Adopted by Ordinance 99-20 August 26, 1999)

DIVISION 1.

ADMINISTRATION

Section 12.19.101. Title.

Provisions in the following chapters and sections shall constitute and be known and may be cited as "The Standard Housing Code", hereinafter referred to as "this code."

(Ord. No. 05-06-30, § 89)

Section 12.19.102. Code remedial.

This code is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use or occupancy of residential buildings and accessory structures.

(Ord. No. 05-06-30, § 89)

Section 12.19.103. Scope.

- A. The provisions of this code shall apply to all buildings or portions thereof, all accessory structures or portions thereof located on residential property, used or unused, designed or intended to be used for human habitation or the storage of materials associated with human habitation.
- B. This code establishes minimum standards for occupancy, and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this code.
- C. Buildings or structures moved into or within the jurisdiction shall comply with the requirements in the building code for new buildings.

(Ord. No. 05-06-30, § 89)

Section 12.19.104. Existing buildings.

- A. Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of this code provided that the alteration, repair or rehabilitation work conforms to the requirements of this code for new construction. The housing official shall determine, subject to appeal to the CLEAB, the extent, if any, to which the existing building shall be made to conform to the requirements of this code for new construction.

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

- B. Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in 12.19.108.D. (Ord. No. 06-07-04 § 35)
- C. If the occupancy classification of an existing building is changed from R1, R2 or R3 to any other occupancy classification, the building shall be made to conform to the intent of the technical codes for the new occupancy classification as established by the housing official.
- D. Repairs and alterations, not covered by the preceding sections of this article, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed, but not more than 25 percent of the roof covering of a building shall be replaced in any period of 12 months unless the entire roof covering is made to conform with the requirements of this code for new buildings.

(Ord. No. 05-06-30, § 89; Ord. No. 06-07-04, § 35)

Section 12.19.105. Special historic buildings and districts.

The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the housing official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts. The applicant must submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect.

(Ord. No. 05-06-30, § 89)

Section 12.19.106. Maintenance.

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises.

(Ord. No. 05-06-30, § 89)

Section 12.19.107. Application of zoning ordinance.

Nothing in this code shall be construed to cancel, modify or set aside any provision of the zoning ordinance of the authority having jurisdiction.

(Ord. No. 05-06-30, § 89)

Section 12.19.108. Powers and duties of housing official.

- A. **Enforcement officer.** The Highlands County Building Official is hereby appointed the housing official.
- B. **Records.** The housing official shall keep, or cause to be kept, a record of the business of the enforcement of this code.

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

C. **Right of entry.**

1. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the housing official by this code. If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.
2. When the housing official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the housing official for the purpose of inspection and examination pursuant to this code.

D. **Unsafe residential buildings.**

1. All residential buildings or structures used as such which are unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of this chapter.
2. Whenever the official determines that there are reasonable grounds to believe that there has been a violation of any provision of this code or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefore and such alleged violations shall constitute a nuisance. Such notice shall:
 - a. Be put in writing;
 - b. Include a statement of the reasons why it is being used;
 - c. Allow 15 days to correct major violations and 30 days to correct minor violations with a maximum time limit of 120 days for either, subject to approval of the housing official; and
 - d. State that, if such repairs, reconstruction, alterations, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the housing official shall institute such legal proceedings charging the person or persons, firm, corporation or agent with a violation of this code.

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

3. Service of notice shall be as follows:
 - a. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
 - b. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon; or
 - c. By posting and keeping posted for 24 hours a copy of the notice in a conspicuous place on the premises to be repaired.
4. When a residential building is to be demolished, it shall be done so in accordance with the provisions of the Standard Unsafe Building Abatement Code.

E. **Requirements not covered by code.** Any requirement, not specifically covered by this code, found necessary for the safety health, and general welfare of the occupants of any dwelling, shall be determined by the housing official subject to appeal to the CLEAB.

F. **Liability.** Any officer or employee, or member of the CLEAB, charged with the enforcement of this code, in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of this code shall be defended by the County until the final termination of the proceedings.

G. **Letter of compliance.** A letter indicating compliance with the provisions of this code may be issued by the housing official.

(Ord. No. 05-06-30, § 89)

Section 12.19.109. Inspections.

The housing official shall make or cause to be made inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public. For the purpose of making such inspections, the housing official, or his agent, is hereby authorized to enter, examine, and survey at all reasonable times all residential buildings and premises. The owner or occupant of every residential building or the person in charge thereof shall give the housing official free access to such residential building and its premises, at all reasonable times for the purpose of such inspection, examination, and survey. (Ord. No. 05-06-30, § 89)

Section 12.19.110. Hardships.

Where the literal application of the requirements of this code would appear to cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of this code or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal the decision of the housing official to the CLEAB, as set forth in Article 3 of this chapter. (Ord. No. 05-06-30, § 89)

Section 12.19.111. Construction licensing, enforcement and appeals board.

The duties, decisions, procedure, meetings, records, and procedures of the CLEAB shall be pursuant to the requirements of Division 6 of Article 3 of this chapter.

(Ord. No. 05-06-30, § 89)

Section 12.19.112. Appeals.

Any person receiving written notice from the housing official of deficiencies in his property under this code may within 30 days following the date of such notice enter an appeal in writing to the CLEAB. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the variance or modification request, the reasons therefore, and the hardship or conditions upon which the appeal is made.

(Ord. No. 05-06-30, § 89)

Section 12.19.113. Violations and penalties.

Any person, firm, corporation or agent, who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this code shall be prosecuted within the limits provided by state or local laws. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, or continued and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

(Ord. No. 05-06-30, § 89)

Section 12.19.114. Permits.

Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change a residential building or structure or to cause any such work to be done, shall first make application to the housing official and obtain the required permit. Therefore, ordinary minor repairs may be made with the approval of the housing official without a permit, provided that such repairs shall not violate any of the provisions of this code.

(Ord. No. 05-06-30, § 89)

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

DIVISION 2.

DEFINITIONS

Section 12.19.201. General.

- A. **Tense, gender and number.** For the purpose of this code, certain abbreviations, terms, phrases, words, and their derivatives, shall be construed as set forth in this chapter. Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and plural number includes the singular.
- B. **Special meaning and words not defined.** Words not defined herein shall have the meanings stated in the Standard Building Code, Standard Mechanical Code, Standard Plumbing Code, Standard Gas Code or Standard Fire Prevention Code. Words not defined in the Standard Codes shall have the meanings in Webster's Ninth New Collegiate Dictionary, as revised. Wherever the words "dwelling," "dwelling units," "rooming house," "rooming units," and "premises" are used in this code, they shall be construed as though they were followed by the words, "or any part thereof."

(Ord. No. 05-06-30, § 89)

Section 12.19.202. Definitions.

- A. **Addition.** An extension or increase in floor area or height of a building or structure.
- B. **Alter or alteration.** Any change or modification in construction or occupancy.
- C. **Apartment.** A dwelling unit as defined in this Code.
- D. **Apartment house.** Any building or portion thereof used as a multiple dwelling for the purpose of providing three or more separate dwelling units which may share means of egress and other essential facilities.
- E. **Applicable governing body.** A city, County, state agency or other political government subdivision or entity authorized to administer and enforce the provision of this code, as adopted or amended.
- F. **Approved.** Approved by the housing official or other authority having jurisdiction.
- G. **Basement.** That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling, provided, however, that the distance from grade to ceiling shall be at least four feet six inches (1,372 mm).
- H. **Building.** Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for 50 percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." (For the purpose of this Code each portion of a building separated from other portions by a fire wall shall be considered as a separate building.)

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- I. **Cellar.** That portion of a building, the ceiling of which is entirely below grade or less than four feet six inches (1,372 mm) above grade.
- J. **Dormitory.** A space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room, or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges.
- K. **Dwelling.** When used in this code without other qualifications, means a building occupied exclusively for residential purposes by not more than two families containing living, sleeping, housekeeping accommodations, cooking, and sanitary facilities for occupancy by one or more families.
- L. **Dwelling unit.** A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, housekeeping accommodations, and sanitary facilities.
- M. **Extermination.** The control and extermination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods.
- N. **Family.** One or more persons living together, whether related by blood, marriage or adoption, and having common housekeeping facilities.
- O. **Floor area.** The total area of habitable space in a building or structure
- P. **Garbage.** The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- Q. **Habitable room.** A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.
- R. **Hotel.** Any building containing six or more guests rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.
- S. **Housing official.** The officer, or his duly authorized representative charged with the administration and enforcement of this code.
- T. **Infestation.** The presence within or around a dwelling, of any insects, rodents, or other pests.
- U. **Inoperable motor vehicle.** One which cannot be driven upon the public streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

HIGHLANDS COUNTY LAND DEVELOPMENT REGULATIONS

- V. **Major violation.** A defect that exists on a property or structure that is immediately dangerous to the health, safety or welfare of the occupants, passerby or persons in contiguous areas; a defect that exists that seriously undermines that component or structural member which renders that component or member unsafe to use or exist in its present condition.
- W. **Minor violation.** A defect that exists on a property or structure that in its present state of disrepair, deterioration or absence, does not constitute an immediate hazard.
- X. **Multiple dwelling.** Any building, or portion thereof, which is occupied as the home or residence of more than two families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.
- Y. **Nuisance.** The following shall be defined as nuisances:
1. Any public nuisance known at common law or in equity jurisprudence.
 2. Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fence or structures; or any lumber, trash fences, debris or vegetation which prove a hazard for inquisitive minor.
 3. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
 4. Overcrowding a room with occupants.
 5. Insufficient ventilation or illumination.
 6. Inadequate or unsanitary sewage or plumbing facilities.
 7. Uncleanliness, as determined by the health officer.
 8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.
- Z. **Openable area.** That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.
- AA. **Operator.** Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

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- BB. **Owner.** The holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with others:
1. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
 2. Shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee or other person, firm, or corporation in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this code, and of rules and regulations adopted, pursuant thereto, to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property which apply to the owner.
- CC. **Person.** Any individual, firm, corporation, association or partnership.
- DD. **Plumbing.** The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation maintenance, extension, or alteration of stormwater liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.
- EE. **Premises.** A lot, plot or parcel of land including the buildings or structures thereon.
- FF. **Public area.** An unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the fire department and free of all incumbrances that might interfere with its use by the fire department.
- GG. **Repair.** The replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of a provision of law or ordinance. The term "repair" or "repairs" shall not apply to any change of construction.
- HH. **Required.** Required by some provision of this Code.
- II. **Residential buildings.** Buildings in which families or households live or in which sleeping accommodations are provided, and all dormitories. Such buildings include, among others, dwellings, multiple dwellings, and rooming houses.

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- JJ. **Rooming house.** Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.
- KK. **Rooming unit.** Any room or group of any rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- LL. **Rubbish.** Combustible and noncombustible waste materials, except garbage, including the residue from the burning of wood, coal, coke or other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery, and dust.
- MM. **Stairway.** One or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.
- NN. **Story.** That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.
- OO. **Structure.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."
- PP. **Supplied.** Paid for, furnished, or provided by or under control of, the owner or operator.
- QQ. **Temporary housing.** Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.
- RR. **Valuation or value.** As applied to a building, the estimated cost to replace the building in kind.
- SS. **Ventilation.** The process of supplying and removing air by natural or mechanical means to or from any space.
- TT. **Yard.** An unoccupied open space other than a court.
(Ord. No. 05-06-30, § 89)

DIVISION 3.

MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

Section 12.19.301. General.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements.

(Ord. No. 05-06-30, § 89)

Section 12.19.302. Facilities required.

- A. **Sanitary facilities.** Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and wastewater system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks and obstructions.
- B. **Location of sanitary facilities.** All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of 30 square feet (2.8 m²) with no dimension less than 4 feet (1,219 mm). Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed area.
- C. **Hot and cold water supply.** Every dwelling unit shall have an adequate supply of both cold and hot water connected to the kitchen sink, lavatory, and tub or shower. All water shall be supplied through an approved distribution system connected to a potable water supply.
- D. **Water heating facilities.** Every dwelling unit shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F (49°C). Such water heating facilities shall be capable of meeting the requirements of this subsection 12.19.302.D when the dwelling or dwelling unit heating facilities required under the provisions of this code are not in operation. Apartment houses may use a centralized water heating facility capable of heating an adequate amount of water as required by the Standard Plumbing CodeTM to not less than 120°F (49°C). (Ord. No. 06-07-04 § 36)
- E. **Heating facilities.**
 - 1. Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working conditions, and are capable of safely and adequately heating all habitable rooms and bathrooms.
 - 2. Where a central heating system is not provided each dwelling unit shall be provided with facilities whereby heating appliances may be connected.

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3. Gas heaters listed for unvented use shall be permitted provided the total input rating of the heaters is less than 30 Btu per hour per cu ft (314 W/m³) of room content. Such heaters shall be prohibited in bedrooms.
 4. The use of any liquid fueled unvented heating appliance shall be permitted in one and two-family residences only, providing such appliance is tested and listed by an approved laboratory according to requirements of UL 647 (1984) and providing the fuel is stored in containers meeting ASTM ES-8 for kerosene containers.
 5. Any metal flue pipe that has been connected to a wood heating appliance that has experienced a flue fire shall be replaced unless otherwise specified by the manufacturer's instructions.
 6. Any metal (pre-fab) fire place unit that has experienced a chimney fire shall be replaced unless otherwise specified by the manufacturer's instructions.
- F. **Kitchen facilities.** Every dwelling unit shall contain a kitchen equipped with the following minimum facilities.
1. Food preparation surfaces imperviously to water and free of defects which could trap food or liquid.
 2. Shelving, cabinets or drawers for the storage of food and cooking and eating utensils, all of which shall be maintained in good repair.
 3. Freestanding or permanently installed cook stove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited.
 4. Mechanical refrigeration equipment for the storage of perishable foodstuffs.
- Exception.** Nothing herein shall preclude a written agreement between an owner and tenant that the tenant will furnish mechanical refrigeration equipment and/or a cook stove as required in this section. It shall be an affirmative defense available to an owner charged with a violation of this section if such an agreement exists.
- G. **Garbage disposal facilities.** Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, of a type and location approved by the applicable governing body.
- H. **Fire protection.** A person shall not occupy as owner-occupant nor shall let to another for occupancy, any building or structure which does not comply with the applicable provisions of the fire prevention code of the applicable governing body.
- I. **Smoke detector systems.** Every dwelling unit shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217 (1989), Single and Multiple Station Smoke Detectors.

(Ord. No. 05-06-30, § 89; Ord. No. 06-07-04, § 36)

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Section 12.19.303. Minimum requirements for light and ventilation.

- A. *Windows.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.
- B. *Ventilation.*
1. Every habitable room shall have at least one window or sky light which can be easily opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, as required, or shall have other approved, equivalent ventilation.
 2. Year round mechanically ventilating conditioned air systems may be substituted for windows, as required herein, in rooms other than rooms used for sleeping purposes. Window type air-conditioning units are not included in this exception.
- C. *Bathroom.* Every bathroom shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilating system.
- D. *Electric lights and outlets.* Where there is electric service available to the building structure, every habitable room or space shall contain at least two separate and remote receptacle outlets. Bedrooms shall have, in addition, at least one wall switch controlled lighting outlet. In kitchens, two separate and remote receptacle outlets shall be provided (receptacles rendered inaccessible by appliances fastened in place or by appliances occupying dedicated space shall not be considered as these required outlets) and a wall or ceiling lighting outlet controlled by a wall switch shall be provided. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one ceiling-mounted or wall-mounted lighting outlet. In bathrooms, the lighting outlet shall be controlled by a wall switch. In addition to the lighting outlet in every bathroom and laundry room, there shall be provided at least one receptacle outlet. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.
- E. *Light in public halls and stairways.* Every common hall and inside stairway in every building, other than one-family dwellings, shall be adequately lighted at all times with an illumination of at least one foot candle intensity (10.76 lux) at the floor in the darkest portion of the normally traveled stairs and passageways.

(Ord. No. 05-06-30, § 89)

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Section 12.19.304. Minimum requirements for electrical systems.

Every electrical outlet and fixture, and all electrical wiring and equipment shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the electrical code.

(Ord. No. 05-06-30, § 89)

Section 12.19.305. General requirements for the exterior and interior of structures.

- A. **Foundation.** The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.
- B. **Exterior walls.** Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding material shall be kept in repair.
- C. **Roofs.**
 - 1. Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.
 - 2. All portions, additions or sections of a roof including, but not limited to, the fascia, eave, soffit, sheathing, rafter tail, barge rafter, vent screening, gutter, downspout, roof jack, lead or metal flashing, shall be complete with all trim strips, moldings, brackets, braces and supports in accordance with common building practices. No item shall display signs of deterioration, abuse or improper installation that could be construed to affect the purpose of that item or cause damage to the immediate area or roof structure, that could allow dampness or admit rain to the interior of that building.
- D. **Means of egress.** Every dwelling unit shall have safe, unobstructed means of egress with minimum ceiling height of 7 feet (2,134 mm) leading to a safe and open space at ground level. Stairs shall have a minimum head room of 6 ft 8 inches (2032 mm).
- E. **Stairs, porches and appurtenances.** Every inside and outside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- F. **Protective railings.** Protective railings shall be required on any unenclosed structure over 30 inches (762 mm) above the ground level or on any steps containing four risers or more.
- G. **Windows.** Every window shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.
- H. **Windows to be glazed.** Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.
- I. **Window sash.** Window sash shall be properly fitted and weathertight within the window frame.

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- J. **Windows to be openable.** Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware.
- K. **Exterior doors.**
1. Every exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, and rodent proof, and shall be kept in sound working condition and good repair.
 2. Every exterior door shall be provided with properly installed hardware that is maintained to insure reasonable ease of operation to open, close and secure in an open or closed position, as intended by the manufacturer of the door and the attached hardware.
- L. **Exterior door frames.**
1. Exterior door frames shall be properly maintained and shall be affixed with weatherstripping and thresholds as required to be substantially weathertight, watertight and rodent and insect resistant when the door is in a closed position.
 2. Exterior door jambs, stops, headers and moldings shall be securely attached to the structure, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position.
- M. **Screens.**
1. Dwelling units which do not have a central air conditioning system shall have screens on all exterior openable windows and doors used or required for ventilation. Screens on windows and doors shall be stretched and fitted and maintained without open rips or tears.
 2. A closing device shall be installed on all screen doors.
- N. **Protective treatment.** All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All siding shall be weather resistant and water tight. All masonry joints shall be sufficiently tuck pointed to insure water and air tightness.
- O. **Accessory structures.** Garages, storage buildings and all other accessory structures shall be maintained and kept in good repair and sound structural condition.
- P. **Interior floors, walls, and ceilings.**
1. Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

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2. Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- Q. **Structural supports.** Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying normal loads.
- R. **Protective railings for interior stairs.** Interior stairs and stairwells more than four risers high shall have handrails located in accordance with the requirements of the Standard Building Code. Handrails or protective railings shall be capable of bearing normally imposed loads and be maintained in good condition.
- S. **Fire stopping and draft stopping.**
1. Fire stopping shall be maintained to cut off all concealed draft openings both horizontal and vertical and to form a fire barrier between floors and between the upper floor and the roof space.
 2. Draft stopping shall be maintained to cut off all concealed draft openings in floor/ceiling assemblies and in attics.
- T. **Interior doors.** Every existing interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.
- U. **Interior door hardware.** Every interior door shall be provided with proper hardware, securely attached and maintained in good condition. Hasp lock assemblies are not permitted on the exterior side of the door of habitable rooms.
- V. **Bathroom doors.** Privacy of bathrooms shall be afforded by doors complete with privacy hardware intended by the manufacturer for that purpose.
- W. **Skirting.**
1. Existing skirting shall be maintained free from broken or missing sections, pieces or cross members. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.
 2. Replacement or new skirting shall be constructed of materials intended for exterior use and properly sized and mounted to prevent free access to the crawl space of the structure. Crawl space access grille or door and ventilation grilles shall be sized according to local code requirements.

(Ord. No. 05-06-30, § 89)

Section 12.19.306. Minimum dwelling space requirements

- A. **Required space in dwelling unit.** Every dwelling unit shall contain at least 150 square feet (13.9 m²) of floor space for the first occupant thereof and at least an additional 100 sq ft (9.3 m²) of floor area per

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additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

B. Required space in sleeping rooms. In every dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet (4.6 m²) of floor space for each occupant thereof.

C. Minimum ceiling height.

1. Habitable (space) rooms other than kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than seven feet (2,134 mm). Hallways, corridors, bathrooms, water closet rooms and kitchens shall have a ceiling height of not less than seven feet (2,134 mm) measured to the lowest projection from the ceiling.
2. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the room area. No portion of the room measuring less than five feet (1,524 mm) from the finished floor to the finished ceiling shall be included in any computation of the minimum room area.

D. Occupancy of dwelling unit below grade. No basement or cellar space shall be used as a habitable room or dwelling unit unless:

1. The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness, and
2. The total window area in each room is equal to at least the minimum window area size as required in section 12.19.303.A and
3. Such required minimum windows are is located entirely above the grade of the ground adjoining such window area, and
4. The total of openable window areas in each room is equal to at least the minimum as required under section 12.19.303.B except where some other device affording adequate ventilation is supplied. (Ord. No. 06-07-04 § 37)

(Ord. No. 05-06-30, § 89; Ord. No. 06-07-04, § 37)

Section 12.19.307. Sanitation requirements.

- A. Sanitation.** Every owner of a multiple dwelling shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the dwelling and premises thereof.
- B. Cleanliness.** Every tenant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or which is provided for his particular use.

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- C. **Garbage disposal.** Every tenant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.
- D. **Care of premises.** It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any inoperable motor vehicle, an ice box, refrigerator, stove glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the housing official.
- E. **Extermination.** Every owner of a single dwelling building and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents, wood-destroying organisms, or other pests within the building or premises.
- F. **Use and operation of supplied plumbing fixtures.** Every tenant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(Ord. No. 05-06-30, § 89)

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DIVISION 4.

ROOMING HOUSES

Section 12.19.400. Rooming houses.

- A. **Compliance exceptions.** No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of every section of this code except the provision of section 12.19.301 (general), section 12.19.302 (facilities required), and section 12.19.307 (sanitation requirements). (Ord. No. 06-07-04 § 38)
- B. **License required.** No person shall operate a rooming house unless he holds a valid rooming house license.
- C. **Water closet, lavatory and bath facilities.** At least one flush water closet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.
- D. **Water heater required.** Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.
- E. **Minimum floor area for sleeping purposes.** Every room occupied for sleeping purposes by one person shall contain at least 70 square feet (6.5 m²) of floor space and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet (4.6 m²) of floor space for each occupant thereof.
- F. **Exit requirements.** Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the building code of the applicable governing body.
- G. **Sanitary conditions.** The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house, and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

(Ord. No. 05-06-30, § 89; Ord. No. 06-07-04, § 38)

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DIVISION 5.

UNFIT DWELLING AND LEGAL PROCEDURE FOR CONDEMNATION

Section 12.19.500. Designation of unfit dwellings and legal procedure for condemnation.

- A. **Dangerous structures.** Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and declared to be a nuisance and shall be so designated and placarded by the housing official.
1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.
 2. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or the public.
- B. **Form of notice.** Whenever the housing official has declared a dwelling or multiple dwelling as unfit for human habitation and constituting a nuisance, he shall give notice to the owner of such declaration and placarding of the dwelling or multiple dwelling as unfit for human habitation. Such notice shall:
1. Be in writing;
 2. Include a description of the real estate sufficient for identification;
 3. State the time occupants must vacate the dwelling units; and
 4. State that, if such repairs, reconstruction, alterations, removal, or demolition are not voluntarily completed within the stated time as set forth in the notice, the housing official shall institute such legal proceedings charging the person or persons, firm, corporation or agent with a violation of this Code.
- C. **Service of notice.** Service of notice to vacate shall be as follows:
1. By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion; or
 2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon; or
 3. By posting and keeping posted for 24 hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.
- D. **Vacating of condemned building.** Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the housing official, shall be vacated within 30 days after notice of such condemnation has been given by the housing official to the owner and/or occupant of the building.

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- E. **Occupancy of building.** No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until approval is secured from and such placard is removed by the housing official. The housing official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- F. **Removal of placard or notice.** No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in this section 12.19.500.E, occupancy of building of Division 5, Unfit Dwelling Procedure for Condemnation. (Ord. No. 06-07-04 § 39)

(Ord. No. 05-06-30, § 89; Ord. No. 06-07-04, § 39)