

Chapter 18 - LAND DEVELOPMENT CODE

ARTICLE I. - IN GENERAL

Sec. 18-1. - Rules for construction of language.

For the purpose of the administration and enforcement of this land development code (LDC), and unless otherwise stated in this LDC, the following rules of construction shall apply to the text of this LDC, unless such construction would be inconsistent with the intent of the LDC:

In case of any difference of meaning or implication between the text of this LDC and any other ordinance or any caption, illustration, summary table or illustrative table, the text of this LDC shall control.

The terms "shall" and "will" are always mandatory, not merely directory, and not discretionary. The term "may" is permissive.

The phrase "used for" includes "arranged for," "designed for," "maintained for," "provided for," "occupied for," or "intended for."

Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows:

"And" indicates that all the connected items, conditions, provisions, or events shall apply.

"Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.

"Either...or" indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.

The term "includes" or "including" shall not limit a term to the specified examples but intends to extend its meaning to all instances or circumstances of like kind or circumstances of like kind or character.

The term "person" includes an individual, corporation, unincorporated association, LLC, LLP, partnership, governmental body or other legal entity.

A term using a specific gender shall extend and apply to all persons.

The term "preceding" means immediately before and the term "following" means next after, respectively.

Terms used in the present tense include the future tense.

Terms in the plural number include the singular number.

Terms in the singular number include the plural number.

Sec. 18-2. - Definitions.

Any word or phrase used in this LDC, not specifically defined in this LDC, shall have the dictionary meaning as found in the "Webster's New World College Dictionary" fourth edition, that is most appropriate to the context in which such word or phrase is used.

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

A means agricultural.

Access pier means any fixed or floating structure that provides access from the shoreline to the dock.

Accessory structure means a subordinate structure, the use of which is incidental to that of the principal structure on the same parcel.

Accessory use means an activity, function, or purpose existing on a parcel as accessory or incidental to the principal use. Accessory uses shall not include guest units or any other potentially habitable structure. Habitable structures are considered to be dwelling units as defined below in this section.

ACOE means Army Corps of Engineers.

Addition means any vertical or horizontal walled and roofed expansion to the perimeter of an existing building to which the addition connects by a common load-bearing wall other than a firewall. Any walled and roofed addition, which connects by a firewall or is separated by independent perimeter load-bearing wall, is new construction.

Administrative appeal means a request for review of interpretation of any provision of this Code by the building inspector or zoning official.

Advisory committee. See *Commission or Committee.*

AE Zone means special flood hazard areas inundated by the 100-year flood; designated on FIRM maps from which base flood elevations are determined.

Affordable housing means residential dwelling units that meet the following requirements:

- (1) All applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of the county; and either subsection (2) or (3) of this definition.
- (2) A dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents either 50 percent (very low income), 80 percent (low income), 100 percent (median income), or 120 percent (moderate income) of the monthly median adjusted household income for the county.
- (3) A dwelling unit occupied only by a household whose total household income does not exceed 50 percent (very low income), 80 percent (low income), 100 percent (median income), or 120 percent (moderate income) of the monthly median adjusted household income for the county.

Agent means any person or entity with authorization to act for or on behalf of another person or entity.

Agricultural fence means a barrier designed to control livestock.

Alley means a right-of-way providing a secondary means of access and service to abutting property.

Apartment house. See *Dwelling, multifamily.*

Average existing grade means the number arrived at by adding the corner elevations where the building intersects the ground and dividing by the number of corners. Where no structure exists the average natural grade of the parcel prior to fill.

B&B means bed and breakfast.

B zone means areas subject to the 100-year flood with average depths of less than one foot designated on FIRM maps.

Bar means an establishment where the primary income is on-premises sales of alcoholic beverages totaling more than 50 percent of gross sales receipts, (except as may be otherwise provided in the definition of the term "restaurant" in this section) and includes, but is not limited to, a nightclub, tavern, inn, disco, and dance hall whether or not entertainment is provided.

Barbed wire means strips of interwoven, flexible, metallic strands, without regard to the gauge, with clusters of sharp points added and placed at intervals along the interwoven strips. The term "barbed wire" shall include, but is not limited to, barbed tape, razor wire, razor, tape, and concertina wire.

Basement means that portion of a building having a sub-grade floor on all sides.

Bed and breakfast means a lodging facility licensed under state statutes providing individual sleeping rooms for rental of 31 days or less, and providing one or more meals or central cooking facilities.

BFE means base flood elevation.

Block means a group or tier of parcels of record existing within a plat with well-defined and fixed boundaries, usually surrounded by streets or other mapped boundaries and having an assigned number, letter, or other identification.

Board of adjustment (BOA) means board created by section 18-139.

Boat basin means an area cut into the shoreline of the river, a canal, or island, partially surrounded by land, often partly manmade or dredged to a greater depth, where boats may be moored.

Boat dry storage facility means a structure designed for the horizontal storage of more than two vessels on vertical or horizontal racks.

Boat ramp means any manmade or improved structure allowing water ingress or egress for launching or retrieving a vessel.

Boat slip means any fixed or floating structure that provides a place to moor a vessel, created by the construction of a dock or finger piers from the dock. For a single-family dwelling, a dock and terminal platform constitute one or more boat slips depending on configuration.

Boathouse means any fixed or floating structure with a roof that provides ingress or egress to the water by a vessel and allows for storage of a vessel, in a wet or dry configuration, for the property owner, but not for dwelling purposes.

Buffer means land area used to physically and visibly separate one use from another or to shield or block noise, lights, or other nuisances. Buffer strips may be required to include fences or berms, as well as shrubs and trees.

Buildable acre means that land within the property boundary lines lying landward of the ordinary high water line for fresh water or mean high tide line for tidal waters, minus jurisdictional or isolated wetlands, and minus submerged lands.

Building means any structure, either temporary or permanent or part thereof, except a fence or wall, used or built for the enclosure or shelter of persons, animals, vehicles, goods, merchandise, equipment, materials or property of any kind. This definition of the term "building" shall include tents, dining cars, trailers, manufactured homes, sheds, garages, carports, animal kennels, storerooms, or vehicles serving in any way the function of a building as described herein.

Building envelope means the outermost surfaces forming the complete enclosure of a building.

Building height. See *Height*.

Bulkhead line means the line defined by a constructed wall, barrier, or partition built parallel to the shoreline, the purpose of which is to protect the shore from erosion or destruction by wave or tidal action.

Canal means any manmade or improved water channel cut back from the normal shoreline of the body of water, serving more than two residential or commercial parcels.

Capacity means the maximum lawful occupancy level of designed use of any structure, or part thereof, as determined by the town's adopted LDC or building code and expressed in terms of occupants, seats, persons, employees, or other units specified by the LDC or building code.

Caretaker means a person or family living in the dwelling unit on a commercial or light industrial parcel and can include the proprietor, owner, manager, agent, maintenance, and security if living on-site either full or part-time.

Caretaker unit means a single-dwelling unit located in, beside, above, or below the business operation and the occupant that directly supports or provides maintenance or security for the business operation.

Catwalk means any fixed or floating structure, immediately adjacent to or inset in a dock, that allows safe embarkation to or from a vessel.

CEO means code enforcement official.

Church. See *Place of assembly for worship*.

CIE means capital improvement element.

Clear cutting means a forestry/logging practice in which most or all trees in an area are uniformly cut down.

Clear visibility triangle (vision triangle) means on a corner lot there shall be no structure or fence, which materially obstructs the vision of vehicular traffic across the triangular space, bounded by the two intersecting street right-of-way lines and a straight line connecting the two points 25 feet from the intersecting corner of the street right-of-way lines involved.

CMS means concurrency management system.

CN means commercial neighborhood.

Coastal high hazard area means as defined by state statutes, including the area described as below the surge zone of a category one hurricane and including areas designated on FIRM maps as AE, B, and VE Zones.

Coastal AE Zone, numbered, means special flood hazard areas inundated by the 100-year flood; coastal floods with velocity hazards, wave action; and designated on FIRM maps from which base flood elevations are determined.

Coastal VE Zone, numbered, means special flood hazard areas inundated by the 100-year flood; coastal floods with velocity hazards, wave action; and designated on the most recent FEMA maps from which base flood elevation is determined.

Code enforcement officer means any designated employee or agent of the town whose delegated duty is to enforce codes and ordinances enacted by the town.

Combustible trash means any refuse, accumulations of paper, rags, wooden or paper boxes or containers, sweepings, and other accumulations of nature other than garbage, which are usual to housekeeping and to operation of stores, offices, and other business places.

Commencement. See *Start of construction*.

Commercial means any non-manufacturing, non-industrial business establishment including sale, rental and distribution of products, or performance of service, or hotels, motels, restaurants, wholesale and retail stores.

Commercial fishing means the catching, taking or harvesting of fish, shellfish, crustaceans, or mollusks for profit and necessary support activities such as loading or unloading of commercial fishing equipment, passengers, fish, crustaceans or mollusks, or any other activity customarily related to commercial fishing vessels or associated with commercial fishing.

Commercial freight vehicle means any vehicle used to carry cargo or goods to or from any commercial endeavor, also any semi-tractor or trailer unit.

Commercial nursery, silvicultural system, tree farm means all state-licensed, government, and commercial plant nurseries and botanical gardens shall be exempt from the terms and provisions of this LDC only in relation to those trees that are so planted and grown to be sold or for other public purposes.

Commission means the board appointed by the town to deal with designated issues or, when appropriate to the context, includes any other such commission appointed by a governing body.

Committee means the group appointed by motion or resolution of the council to deal with designated issues or, when appropriate to the context, includes any other such committee appointed by a governing body.

Common wall means a solid wall in a single vertical plane joining two dwelling units but completely separating such units.

Completely enclosed building means a building having a complete, permanent roof and continuous walls on all sides, either party walls or exterior walls, including any customary windows and doors.

Compliance certificate means a certificate issued by the town zoning official certifying compliance with the town LDC authorizing the applicant to proceed with the approved building permitting process.

Comprehensive plan means the town comprehensive plan adopted by the town council and all amendments thereto.

Conditional use means a use that may not be appropriate throughout a district, but which, if controlled as to number, size, location, and/or relation to surrounding areas and subject to additional conditions can be compatible with surrounding uses.

Condominium means a form of ownership of real property, which is created pursuant to state statutes. Condominium dwelling units shall be treated as residential dwelling units to calculate density and allowable uses.

Construction means the building of, or improvement to, any structure or the clearing, filling or excavation of any land, any alterations in the size or use of any existing structure and the clearing or filling of land for agriculture or silviculture and excavation for mining and includes the act of construction or the result of construction.

Construction permit means a permit authorizing construction activities, installation or improvements, issued following the approval of the appropriate submissions.

Contiguous means parcels or uses that share an adjoining boundary. Water bodies and public roads interrupt contiguity of parcels or uses unless the adjoining boundary is located within the water body or road.

Council or the council means the town council of Yankeetown, Florida.

County or the county means Levy County, Florida.

CRC means concurrency review checklist.

CWD means commercial water dependent.

Day means a calendar day.

DBH means diameter breast height.

Density means the number of dwelling units or transient units allocated per buildable acre of land.

DEP means the state department of environmental protection.

Departments means bodies of government authorized by the governing body to control, within specified limits, the various functions performed by the governing body, such as a parks and recreation department, etc.

Developer or applicant means the person or legal entity that applies for approval of development or a subdivision plat, or person duly authorized by the property owner to make such an application.

Development means the carrying out of any building activity, the making of any material change in the use or appearance of any structure, land, or water, or the subdividing of land into three or more parcels and more particularly described in state statutes. The term "development" also means the conversion of existing dwelling units to vacation rental use. Vacation rental use of a dwelling unit requires building permits, inspections, a certificate of occupancy and state licensing.

Development rights (DR) means the ability to construct a dwelling unit based upon acreage restrictions. One development right is one dwelling.

Development rights receiving area (DRRA) means the area between CR40 and CR40A within the residential low-density district where development rights may be transferred to from the residential environmentally-sensitive district.

Diameter at breast height (DBH) means tree trunk diameter at breast height which is 4½ feet above ground level.

District. See *Zoning district*.

Dock means a platform extending from a seawall, the shore, or detached from the land including any floating structure, boatlift, mooring piling, or any area adjacent thereto, designated to be capable of use for mooring vessels and/or for other water-dependent recreational activities. A dock is attached to or supported by piles or pillars and has no sides or roof.

Dock, commercial, means any dock used for commerce or trade and operated for profit.

Dock footprint means the sum of the surface area of a dock that is located water ward of the mean high water line or ordinary high water line and preempts submerged lands.

Dockminium means a condominium form of ownership of mooring spaces, slips, or docks.

DOH means the state department of health.

DR means development rights.

Dripline means an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

Driveway means a private road connecting a house, garage, or other building with the street including the designated access point at the intersection of the street.

DRRA means development rights receiving area.

Dwelling. See *Dwelling unit*.

Dwelling, attached, means a residential dwelling unit consisting of one or more of residential units that are developed without open yards on all sides of the dwelling unit.

Dwelling, detached, means an individual residential dwelling that is developed with open yards on all sides of the dwelling unit but not including mobile homes or recreational vehicles.

Dwelling, multiple-family, means a building arranged, intended, or designed to house three or more families, living and cooking independently share common walls, floors, ceilings, entries, or accesses. Management may or may not furnish heating, service, and maintenance facilities.

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family. The term "dwelling, single-family" may also include an attached unit such as townhouses.

Dwelling, townhouse, means an attached dwelling with only one dwelling unit from ground to roof attached to its neighbors on no more than two sides.

Dwelling, two-family, or duplex means a building designed arranged, intended, or designed to house two families living and cooking independently. Units share a common wall or are stacked. Management may or may not furnish heating, service, and maintenance facilities.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons. The term "dwelling" includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easement means a strip of land intended for ingress and egress, for public or private utilities, drainage, sanitation, or other specified uses or limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the servitude.

Elevated building means a nonbasement 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.

Emergency means a condition existing because of a declaration by the town, county, state governor, or by the federal government.

Engineer means a professionally-licensed engineer who meets the requirements to practice in the state.

Family means one or more natural persons occupying a single-dwelling unit as a single housekeeping unit.

FAR means floor area ratio.

FDOT means the Florida Department of Transportation.

FEMA means Federal Emergency Management Agency.

Fence or wall means a barrier made of approved materials serving as an enclosure or boundary.

Finger pier means any fixed or floating structure that extends at an angle, usually 90 degrees, from the dock.

FIRM means flood insurance rate map.

Fish house means a place processing fish, shellfish, crustaceans, or mollusks in bulk quantities for wholesale or retail sale.

Fishing means the catching, harvesting, and taking of fish, shellfish, crustaceans, and mollusks.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source.

Floor means the walk-on surface of an enclosed area in a building, including a basement. The term "floor" does not include the floor of a garage used solely for parking vehicles.

Floor area, institutional-residential structure, means the sum of the horizontal areas of the floors of a building on a given land area, measured from the exterior faces of exterior walls and all covered, unenclosed areas used for commercial activities including outdoor seating areas, except for walkways, exterior entryways, parking and loading areas or drive-through canopies. Included within such sum shall be the areas of floors of attic spaces providing a vertical structural clearance of at least seven feet, floors of interior balconies or mezzanines, and floors of any other space reasonably usable for any purpose, no matter where located within a building. Not included are approved outdoor storage and display areas, temporary uses, temporary structures, and the floor area of garages, carports, patios, decks, and porches, unless treated as an air conditioned space.

Floor area, nonresidential structure, means the sum of the horizontal areas of the floors of a building on a given land area, measured from the exterior faces of exterior walls and all covered, unenclosed areas used for commercial activities including outdoor seating areas, except for walkways, exterior entryways, parking and loading areas or drive-through canopies. Included within such sum shall be the areas of floors of attic spaces providing a vertical structural clearance of at least seven feet, floors of interior balconies or mezzanines, garages and floors of any other space reasonably usable for any purpose, no matter where located within a building. Not included are approved outdoor storage and display areas, temporary uses, temporary structures, and space occupied by transient residential and institutional-residential principal uses area.

Floor area, residential and transient residential structure, means the sum of the horizontal areas of the floors of a building on a given land area, measured from the exterior faces of exterior walls. Included within such sum shall be the areas of floors of attic spaces providing a vertical structural clearance of at least seven feet, floors of interior balconies or mezzanines, and floors of any other space reasonably usable for any purpose, no matter where located within a building. Not included shall be the floor area of garages, carports, patios, decks, and porches, unless treated as an air-conditioned space.

Floor area ratio (FAR) means the gross floor area of the building on a parcel divided by the gross acreage of the parcel or site.

Florida friendly means native or naturalized vegetation that is non-invasive, conserves water, protects the environment, is drought tolerant and adaptable to local conditions. It promotes water conservation objectives as set forth in F.S. § 373.185.

Fluorescent means glowing or vivid colors.

Foster family home. See *Residential, institutional*.

Front parcel line means the front of the structure is the side which has a door opening towards the numbered or named roadway, not an alley. If no door exists, the numbered or named roadway side shall be considered the front. If on a corner lot between two named or numbered roadways, the street to which the door opens shall be deemed the front parcel line. If on a corner lot and no door exists facing either numbered or named roadway, the 911 address roadway side shall be considered the front. If the structure has no plane parallel to the 911 address side, the side closest to parallel with the 911 address roadway shall be considered the front plane.

Front yard means the area between the front parcel line and the front plane of the use structure, extending to the side parcel lines.

Frontage means the length of a parcel line along an abutting public street right-of-way.

Functionally-dependent facility or use means a facility or use that unusable for its intended purpose unless it is located or carried out in close proximity to another resource (i.e., a port facility requires water). The term "functionally-dependent facility or use" does not include long-term storage, manufacture, sales, or service facilities.

Garage, commercial, means a building or portion of a building designed or used for the storage or repair of motor-driven vehicles; may be an accessory or a principal building depending upon the principal use of the parcel upon which the garage is situated.

Garage, commercial storage, means a structure or group of garages or storage structures erected for use as a commercial storage facility.

Garage, community storage, means a structure or group of garages or storage structures erected for the use of on-site residents and does not include a commercial storage facility.

Garage, residential, means an accessory used for temporary storage of a vehicle.

Garbage means all refuse accumulation or animal, fruit or vegetable matter that attends the preparation, use, cooking, dealing in, or storage of, meats, fish, fowl, fruit, or vegetables. Any matter, which may serve as breeding or feeding material for flies or other germ-carrying insects.

Garbage can means any metal or plastic container of the type commonly sold as a garbage can.

Garden or yard trash means any accumulation of grass, limbs trimmings, cuttings and other refuse attending the care of lawns, gardens, trees, and shrubs.

Gate means opening in a fence allowing access.

Governing body means the town council of Yankeetown, Florida.

Governmental agency means the United States, the state, the county, the town, any special district, and any agency, board, commission, authority, or political subdivision thereof.

Grade. See *Average existing grade*.

Green space means undeveloped land suitable for passive recreation and/or conservation uses.

Gross acreage means the total area of a site, including wetlands, but excluding submerged lands or surface water, and excluding any publicly dedicated rights-of-way, but including easements, calculated by using the parcel, mean high water, ordinary high water, or demarcation lines, whichever is most restrictive. See also *Buildable acre*.

Gross floor area means the sum of the floor areas of the building on a given parcel.

Group home. See *Residential, institutional*.

Guardrails means a protective railing installed between vertical supports on any part of a dock.

Guesthouse means an accessory structure separate from the principal structure, for guests or the occupants of the principal residential structure, but excluding hotel, motel, commercial lodging, bed and breakfast, transient or rental units.

Hardship means the loss of reasonable use of property or structure caused by the strict application of the provisions of this LDC due to the special circumstances or conditions existing, which are peculiar to the land or building and are not the result of actions of the current or previous owner.

Hazardous waste or substance means material, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness. Hazardous waste may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

Health officer means that person serving the town as code enforcement officer, and also the county medical officer and representatives of the state or county health department.

Hedge means a fence or visual screen made of vegetative matter serving as an enclosure or boundary.

Height means the vertical distance between the average existing grade and the highest point of the roof of any structure or proposed structure, including mechanical equipment, but excluding chimneys, spires, steeples, and on structures utilized for public uses only, radio or television antennae, flagpoles, solar apparatus, and utility poles. The exclusions listed above shall not permit habitable space or space for other uses to exceed the applicable height limitations.

Historic tree means a tree designated by the council as one of notable historic interest and value to the town because of its size, age, location, or historical association with the community.

Home business occupation means any business or other nonresidential activity conducted and pursued at a dwelling unit which shall be clearly and absolutely incidental and subordinate to its principal use for residential purposes.

Hotel means a transient unit building containing individual sleeping room accommodations, without kitchens and where access to individual rooms is from the interior of the building. See also, *Motel*.

Houseboat means any marine vessel equipped for or used primarily as a live aboard dwelling unit.

Impervious means resistant to penetration by fluids, such as stormwater or irrigation water.

Impervious surface means the square footage of parcel area covered by surfaces that do not allow infiltration of fluids including areas beneath eaves, decks, balconies, buildings, blacktop, or concrete paved areas, and any surface containing road base.

Improvements may include, but are not limited to, street pavements, curbs and gutters, sidewalks, alley pavements, walkway pavements, water mains, sanitary sewers, storm sewers or drains, street names, signs, landscaping.

Industrial use means use devoted to the manufacture, warehousing, assembly, packaging, processing, fabrication, storage or distribution of goods and materials, whether new or used, or the substantial, refinishing, maintenance, repair and/or rebuilding of vehicles or boats.

Institutional residential means foster homes, group homes, nursing homes, etc.

Intensity means the extent to which land may be developed or used for nonresidential uses, including the consumption or use of the land; the use or demand on lands natural resources; the use of or demand on facilities and services, including floor area ratio, open space, traffic or trip generation, potable water, solid waste, sanitary waste, and levels of service.

Iridescent means an optical phenomenon characterized as the property of surfaces in which hue changes according to the angle from which the surface is viewed.

Joint dock means docks and boat slips, including boatlifts and davits, serving more than one adjacent lot or parcel.

Junkyard or recycling yard means an area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled as a principal use, except within a completely enclosed building. Materials shall include, but not be limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. Also includes automobile wrecking yard and salvage yard.

Keeper. See *Caretaker*.

Kennel means any person, group of persons, or corporation engaged in the commercial business of breeding, buying, selling, or boarding animals, and the physical structures, fences, pens, and real property associated with such use.

Kitchen means a room or an area equipped for preparing and cooking food, containing the ability to heat food, refrigerate food, and a sink.

LDC means land development code.

Legal descriptions means the written words describing the zoning districts.

LI means light industrial.

Live aboard means the occupancy or use of a watercraft, by one or more persons, as a place of habitation, residence, as living quarters or for dwelling purposes, temporarily or permanently, continuously or transiently at any location or the person living aboard a boat for any period.

Livestock means domestic animals typically found on a farm; to include, but not be limited to, cows, sheep, goats, horses, pigs, and fowl.

Living area means that portion of the total area of a residence, which is suitable for year-round use as living quarters, including fully enclosed porches and breezeways, but excluding enclosed garages, screened porches and carports.

LLC means limited liability corporation.

LLP means limited liability partnership.

Lot means any government lot, platted lot, recorded lot or lot of record. Also see *Parcel*.

Lot area. See *Parcel area*.

Lot depth. See *Parcel depth*.

Lot line. See *Parcel*.

Lot of record. See *Parcel of record*.

Lot width. See *Parcel width*.

Low impact development practices means a set of practices that minimize impacts of development on the environment, neighboring uses and the town.

Major development means any commercial development or redevelopment or any residential development (except for one single-family dwelling or one duplex dwelling on one parcel). See section 18-361.

Manufactured building (modular) means any type of building designed for use as a dwelling, which is built off the site where it is to be permanently located, does not have the capability for attachment of wheels, is built to provide the capability of being loaded and moved on a flatbed trailer, regardless of addition of appurtenances. This shall include structures assembled from two or more units, providing that the units meet the requirements of this definition, and its construction meets the requirements of the adopted building codes.

Manufactured home (formerly "mobile home") means a structure 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, permitted in accordance with county and local standards, and meeting the living area requirements of the zoning chapter, including manufactured housing, which is certified by the state. (Manufactured homes conforming to the Federal Manufactured Housing Construction and Safety Standards or the Uniform Standards Code ANSI A-119.1 pursuant to state statutes.)

Marginal dock means any fixed or floating structure placed immediately contiguous and parallel to a shoreline or an established seawall, bulkhead, or revetment.

Marina means a facility for the wet and/or dry storage, launching, and mooring of vessels and may include the on-site retail sales of marine accessories and stores and vessel maintenance and repair and a waterfront space where any of the following may be available for water craft: dockage, mooring, fuel, ice, or supplies.

Marine railway means any manufactured conveyance using rails, slides or guides to drag, lift, remove, or lower a vessel into or from the water.

Market value means the appraised value of the structure prior to the start of the initial repair or improvement. In the case of damage, the appraised value of the structure prior to the damage occurring. It is the market value listed on the current county appraiser parcel card or the owner may obtain an independent market value appraisal made by a state-certified appraiser.

Mean high water line (MHWL) means as defined by F.S. § 177.27 and incorporated by reference herein. Represents the boundary line between tidal submerged lands and adjacent (landward) upland property and is defined by state law.

Minor project means any one single-family dwelling or one-duplex dwelling on one parcel.

Monochromatic color means all hues, tints, and shades of a single color.

Mooring means a place, berth, or structure to which a vessel can be made fast.

Motel means a transient unit building containing individual sleeping room accommodations, without kitchens where access to individual rooms is from the exterior of the building. See also *Hotel*.

MU means mixed use.

Multiple-family dwelling. See *Dwelling, multiple-family*.

Natural person means a single human being.

Non-combustible trash means any refuse materials that are unburnable at ordinary incinerator temperatures, such as metals, mineral matter, large quantities of crockery or glass, metal furniture, or appliances, auto bodies, etc.

Nonconforming parcel means a parcel located in any zoning district, which does not conform to the minimum requirements of parcel dimension or parcel area required for the zoning district in which such land is located.

Nonconforming structure means any structure which does not meet the limitations on structure size and location for the district in which such building is located.

Nonconforming use means the pre-existing use of any building or land on the effective date of the Town of Yankeetown Land Development Code or amendment, which cannot comply with all of the regulations of this Code.

Occupancy means the use of a dwelling unit for residential purposes not necessarily continuously, but as a place of usual return; and the use of all other structures (i.e., commercial use).

OFW means Outstanding Florida Water.

OHWL means ordinary high water line.

Open space means that pervious portion of a parcel that is uncovered by structures or impervious surfaces and includes landscaped areas, uncovered pervious outdoor activity areas, pervious patio areas,

walkways, pervious uncovered parking areas, pervious driveways that serve one dwelling unit, and wetlands.

Ordinance means an official legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.

Ordinary high water line (OHWL) or ordinary high water mark represents the boundary line between non-tidal submerged lands and adjacent (landward) upland property as defined by state law. The ordinary reach of high water during the year; the normal or average reach of water during the high water season. The term "ordinary high water line" excludes floods and other unusual high water events but includes the average high water of each year.

Owner means any person, group of persons, or legal entity owning, keeping or having possession of property, goods, materials, or services.

P and Z means the town planning and zoning commission.

Package store means a facility where beer, wine, and/or liquor is sold for consumption off the premises.

Parcel means a lot, piece, tract, or plot of land either vacant or occupied by any use or structure.

Parcel area means the total horizontal area included within property boundary parcel lines, not including any area below the mean high water line or ordinary high water line.

Parcel depth means the mean horizontal distance between the front and rear parcel lines, not including any area below the mean high water line or ordinary high water line.

Parcel line means the boundary line of a parcel, or the mean high water line where part of any parcel of land is located below the mean high water line.

Parcel number means the number assigned to the parcel by the county property appraisers office.

Parcel of record means any lot, parcel, portion of a parcel, combination of parcels, or parcel described by block and parcel numbers or by metes and bounds that was lawfully created individually or as part of a subdivision. A parcel of record must have been recorded in the office of the clerk of county court prior to the time of enactment of this Code, June 10, 1991. A pre-existing sub-standard parcel of record is a nonconforming parcel.

Parcel split means the platting or division of a parcel of land, whether improved or unimproved, into two contiguous parcels of land, for any purpose, whether immediate or future and includes that caused when the private establishment of a new street involves splitting a parcel into two parcels.

Parcel width means the horizontal distance between side parcel lines, measured along the minimum required front yard setback line, not including any area below the mean high water line or ordinary high water line.

Parking means the temporary, transient storage of motor vehicles, vessels, and equipment trailers while the operators of such vehicles are engaged in other activities. The term "parking" shall not include or allow the storage of new or used motor vehicles for sale, service, rental, or any other purpose except in a district where such use is approved as an allowable use under this LDC.

Parking area means facilities located on-site with adequate space available for ingress and egress, the parking and circulation of automotive vehicles and providing an adequate number of parking spaces for the use of occupants, employees, visitors, customers, or patrons of every permitted building and/or use.

Parking space means a portion of a parcel providing a temporary storage area for a motor vehicle and of a shape to easily park one automobile, and which is clearly defined and has unobstructed accessibility to and from a public street by way of an aisle and/or driveway.

Passive recreation means activities that offer constructive, restorative, and pleasurable human benefits, foster appreciation and understanding of open space and its purpose, minimize environmental

impacts, have a low level of development, do not significantly affect natural or cultural values, and require only minimal visitor facilities, such as parking and picnic areas, and services directly related to safety.

Person means and includes an individual, corporation, unincorporated association, LLC, LLP, partnership, governmental body, or other legal entity including one or more individuals, corporations, partnerships, associations, legal representatives, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries or organization of any kind.

Pervious (or permeable) means material that allows fluids, such as stormwater or irrigation water, to pass through to the ground directly beneath the surface.

Pervious or permeable surface area means the square footage of parcel area covered by surfaces that allow infiltration of fluids to the ground directly beneath the surface.

Pier. See *Dock*.

Place of public assembly means any permanent structure whose principle use is as a structure used for public assembly.

Planning and zoning commission (P and Z) means a citizens commission appointed by the town council to act as the local planning authority recommending land use policies and decisions to the town council and to conduct reviews for the approval of development proposals, as provided by this LDC and state statutes.

PNZ means the town planning and zoning commission.

Porch means a one-story screened or unscreened open gallery having a roof supported by columns and attached to the outside of a building.

Principal structure means a structure in which is conducted the principal use of the parcel on which it is situated, including any attached carport, shed, garage or structure that is structurally dependent, totally or in part, on the principal building. In a residential district, a dwelling is the principal building on the parcel on which it is situated.

Principal use means the use that constitutes the primary activity, function, or purpose for the parcel and/or building.

Property means and includes real and personal property.

Property line. See *Parcel line*.

Property, personal, means and includes every species of property except real property, as herein defined.

Property, real, means and includes lands, tenements, and hereditaments.

Proprietor. See *Caretaker*.

PU means public use.

Public buildings means office and service buildings, uses, or facilities owned or operated by a governmental agency, including publicly-owned utilities, which are compatible with or provide governmental services.

Public use means buildings and uses by local, regional, state, or federal agencies, excluding penal institutions or contract jails.

PUD means planned unit development.

Rear parcel line means that property line which is most distant from and is, or is most nearly, parallel to the front parcel line.

Rear yard means the area between the rear parcel line and the rear of the structure, extending to the side parcel lines.

Recreational vehicle (RV) means any vehicle or portable structure that is built on a single chassis, designed to be self-propelled or towed by a car, SUV, or pickup truck, and to be used as temporary living quarters for recreational, camping, travel, or seasonal use. The term "recreational vehicle" is also known as and includes campers, pop-ups, recreational buses, motor homes, and park model RVs, fifth wheel or travel trailers.

Recreational vehicle park means an area primarily for campers and recreational vehicles, providing temporary water, sewer, and electrical hook-ups for temporary or seasonal parking and use of RVs, vehicles or campers.

Remove or *removal* means the digging up, cutting down or causing to be absent through any means.

RES means residential environmentally sensitive.

Residence means a building used exclusively for living purposes by seasonal or permanent residents.

Residential density means the extent of development of residential uses, expressed in dwelling units per gross acre of land.

Residential, rental, means an attached or detached residential dwelling unit rented, leased, or assigned for tenancies of greater than or equal to 31 days duration. See also *Vacation rental*.

Residential, institutional, means residences housing persons, run by a person or organization, for compensation or grant funding. The term "residential, institutional," may be a group home, assisted living facility, foster home, or similar living facility.

Residential use means used, or intended for use, exclusively for dwelling purposes as applied to any plat, parcel, tract, area or building, room, or unit, but not including hotel, motel or transient units.

Resolution means an expression of the council concerning matters of a temporary character, or a provision for the disposition of a particular item of business of the governing body.

Resort, residential. See *Hotel* or *motel*.

Restaurant means an establishment whose principal and primary source of income is the serving of food and open to the public.

Retail sales means the sale of goods or articles individually or in small quantities directly to the consumer.

Retaining wall means a constructed wall or barrier used to support or hold in place a mass of earth.

RHD-1 means residential highest density 1.

RHD-2 means residential highest density 2.

Right-of-way means land dedicated, deeded, used, or to be used, for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purposes by the public, certain designated individuals or others.

Riparian line means the property line of the parcel extended into the water body.

Riparian property means property adjacent to a body of water.

RLD means residential lowest density.

Road base means loose, gravel-like material, which is used as a base, or finish layer for walkways, paths, driveways, or parking areas, which becomes an impervious surface when compacted mechanically or by traffic.

Room, hotel or motel, means a unit in a lodging establishment as defined by state statutes, intended for transient lodging of periods less than 31 days. The term "transient occupancy" shall conform to the definition contained in state statutes. Each bedroom shall be considered a separate transient unit when determining transient unit density per gross acre.

RP means resource protection.

RV means recreational vehicle.

Salvage yard. See *Junkyard*.

Sanitary wastewater treatment facility means the use of land and its appurtenances for the treatment of sanitary wastewater including a package plant.

Sanitation officer. See *Health officer*.

Security fence means a barrier erected around commercial or industrial properties to restrict entrance.

***Setback or setback line* means a line determined by measurement perpendicular to and parallel with a parcel line. No structures or part of a structure may be erected within any setback distance.**

Sewage treatment collection system means the use of land for sewer lines and any appurtenances related to the collection and transmission of sewage to a treatment facility.

Sewage treatment facility. See *Sanitary treatment facility*.

Side parcel line means any property line not a front line or a rear parcel line. A side parcel line separating a parcel from another parcel is an interior side parcel line.

Side yard means the area between the side parcel line and the side plane of the primary structure, not including any part of the front or rear yard.

Sign. See *Street graphic*.

Single-family dwelling. See *Dwelling, single-family*.

Site plan means a plan indicating the permitted design and extent of development of a parcel of land, approved under and pursuant to this LDC.

Slip means that portion of the water adjacent to a pier, main pier, finger pier, or float where a boat is moored for the purpose of berthing, embarking, or disembarking.

Snipe signs means any off-premises sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

Sovereign submerged land means land below the mean high water line or ordinary water line, over which the state has control.

Special exception means a use which would not be appropriate generally or without restriction throughout a district but which, if controlled as to number, size, location, and relation to surrounding areas, may be permitted by the board of adjustment, based on compliance with the requirements of this LDC as to any particular special exception use and as to special exceptions generally. See *Residential use*.

Specimen tree means the same definition given to it in the town's adopted tree code.

Start of construction means that date when a building permit or commencement notice is issued.

Street right-of-way. See *Right-of-way*.

State building code means the building code adopted by a municipality or county pursuant to the requirements of the state statutes.

Street or road means any way intended for travel by the public, whether improved or unimproved; but shall not include easements and rights-of-way intended for limited utility purposes and shall not include easements for ingress and egress as provided for by this LDC, including the terms "drive," "highway," "alley," "parkway," "viaduct," "boulevard," "circle," "court," "terrace," "place" or "cul-de-sac," "avenue," "thoroughfare," "alley," "way," and "lane."

Street centerline means the surveyed and prescribed centerline of a street established by the state department of transportation or, if no centerline has been so established, the line midway between the existing or proposed street right-of-way lines.

Street graphic means any letter, number, symbol, figure, character, mark, plane, design, pictorial, stroke, stripe, trademark or combination of these which shall be so constructed, placed, attached, painted, erected, fastened, or manufactured for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever. It can be seen and deciphered from the street or right-of-way of a public street or highway. The term "street graphic" includes graphics placed inside a window but intended to attract attention of those outside in the public right-of-way, but not including inside graphics of one square foot or less which are located more than two feet from the window surface.

Street right-of-way means a strip or area of land dedicated or deeded for use of and by the public as a public street.

Structure means anything constructed, installed or portable, the use of which requires a location on a parcel of land. The term "structure" includes a movable or anchored building or shed usable for housing, business, commercial, agricultural, storage or office purposes, either temporarily or permanently. The term "structure" also includes roads, walkways, paths, fences, swimming pools, tennis courts, poles, pipelines, transmission lines, tracks, signs, sewage treatment plants, sheds, mooring areas, off-shore swimming platforms, and other accessory construction.

Studio means the workroom, atelier or place of work in which some form of art is pursued. Examples include, but are not limited to, photography studios, interior design studios, ceramic studios, acting studios, and fine-artist studios, except metal sculpting requiring welding.

Subdivision means 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.

Submerged land means land below the mean high or ordinary water line of a water body.

Substandard parcel means any nonconforming parcel. In residential districts, a substandard parcel has less than 5,000 square feet of parcel area or less than 50 feet of parcel width.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to the before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means 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. The term "substantial improvement" does not include any project for improvement of a structure to comply with an existing health, sanitary or safety code specification that is solely necessary to ensure safe living conditions. In addition, the term "substantial improvement" does not include any alteration of a structure listed on the National Register of Historic Places or the state inventory of historic places.

Surveyor means a state-registered and licensed professional who is qualified to practice surveying in the state.

Swale means a shallow depression that allows for indirect discharge of stormwater in excess of the retained or detained volume to a nearby body of water.

SWFWMD means Southwest Florida Water Management District.

Temporary signs means any sign not permanently attached to the ground or a structure. For example, step-in signs, hand-written signs, wire placard signs, short-term signs.

Terminal platform means any fixed or floating structure providing an activity area located at the end of a finger pier or boat dock. The activity area would have a different shape or dimensions from the finger pier or dock.

Tie-in survey means a survey that shows the exact location of as-built structure in relation to parcel lines.

Timeshare means a form of ownership of real property as defined by state statutes. Timeshare units shall be considered transient units for purpose of calculating density and allowed uses within a particular zoning district.

Timeshare unit. See *Transient unit*.

Tourist housing. See *Vacation rental unit*.

Town boundary means the geographical area of the town, as defined by the town Charter, section 1.

Transient residential unit means a unit used as transient housing for tenancies less than 31 days duration such as a hotel or motel, transient lodging establishment, time share, vacation rental, room or space for parking a recreational vehicle or travel trailer, or units that are advertised and held out to the public or such use.

Transmitter tower means a structure designed, constructed, or used for the sole purpose of broadcasting any form of radio, television, radar, or other type of wave, impulse, or other electromagnetic signal.

Transplant means the digging up of a tree from one place and the re-planting of the same tree in another place.

Tree means any self-supporting, woody plant that has secondary branches usually supported clear of the ground on a single main stem or trunk with a crown. The term "tree" means one which normally grows to a height of 15 feet or greater with a mature crown spread of 15 feet or greater and having trunks which can be maintained with over five feet of clear wood, including palms.

Tree protection zone means that area within the drip line of a protected tree, not to exceed 20 feet from the tree trunk.

Tree survey means an aerial photograph or drawing to an adequate scale, which provides the following information: location of all trees protected under the provisions of this LDC, plotted by accurate techniques; and, common or botanical name of all trees, consecutively numbered, and calibrated.

Trip generation, high intensity, means a nonresidential use that generates greater than 100 average daily trips per 1,000 square feet of floor area as set forth in the Institute of Transportation Engineers Trip Generation Manual.

Trip generation, low intensity, means a nonresidential use that generates less than 50 average daily trips per 1,000 square feet of floor area as set forth in the Institute of Transportation Engineers Trip Generation Manual.

Trip generation, medium intensity, means a nonresidential use that generates between 50 and 100 average daily trips per 1,000 square feet of floor area as set forth in the Institute of Transportation Engineers Trip Generation Manual.

Two-family dwelling. See *Duplex*, and *Dwelling, two-family*.

Unnecessary noise means sounds not required or caused by the act of construction.

Uplands means lands landward of all MHWL, OHWL, ACOE, DEP, or SWFWMD wetlands jurisdictional delineation or demarcation lines.

Upland acre means the area of a site calculated using the most restrictive boundaries available and subtracting any contained wetlands.

Urban area means where the town would like to encourage traditional neighborhood development.

Urban service area means where the town would supply services for residential, commercial, and light industrial development; specifically, that area encompassing the RHD-1, RHD-2, RLD, CWD, CN, and LI districts and those portions of the PU district encompassed within the fore mentioned districts.

Use means any activity, function, or purpose to which or for which a parcel of land/or building is put, used, arranged, or occupied, for any purpose, including any residential, office, business, industrial, public or any other purpose or use.

Utility means any public or private service, such as, but not limited to, storm drainage, sanitary sewers, electric power, water service, gas service, cable, or telephone line, whether underground or overhead.

Utility building or facility means a location or installation of a utility company where employees are not stationed, such as a substation or lift station.

Utility tower. See *Transmitter tower.*

Vacation rental means an attached or detached dwelling unit rented, leased, or assigned for tenancies of less than 31 days duration. Vacation rental use does not include hotels, motels, and RV parks, which are permitted in appropriate districts.

Valet parking means a service provided by attendants who park and later retrieve motor vehicles for guests or customers.

Variance means a request for relief from the terms of this LDC necessitated by conditions where compliance would result in unnecessary hardship, that meets the standards and criteria for granting a variance set forth in this Code.

Vessel means any device used for transportation of personnel or material on the water.

Violation means an infringement or breach of any provision of this LDC.

Vision triangle. See *Clear visibility triangle.*

Visual screen means a barrier erected to limit visual access to a property.

WANE means water, air, and/or nutrient exchange.

Water access walkway means a structure built and used exclusively for access to the water for leisure activities such as fishing, swimming, or observation. A water access walkway is not usable as a vessel mooring.

Water-dependent facility means a facility that is functionally dependent on direct access to water. Water-dependent uses may be commercial or public.

Water detention facility means a stormwater management facility that delays or holds the runoff of stormwater prior to discharge into receiving waters in a structure with a bottom elevation below a control elevation.

Water-enhanced facility means a facility whose use is functionally enhanced by access to water. Water-enhanced uses do not require a waterfront location in order to function, but are often essential to the efficient functioning of water-dependent uses and can be an essential contributing factor to their economic viability. Water-enhanced uses often increase the public's enjoyment of the waterfront. Water-enhanced uses may be commercial or public.

Water retention facility means a stormwater management facility that provides for storage of a specified volume of stormwater without discharge from the retention structure.

Watercourse means and includes channels, creeks, ditches, drains, canals, dry runs, springs, rivers, and streams.

Waterfront property means property where one or more sides abuts the water.

Waterfront structure means a structure where one or more sides of the property it sits on abuts the water.

Wellhead exclusion zone means all land within a 200-foot radius of the town's existing or future wellheads.

Wellhead protection zone means the area within a 200- and 500-foot radius of the town's existing or future wellheads.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. The term "wetlands" also includes isolated wetlands, those areas mapped by DEP, SWFWMD, and/or ACOE, and as defined by federal and state statutes.

Wetlands, isolated, as defined by the Florida Administrative Code, means any area that is determined to be a wetland in accordance with state statutes, but that does not have any direct hydrologic connection to a lake, stream, estuary, or marine water. Isolated wetlands shall be still considered a wetland by the town and subject to wetland restrictions contained in this LDC.

Wholesale means the sale of goods in bulk quantities at prices below retail prices, usually not directly to the final consumer.

WWTF means wastewater treatment facilities.

Yard means the space on any parcel with a structure that is not occupied by a structure and/or accessory. See also *Front yard*, *Rear yard*, and *Side yard*.

ZO means town zoning official.

Zoning district means an area of the town designated on the zoning map as being subject to the uniform regulations and requirements of a particular zoning category established in this LDC.

Zoning map means the official map adopted by this LDC, showing the zoning districts applicable to all lands within the town.

(Code 2015, ch. 21, § 21.1)

Secs. 18-3—18-22. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 18-23. - General designation.

This chapter shall be known as and entitled the "Yankeetown Land Development Code," and may be referred to as the LDC. Enactment of the LDC is pursuant to state statutes.

(Code 2015, ch. 21, § 21.2.1)

Sec. 18-24. - Purpose and intent.

- (a) The LDC further implements, but does not replace, the goals, objectives and policies of the comprehensive plan by:
- (1) Establishing comprehensive regulations, procedures, and standards for review and approval of land development in the town;
 - (2) Fostering and preserving the public health, safety, comfort, and welfare in the harmonious, orderly, aesthetically pleasing, and socially beneficial development of the town;
 - (3) Conserving the value of land, buildings and resources, and protecting landowners from adverse impacts of adjoining developments;

- (4) Protecting the character and maintaining the stability of residential, business, industrial, recreational, and public areas to enhance property values and increase the economic benefits to the town arising out of its resources;
 - (5) Controlling and regulating growth of the town;
 - (6) Providing specific procedures to ensure that development permits are conditioned on the availability of public facilities and services that meet the level of service requirements (concurrency);
 - (7) Balancing the interest of the general public with that of individual property owners;
 - (8) Protecting and, where necessary, preserving our valuable natural resources, including, but not limited to, ecologically significant land, water resources, wildlife habitats, and threatened or endangered species.
- (b) To accomplish the above requires the council to divide the entire town into districts of such number, shape, and size that are best suited to carry out the intent of this LDC, and within such districts may determine, establish and regulate:
- (1) Height, number of stories, size, bulk, location, erection, construction, repair, reconstruction, alteration, and use of buildings and other structures, for trade, industry, residence, and other purposes;
 - (2) Use of land and water for trade, profession, residence, and other purposes;
 - (3) Size of yards and other open spaces;
 - (4) Density of population;
 - (5) Conditions under which various classes of nonconformities may continue, including authority to set fair and reasonable amortization schedules for the elimination of nonconforming uses;
 - (6) Type, size, and use of structures in those areas subject to seasonal or periodic flooding to minimize the danger to life and property;
 - (7) Design, development, and construction of specific types of uses throughout the town.

(Code 2015, ch. 21, §§ 21.2.1.3, 21.2.1.4)

Sec. 18-25. - Jurisdiction.

This LDC is applicable to all lands within the corporate limits of the town.

- (1) Wherever these requirements are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, restrictions or covenants, the most restrictive, or that imposing the higher standard shall govern.
- (2) The provisions of the LDC are the minimum requirements required by the town; applicants are encouraged to exceed FEMA floodplain requirements and base flood elevations (BFE) where possible and all applicants must meet all applicable requirements of state, regional and federal agencies.
- (3) All development and development orders, as defined by state statutes, must also be consistent with the goals, objectives and policies, maps and text of the town comprehensive plan regardless of compliance with these land development regulations.

(Code 2015, ch. 21, § 21.2.1.5)

Sec. 18-26. - Applicability.

- (a) The use of any parcel of land, or any structure or any combination thereof, within the corporate limits of the town shall comply with the requirements of this LDC.
- (b) All development, which includes redevelopment, shall comply with the standards, criteria, requirements, and procedures of this LDC.
- (c) All uses and any change of use shall conform to the standards, criteria, requirements, and procedures of this LDC.
- (d) When a lawfully issued permit or certificate issued prior to the effective date of the ordinance from which this LDC is derived expires, any further development on the site subject to the permit or certificate shall conform to the standards, criteria, requirements, and procedures of this LDC.

(Code 2015, ch. 21, § 21.2.2)

Sec. 18-27. - Exceptions.

- (a) Previously approved projects identified as exempt from the provisions and requirements of this LDC are exempt only to the extent of the previous approval. They are exempt from the provisions of this LDC only to the extent that such provisions and requirements are inconsistent with prior, unexpired approval.
- (b) Projects for which a permit or certificate has been lawfully issued are exempt from the provisions and requirements of the LDC, provided:
 - (1) The permit or certificate has not expired prior to the effective date of the ordinance from which this LDC is derived or amendment of the LDC;
 - (2) The activity authorized by the permit or certificate commenced on or before the effective date of the ordinance from which this LDC is derived and continues in good faith according to the applicable time limits; and
 - (3) The activity authorized by the permit or certificate is in accordance with all applicable permits or certificates.
- (c) Work required for public facilities and services within the public right-of-way is exempt from the provisions and requirements of this LCD as further described below:
 - (1) Work required for the purpose of inspecting, repairing, or replacing any existing water or sewer lines, mains, or pipes;
 - (2) Work required for the purpose of inspecting, repairing, or replacing cables, power lines, utility poles, utility tunnels, or similar uses.
 - (3) Work required for the purpose of inspecting, repairing, or replacing roads, streets and alleys, easements, swales, stormwater conveyances, or similar uses.

(Code 2015, ch. 21, § 21.2.2.2)

Sec. 18-28. - Computation of time for notices, actions, or elapsed time.

- (a) In computing any period, the day of the act, event or default from which the designated period begins to run shall not be included and the period of time shall begin the following day and shall include Saturdays, Sundays and holidays except as provided in subsections (b) and (c) of this section.
- (b) The last day of the period is included unless it is a Saturday, Sunday or legal holiday, in which event, the period shall run until the end of the next business day that is neither a Saturday, Sunday, nor legal holiday.

- (c) When the period prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays, are excluded from the computation.

(Code 2015, ch. 21, § 21.2.3)

Sec. 18-29. - Records.

Official copies of all building permits, building appeal actions, and variances shall be kept on file in the zoning office or town hall.

(Code 2015, ch. 21, § 21.2.4)

Sec. 18-30. - Zoning official (ZO).

- (a) There is created for the town the position of zoning official, ZO, which position may be separate from, or combined with, the position of building inspector for the town. The ZO is authorized to go upon any property located within the corporate limits of the town to investigate the location or construction of any building, or to investigate any land development, building, construction, or land clearing activity.
- (b) The ZO shall be provided with copies of acceptable building plans, architectural elevations, and a site plan with all applications for review and issuance of a certificate of zoning compliance. The ZO shall review all plans, including site plans, and shall determine the compliance or noncompliance of the proposed use and plans, including site plans, with existing LDC and zoning requirements where the proposed structure, construction, or development is to be located. The ZO shall review and confirm compliance with all requirements of this Code and consistency with the comprehensive plan including the required setback lines, maximum lot coverage, height requirements, and required elevations for all such proposed construction prior to issuing a the certification of compliance. Further, copies of all proposed changes to building plans, site plans, and architectural elevations shall be provided to the ZO, who shall sign off on and note any change on the building permit plans affecting LDC compliance.
- (c) Upon determination of compliance with all land development regulations and zoning compliance for such proposed use, the ZO shall issue a certificate of zoning compliance, which shall include a notation of any specific conditions or zoning requirements as hereinabove set forth. If a building permit has not been issued within one year, the certificate of zoning compliance shall be invalid.
- (d) A certificate of zoning compliance shall not be required for emergency repairs to protect lives and property.

(Code 2015, ch. 21, § 21.2.5)

Sec. 18-31. - Rezoning.

The ZO shall review rezoning requests and submit a report thereon to the planning commission, which shall make a recommendation to the town council.

(Code 2015, ch. 21, § 21.2.5.5)

Sec. 18-32. - Rules and regulations.

The ZO shall be empowered to propose written resolutions, fee structures, administrative rules, regulations or procedures to carry out the intent of this LDC; provided, however, no such rule, regulation or procedure shall become effective until an advisory recommendation is made by the planning commission and approved by the town council.

(Code 2015, ch. 21, § 21.2.5.6)

Sec. 18-33. - Complaints.

Whenever a violation of this LDC is alleged to have occurred, or is alleged to be occurring, any person may file a complaint in writing filed with the ZO. The ZO shall properly record such complaint and immediately investigate and act upon the complaint by issuing a stop-work order or notice of violation or noncompliance if found to be in violation or not fully in compliance with all requirements.

(Code 2015, ch. 21, § 21.2.5.7)

Secs. 18-34—18-53. - Reserved.

ARTICLE III. - ZONING MAPS

Sec. 18-54. - Authorization.

- (a) Zoning districts shall be approved by the town council.
- (b) Zoning districts are shown on the official zoning map as described in legal descriptions of the various zoning districts.
- (c) The zoning map is declared to be a part of this LDC.
- (d) The official legal descriptions are on file in the town clerk's office.
- (e) The official zoning map is on file in the town clerk's office and is made from the legal descriptions.
- (f) An official copy of the legal descriptions and map is available to the public in the town clerk's office and the ZO's office.

(Code 2015, ch. 21, § 21.3.1)

Sec. 18-55. - Amendment.

- (a) An ordinance enacted by the town council is required to change the legal descriptions or the official zoning map.
- (b) The official zoning map shall keep records of rezoning approved by ordinance of the town council.
- (c) The official zoning map shall bear the following entry, dated and signed by the mayor and attested by the town clerk: "Amended by official action of the town council of Yankeetown, (date and ordinance number)."
- (d) The official zoning map shall be an electronic map. No changes to the legal descriptions or the official zoning map shall be made except pursuant to the procedure and notice set forth in this LDC and by official action of the town council.

(Code 2015, ch. 21, § 21.3.2)

Sec. 18-56. - Attestation.

The official zoning map shall be dated, signed and attested by the mayor and the town clerk (by hand or digital signature) after each rezoning, change, adjustment or amendment and state: "This is the Official Zoning Map of the town of Yankeetown, Florida." The town shall keep a reference table of ordinance numbers adjusting, amending, or rezoning districts, lots, or parcels of the official zoning map.

(Code 2015, ch. 21, § 21.3.3)

Sec. 18-57. - Map disputes and correction.

- (a) In the event of a dispute over zoning district boundary zoning lines, the language of the legal descriptions shall prevail.
- (b) The town council must approve the correction of errors found on the official zoning map.
- (c) The correction of the zoning map by ordinance must be noticed pursuant to state statutes and can only be made after a public hearing of the town council.
- (d) This public hearing shall require published notice. A courtesy mailing notice may be sent to landowners within 500 feet.
- (e) The provisions of article XV of this LDC shall also apply where applicable.

(Code 2015, ch. 21, § 21.3.4)

Secs. 18-58—18-70. - Reserved.

ARTICLE IV. - LAND DEVELOPMENT CODE AMENDMENTS

Sec. 18-71. - Adoption.

All amendments to this LDC shall comply with the town Charter, section 15, requiring an affirmative vote of at least four members of the town council. Additionally, the procedures followed shall conform to state statutes and section 1-7.

(Code 2015, ch. 21, § 21.4.1)

Sec. 18-72. - Procedure.

- (a) The town council may amend this LDC only after requesting a recommendation from the planning and zoning commission.
- (b) The zoning official, planning and zoning commission, affected property owners, or the town council may propose recommended changes for consideration at duly noticed public hearings.
- (c) The planning and zoning commission must hold at least one public hearing on the proposed change and submit its advisory recommendations to the council in writing.
- (d) The town council must conduct at least two public hearings before acting on the proposed change.
- (e) Building height limitations. No amendment or variance to the town comprehensive plan or this LDC providing for an increase in the allowable building height of any building shall be adopted by the town council or height variance approved by the board of adjustment, except for reconstruction of a structure that was substantially damaged by fire, wind, flood or other natural disaster, until such amendment or variance is submitted to a vote of the electors by referendum.
- (f) Voter approval is required for approval of a comprehensive land use plan or comprehensive land use plan amendments affecting more than five parcels.
- (g) Amendments to the capital improvements element of the comprehensive plan, including annual updates to the capital improvement schedule, shall not require voter approval.

(Code 2015, ch. 21, § 21.4.2)

Sec. 18-73. - Emergency ordinance.

As permitted by state statutes, an amendment that does not rezone real property may be adopted as an emergency ordinance without complying with the public notice requirements of state statutes, but must then comply with the requirements for adoption set forth in state statutes.

(Code 2015, ch. 21, § 21.4.3)

Secs. 18-74—18-90. - Reserved.

ARTICLE V. - COMPREHENSIVE PLAN AMENDMENTS

Sec. 18-91. - Applicant-generated plan amendment.

- (a) Any person, board, or agency may propose a plan amendment to the town pursuant to this Code and also F.S. ch. 163, pt. II.
 - (1) The cost of town staff and the town consultants to research, write reports, and present and respond to at public hearings an applicant-generated plan amendment shall be the responsibility of the applicant, paid through an application fee upon submission of the request.
 - (2) The estimated cost of the application fee is in the schedule of fees, adopted by council, however, the applicant will be responsible for any additional actual costs or fees that may be incurred for review of the applicant-generated plan amendment.
- (b) Applications to amend the plan shall be set for hearing before the commission.

(Code 2015, ch. 15, art. II, § 2; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-92. - Town-generated plan amendment.

- (a) The commission, staff or the town council may prepare a town-generated plan amendment based on statutory requirements, future, existing or anticipated needs.
- (b) Costs and fees for preparation and presentation of town-generated plan amendments shall be borne by the town.

(Code 2015, ch. 15, art. II, § 3; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-93. - Standards and criteria for approval of plan amendments.

- (a) Proposed comprehensive plan amendments must be in compliance with all procedural and substantive standards and criteria set forth in F.S. ch. 163, pt. II, as may be amended from time to time, and rules F.A.C. chs. 9J-5 and 9J-11, as may be amended from time to time.
- (b) The proposed comprehensive plan amendment must be internally consistent with other goals, objectives and policies contained in the town comprehensive plan.
- (c) The amendment shall comply with and further the comprehensive plans general purpose of guiding and accomplishing a coordinated review and ensuring compatible and harmonious development of the area, which will, in accordance with existing and future needs, best promote public health, safety, morals, environment and the general welfare and which will contribute to long-term efficiency and economic and environmental health, suitability of land for the sustainable use of land and infrastructure.

- (d) The amendment shall include description and data and analysis supporting the need for changes in land uses and infrastructure, transportation, facilities, capital improvements, operations and maintenance of infrastructure, financial programs for public improvements and such other matters as deemed necessary to meet the objectives of the comprehensive plan and ensure that the plan amendment is internally consistent with all elements of the comprehensive plan.

(Code 2015, ch. 15, art. II, § 4; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-94. - Review and adoption procedures.

(a) *Planning and zoning commission.*

- (1) The amendment shall be reviewed by staff and when staff review is complete, presented to the commission either in its entirety or as substantial portions corresponding generally with functional or geographic classifications are completed.
- (2) Before adoption of the amendment or any portion thereof, the commission shall hold a public hearing that meets notice requirements set forth in state statutes and this Code.
- (3) The commission shall make a recommendation to the town council for adoption, denial or adoption with conditions or changes of any plan amendment or any portion of any proposed plan amendment.

(b) *Council.*

- (1) The council may accept or reject the recommendation of the commission in whole or in part and may transmit and formally adopt the amendment by appropriate official action either in its entirety or in part.
- (2) Adoption of the plan amendment shall be by ordinance of the town council.
- (3) The ordinance shall:
 - a. Contain the narrative text, maps, and references, and other matters intended by the commission to form the whole or part of the amendment;
 - b. Record the votes on the action taken on the amendment.
- (4) The plan amendment shall meet all applicable procedural and other requirements of F.S. ch. 163, pt. II and applicable FAC, including rules F.A.C. chs. 9J-5 and 9J-11.
- (5) Any amendment shall only become effective upon its adoption by the council, approval of the department of community affairs (DCA). Adoption of the amendment may also require voter approval under town Charter section 11. Adoption of the amendments shall also comply with any applicable requirements set forth in the town Charter. (See town Charter section 11, 15, and 16.)

(Code 2015, ch. 15, art. II, § 5; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-95. - Legal effect.

- (a) Any amendment shall only become effective upon its adoption by the council, approval of the department of community affairs (DCA). Adoption of a plan amendment shall also comply, if applicable, with town Charter section 11.
- (b) All development orders shall be consistent with the duly adopted comprehensive plan.
- (c) All land development regulations shall be consistent with the duly adopted comprehensive plan.

(Code 2015, ch. 15, art. II, § 6; Ord. No. 2011-01, § 1, 3-9-2011)

Secs. 18-96—18-108. - Reserved.

ARTICLE VI. - APPEALS

Sec. 18-109. - Local procedure.

- (a) All zoning or town permit-related questions arising in connection with the enforcement or interpretation of this LDC, except as otherwise expressly provided in this LDC, must first be presented to the ZO for a formal decision.
- (b) Any person may appeal a ZO approval, denial, or formal decision to the BOA only within 30 days from the date of the specific decision of the ZO.
- (c) Any further appeals from decisions of the BOA shall be made to the courts as otherwise provided by law or the Florida Rules of Civil or Appellate Procedure as established by the state supreme court.

(Code 2015, ch. 21, § 21.5.1)

Sec. 18-110. - Remote procedure.

- (a) If the ZO is not also the building official, then all questions arising in connection with the enforcement or interpretation of the applicable building codes shall be presented to the building official for official decision.
- (b) Appeals from a decision of the building official shall be presented to the political jurisdiction represented by the building official if other than the town.
- (c) Town council.
 - (1) The duties of the town council in connection with this LDC shall not include hearing and passing on disputed questions, which may arise in connection with the enforcement or interpretation of this LDC.
 - (2) The duties of the town council in connection with this LDC shall only be the duty of considering the passing upon any proposed amendment or repeal of this LDC as provided by law.

(Code 2015, ch. 21, § 21.5.2)

Secs. 18-111—18-123. - Reserved.

ARTICLE VII. - PLANNING AND ZONING COMMISSION

Sec. 18-124. - Establishment and composition.

- (a) The planning and zoning commission (Commission), set forth in section 5.11 of the Charter, shall consist of five members nominated by the mayor and appointed by the town council (Council) pursuant to town Charter section 12.
- (b) The planning and zoning commission shall serve as the local planning agency (LPA) as described under F.S. ch. 163, as may be amended from time to time.

(Code 2015, ch. 15, art. I, § 1; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-125. - Functions, powers and duties.

- (a) The functions, powers, and duties of the commission shall include the power to identify the need for, and review proposals for, hold public hearings, and make recommendations to the town council for amendments to the town's comprehensive plan and land development regulations (LDRs).
- (b) The commission shall gather and maintain information and materials necessary for town planning including data and analysis, past and present conditions, trends and changes in conditions and expected population. Such information and material may include the following:
 - (1) Maps and photographs of manmade and natural physical features of the area;
 - (2) Statistics on past and present conditions with respect to population, property values, economic base, land uses and future trends; and
 - (3) Obtain any other information concerning or relevant to town planning, including the amount and type of development within the town.
- (c) The commission shall hold at least one public hearing on any application to amend the description, text or map of the comprehensive plan generated by the town (town-generated) or by an applicant (applicant-generated) and submit a recommendation to the council for approval or denial or approval with conditions or changes.
- (d) The commission shall hold at least one public hearing on any town-generated or applicant-generated application to amend the description, text or map of the LDRs and submit a recommendation to the council for approval or denial or approval with conditions or changes.
- (e) The commission shall review and certify the zoning official (ZO) recommendation for all major developments and subdivision plats under article XVI of this LDC, to ensure the site plan complies with the plan before issuing construction permits or zoning certificates.
 - (1) The council must act upon all major projects after commission certification before issuing construction permits or zoning certificates.
 - (2) If voter referendum is also required, it shall occur after the council has acted upon the major development.
- (f) The commission shall coordinate with the board of adjustment (BOA) where the town code requires BOA approval for a variance, vested right, beneficial use or development.
- (g) The commission may, if desired, as part of its review of plan amendments or LDC amendments or major projects, request an applicant, staff or consulting expert conduct any special studies on the location, condition, and adequacy of proposed amendments, including the availability or levels of service regarding specific facilities in the area, including, but not limited to, housing needs, commercial and industrial uses, conditions and facilities, public and private utilities, traffic, transportation, parking, environmental resources or other planning factors. Review of town-generated application by professional experts shall be paid for by the town. Review of applicant-generated application by professional experts shall be paid for by the applicant unless the town specifically, voluntarily agrees to pay for a review of an applicant-generated application by professional experts.

(Code 2015, ch. 15, art. I, § 2; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-126. - Officers and rules of procedure.

- (a) The commission shall annually in March elect a chair and a vice-chair from among its members.
- (b) The town clerk shall keep a record of the proceedings, notify members, and post appropriate notices of meetings.
- (c) The commission shall meet when requested by the town clerk and may meet at other times as the chair may determine or commission may decide by motion and vote.
- (d) The commission may adopt procedural rules for the transaction of its business.

- (e) The town clerk shall keep a record of the commission's resolutions, transactions, findings, and determinations, which shall be subject to Florida's Public Records Act, F.S. ch. 119.
- (f) All meetings of the commission shall be held in accordance with Florida's Sunshine Act, F.S. ch. 286.

(Code 2015, ch. 15, art. I, § 3; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-127. - Terms of office, removal from office, vacancies.

- (a) Members of the commission shall be appointed, pursuant to the town Charter section 12, for staggered terms of three years, and shall serve until the expiration of their terms, or until their successors are appointed after the expiration of their terms.
- (b) The council may remove any member for cause after written notice and public hearing.
- (c) Vacancies leaving an unexpired term are filled, pursuant to the town Charter section 12.

(Code 2015, ch. 15, art. I, § 4; Ord. No. 2011-01, § 1, 3-9-2011)

Sec. 18-128. - Fees and appropriations.

- (a) The commission, upon approval of the council, is hereby authorized and empowered to recommend appropriations for staff, salaries, fees, and expenses necessary in the conduct of the work of the commission and to recommendations to the town council for amendments to the schedule of fees charged by the town for applications heard by the commission.
- (b) To accomplish the purposes and activities authorized by this part, the commission, with the approval of the council, has the authority to expend all sums so appropriated and other sums made available for its use from fees, donations, state or federal grants, state, or federal loans, and other sources.
- (c) Acceptance of federal or state grants or loans must be approved by the town council.

(Code 2015, ch. 15, art. I, § 5; Ord. No. 2011-01, § 1, 3-9-2011)

Secs. 18-129—18-138. - Reserved.

ARTICLE VIII. - BOARD OF ADJUSTMENT (BOA)

Sec. 18-139. - Composition; appeals and review; powers, functions.

(a) *Establishment.*

- (1) A board of adjustment is hereby established, which shall consist of five members appointed by the mayor, subject to the approval of the town council, each for a term of three years.
- (2) The town council, upon written charges and after public hearing, may remove members of the board of adjustment from office.
- (3) Vacancies occurring in the membership of the board by resignation, illness, or for other causes shall be filled by appointment of the mayor, subject to approval of the town council, for the unexpired term of the member affected.

(b) *Appeals.*

- (1) Appeals to the BOA may be filed by any person or entity aggrieved by any decision of the ZO or other entity related to this LDC.
- (2) Appeals shall be filed within 30 days to the town clerk.

- (3) An appeal must specify the action being appealed, the specific reason for appeal, and the specific reasons relief should be granted.
 - (4) The ZO shall transmit to the BOA all documents which the action appealed from was taken.
 - (5) The BOA shall:
 - a. Fix a reasonable time for the hearing of the appeal.
 - b. Give public notice and notice to the parties in interest.
 - c. Decide the appeal within a reasonable time.
 - (6) At the hearing, any party may appear in person or by agent or by attorney.
- (c) *Judicial review of decisions of the board of adjustment.*
- (1) Any person or entity aggrieved by any decision of the BOA may apply to the circuit court in the judicial circuit where the board of adjustment is located for judicial relief within 30 days after rendition of the decision by the board of adjustment.
 - (2) Review in the circuit court shall be either by a trial de novo, which shall be governed by the Florida Rules of Civil Procedure, or by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules.
 - (3) The election of remedies shall lie with the appellant per F.S. § 163.250.
- (d) *Powers.*
- (1) *Administrative review.*
 - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this LDC.
 - b. Such appeals shall include, but not be limited to, appeals from decisions of the administrative official to refuse permits for structures or uses on grounds that the intended structure or use would be dangerous or offensive because of odor, smoke, noise, glare, fumes, gas, fire, or vibration, or hazardous because of danger of fire or explosion.
 - c. In deciding appeals on such classes of cases, the BOA shall not reverse the decision of the ZO unless it finds that the proposed structure or use will be no more dangerous, hazardous, or offensive in its operation than permitted principal structures or uses of a similar nature in the same district.
 - (2) *Special exceptions.*
 - a. To hear and decide special exceptions to the terms of this LDC upon which the BOA is specifically authorized to pass under the terms of this LDC.
 - b. The BOA shall receive:
 1. A recommendation from the PNZ in all cases involving requests for special exceptions.
 2. A recommendation from the ZO in all cases involving requests for special exceptions.
 - (3) *Variances; conditions governing applications and procedures.*
 - a. To authorize a variance from the terms of this LDC as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this LDC will result in unnecessary hardship.
 - b. The BOA may not issue a variance from the terms of this LDC unless and until the applicant can affirmatively show and the BOA affirmatively finds that:
 1. An application for such variance has been received, stating fully the special circumstances or conditions applying to the land or building for which such variance is sought.

2. The circumstances or conditions of the hardship are peculiar to such land or building and shall not apply generally to neighboring lands or buildings.
 - (i) The existing circumstances and conditions are such that the strict application of the provisions of this LDC would deprive the applicant of reasonable use of the property.
 - (ii) The need for the proposed variance is due to the physical shape, configuration, topographical condition, or environmental conservation of portions of the lot or parcel and such conditions distinguishes the lot from other lots or parcels in the same zoning district.
 - (iii) The peculiar circumstances and conditions are not the result of the actions of the applicant and the hardship is not self-created.
 - (iv) The variance request is not based exclusively or simply upon a desire to reduce the cost of (or to increase profits from) developing the site.
 - (v) The nonconforming use of neighboring lands or buildings shall not be considered adequate grounds for a variance for similar uses.
 - (vi) The variance is the minimum variance that will make possible the reasonable use of the land or building.
 - (vii) The variance will be in harmony with the general purpose and intent of this LDC.
 - (viii) The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the surrounding neighborhood.
 - (ix) The variance will not be injurious to adjoining or neighborhood uses, property values, or otherwise detrimental to the public health, safety, or welfare.
 - (x) The effect of the proposed variance is consistent with the comprehensive plan and does not increase density.
 3. Public notice has been given of a public hearing, and in addition, written notice given to the owner or his agent and, so far as practicable, to directly affected property owners.
- c. At the public hearing, any person may appear by agent or attorney.
 - d. The BOA shall make written findings of fact on the standards and criteria set forth above for the granting or denial of the variance.
 - e. Nothing in this section shall be construed as permitting variance by the BOA to allow any use of land not clearly permitted by this Code.
 - f. A variance cannot be granted to permit a variation in type, density or intensity of land use other than as specifically allowed by the zoning district in which it is located.
 - g. A variance shall expire if not utilized within two years of the approval.
 - h. In granting any variance, the BOA shall prescribe any conditions and safeguards it deems to be necessary or desirable to ensure that the standards and criteria set forth above can be met.
 - i. Violations of such conditions or safeguards, when made a part of the terms under which such variance is granted, shall be deemed to be violation of this Code.
 - j. No variance shall be granted to criteria for any conditional use, major or minor development or any site-specific condition of approval imposed by the town council.
 - k. No variance shall be granted that will purport to simply modify any definition set forth in this Code rather than obtain a variance from the standard or criteria itself. Instead, variance can

be denied and changes to the LDC definitions may be proposed as set forth elsewhere in this Code.

(4) *Decisions of the BOA.*

- a. The BOA may reverse, affirm, or modify the decision made by an administrative official, board, or council in the enforcement of any regulation adopted pursuant to this Code.
- b. The BOA shall have all the powers of the officer from whom the appeal is taken.
- c. The concurring vote of a majority of all the members of the BOA shall be necessary to reverse, affirm, or modify any decision.

(5) *Conditional use.*

- a. To hear and decide conditional use requests in accordance with the terms of this Code.
- b. Nothing in this section shall be construed as permitting the BOA to allow any use of land not clearly permitted by this Code.
- c. Nonconforming use of neighboring lands or buildings shall not be considered adequate grounds for the issuance of a conditional use permitting similar uses.
- d. Violations.
 1. Violations of conditions or safeguards made a part of the terms of the conditional use permit shall cause the granted conditional use permit to be invalid.
 2. Violations of conditions or safeguards made a part of the terms of the conditional use permit shall be deemed to be violation of this LDC.
 3. Upon notice of violation, all work must cease and the owner or the agent must reappear before the BOA and reapply for a conditional use permit.
- e. The BOA may not issue a conditional use unless and until:
 1. An application for conditional use has been received, stating the section of this LDC allowing the conditional use sought.
 2. Public notice shall be given of a public hearing, including posting of the application (including a site plan and architectural rendering of the conditional use, if applicable) at the subject property. An applicant may appear in person or by agent or attorney at the public hearing.
 3. Written notice shall be given to the owner or his agent.
 4. Courtesy written notice shall be given to property owners within 500 feet.
 5. The concurring vote of a majority of all the members of the board shall be required to approve a conditional use.
 6. The BOA shall find that the reasons set forth in the application justify the granting of a conditional use.
 7. The BOA shall find that the granting of the conditional use will be in harmony with the general purpose and intent of this LDC, is consistent with the goals, objectives and policies of the town comprehensive plan, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 8. In granting any conditional use, the BOA shall prescribe any conditions and safeguards it deems to be necessary or desirable in addition to the requirements of this LDC.
 9. Any new conditional use that has not obtained approval shall be demolished.

(e) *Proceedings.*

- (1) The BOA shall adopt rules for the conduct of its affairs, and in keeping with the provisions of this LDC.
 - (2) Meetings shall be held at the call of the chair and at such times as the BOA may determine, after due public notice thereof.
 - (3) The BOA shall keep minutes of its proceedings, showing attendance and the vote of each member upon each question.
 - (4) The BOA shall keep records of its examinations and other official actions filed in the town hall.
 - (5) All records of the BOA shall be a public record.
- (f) *Stay of proceedings.*
- (1) An appeal to the BOA stays all actions in furtherance of the appealed decision.
 - (2) If the officer from whom the appeal is taken certifies to the BOA that a stay would cause imminent peril to life or property, the action may continue.
 - (3) In this case, a restraining order granted by the BOA or a court of record would stay all actions in furtherance of the appealed decision.

(Code 2015, ch. 21, § 21.6)

Secs. 18-140—18-151. - Reserved.

ARTICLE IX. - ZONING COMPLIANCE

Sec. 18-152. - Violations.

- (a) If the ZO shall find that any of the building provisions of this LDC are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it.
- (b) The ZO shall order discontinuance of use of land or buildings, removal of buildings, additions or other structures, discontinuance of any work being done, or shall take any other action necessary to ensure compliance with this LDC.

(Code 2015, ch. 21, § 21.7.1)

Sec. 18-153. - Application for zoning compliance.

- (a) All applications for zoning compliance shall be accompanied by three sets of duplicate plans, drawn to scale.
- (b) The application shall include such other information as may be required by the ZO, including, but not limited to, the following:
 - (1) Existing or proposed uses of the building and land;
 - (2) The number of families or housekeeping units the building is designed to accommodate;
 - (3) Conditions existing on the lot and neighboring lots; and
 - (4) Such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this LDC.
- (c) Two copies of such plans and the approved application shall be returned to the applicant.
- (d) One copy of the plan and application shall be kept in the office of the ZO.

- (e) All applications for zoning compliance shall include the following information, unless otherwise noted by the ZO:
- (1) A complete legal description of the affected property;
 - (2) The ownership of the property, including all owners if more than one;
 - (3) A written narrative detailing the uses, including existing and proposed;
 - (4) A site plan describing the following:
 - a. The entire property owned and to be developed;
 - b. The location on the property of all existing and proposed improvements;
 - c. The elevations of the first floor of the proposed construction;
 - d. The maximum building height;
 - e. The distance of all improvements from the property lines involved.
 - (5) Detailed site plans are required for any major project development. (See also article XVI of this LDC.)
 - (6) Approved certificate of zoning compliance.
 - a. The ZO shall not issue a certificate of zoning compliance until compliance with all LDC requirements, consistency with the comprehensive plan, and all criteria on application forms are met.
 - b. The ZO shall make available separate application forms for residential development, commercial development, and concurrency management.
 - (7) Development proposals and site plans for projects west of the CR 40 and 40A intersection shall identify known historical and archaeological sites based upon competent historical or archaeological professional review.
 - (8) Demonstration that appropriate permits for on-site wastewater treatment systems have been obtained from the county health department and other federal, state, and local agencies.
 - (9) Demonstration that applicable surface water and/or stormwater permits have been obtained or are pending from SWFWMD if required; or a letter from that agency indicating no permits are needed.
 - (10) Site plans shall show any necessary water, drainage, and street improvements, and the nature and extent of earthwork required for site preparation and development.
 - (11) Demonstration that soils, topography, and vegetative cover have been integrated in planning.
 - (12) For developments in which hazardous wastes are proposed to be stored, generated or transported, the following shall be included as part of the site plan:
 - a. An emergency response plan addressing accidents involving hazardous waste;
 - b. Documentation that the location of the proposed site is not within 500 feet of the town's wellfields;
 - c. Documentation that the site will not degrade surface water or groundwater quality, or other natural resources;
 - d. Documentation that department of regulation standards for transfer and storage are implemented consistent with F.A.C. ch. 17-730;
 - e. Documentation that a "Notification of Hazardous Waste Activity" permit has been filed with the environmental protection agency.
 - (13) Location of proposed driveways.

- (14) If development activity includes a dock, seawall or riprap, or other activity in a wetlands or water body, the applicant shall also provide a copy of any and all documentation or information that has been provided to, or received from, any applicable state, regional or federal agency, including the State of Florida Department of Environmental Protection (DEP), the Southwest Florida Water Management District (SWFWMD) and United States Army Corps of Engineers (ACOE).

(Code 2015, ch. 21, § 21.7.2; Ord. No. 2020-03, § 1, 9-14-2020)

Sec. 18-154. - Zoning compliance required.

- (a) No building or other structure shall be erected, moved into or within the town, added to, or structurally altered without a permit issued by the ZO.
- (b) All applications for zoning compliance shall be in accordance with the requirements of this LDC.
- (c) Unless upon written order of the BOA, no building permit shall be issued except in complete conformity to the provisions of this LDC.

(Code 2015, ch. 21, § 21.7.3)

Sec. 18-155. - Certificate of occupancy required.

- (a) No land shall be used or occupied, building hereafter erected, structurally altered, moved or extended, or land or building change use until a certificate of occupancy has been issued by the building inspector or ZO.
- (b) A certificate of occupancy shall only be issued if construction and development is completed in full compliance with the provisions of this Code and any conditions placed on any applicable zoning approvals by the ZO, P and Z, BOA, or town council.
- (c) The ZO shall issue a certificate of occupancy for those projects that require zoning compliance review but that do not require a county building permit.
- (d) The ZO shall maintain a record of all certificates of occupancy, and copies shall be furnished upon request to any person having an interest as a proprietor or tenant in the building affected.

(Code 2015, ch. 21, § 21.7.4)

Sec. 18-156. - Permit suspension, revocation and approvals/permits erroneously issued.

- (a) A zoning compliance certificate, variance, special exception, conditional use or any other development approval, or building permit issued on the basis of faulty applications or plans, shall be null and void immediately upon discovery.
- (b) When a development permit or approval, or building permit, is issued through administrative error, the error shall be called to the attention of the permit holder upon discovery, in writing by the building or ZO.
 - (1) If the error is not voluntarily corrected in a timely manner, as set by the building official or ZO, the matter shall be brought to the immediate attention of code enforcement, the BOA and the town council.
 - (2) The town shall take such lawful actions, as is appropriate and deemed necessary including revocation of the erroneous permit, code enforcement or by filing an action in a court with the appropriate jurisdiction.

- (c) The ZO is authorized to suspend or revoke a permit issued under the provisions of this Code wherever the permit is issued in error or based on incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any provisions of this Code.
- (d) Misrepresentation of application. The ZO may revoke a permit or approval, issued under the provisions of this Code, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (e) Violation of code provisions. The ZO may revoke a permit upon determination by the ZO that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this Code.
- (f) A permit or certificate of use issued in error shall not confer any rights to construction or occupancy, and upon a finding that a permit has been so issued, it shall be revoked.
- (g) No permit or certificate of use shall be deemed or construed to authorize violation of any provisions of this zoning ordinance, and such permits or certificates shall be deemed or construed to be valid only to the extent that the work authorized is lawful.

(Code 2015, ch. 21, § 21.7.5)

Sec. 18-157. - Expiration of zoning compliance and building permit.

- (a) Building permits shall expire in accordance with county building department regulations.
- (b) Renewing a building permit requires renewal of the zoning compliance also.
- (c) Zoning compliance certificates shall expire two months after issue if no building permit has been received by applicant.
- (d) If no permit is required, zoning compliance shall expire:
 - (1) Two months from date of issue if no work has started; or
 - (2) One year from date of issue if work is not complete.
- (e) Written notice shall be given to applicant if zoning compliance expires.
- (f) Building permit extensions issued by the county require notification of the ZO.
- (g) Zoning compliance certificates may be extended by the ZO if proof of significant effort is shown.
 - (1) The extended permit may include limitations as to the time allowed for completion of the work.
 - (2) The extended permit may include provisions for a performance bond to ensure such completion within the time limit set.

(Code 2015, ch. 21, § 21.7.6)

Secs. 18-158—18-177. - Reserved.

ARTICLE X. - DISTRICT REGULATIONS

Sec. 18-178. - Common standards for all districts.

- (a) No new building or land use shall be permitted unless it conforms to the code for the zone in which it is located.
- (b) Nonconforming structures voluntarily destroyed shall be brought into compliance with the current LDC and comprehensive plan when rebuilt.

- (c) Any nonconforming structure remodeled or modified involving the removal of any portion of an exterior wall, except for door or window replacement, or change to roof shape should ensure no increase in the amount of nonconformity either vertically or horizontally.
- (d) Replacement of involuntarily destroyed nonconforming structures is allowed provided:
 - (1) That portion of the structure that creates the nonconformity is not increased.
 - (2) The reconstruction must comply with:
 - a. Maximum height requirements;
 - b. The remaining LDC requirements to the greatest extent possible;
 - c. Chapter 12; and
 - d. All current building code requirements.
- (e) Any land required to comply with these regulations is unavailable as land for another structure or use.
- (f) No part of a parcel or other space required for any building for the purpose of complying with the provisions of this LDC shall be included as part of a parcel or other open space similarly required for another building.
- (g) Contiguous parcels of record, under identical ownership, are not subject to the common boundary setback requirements, as those provisions relate to the common boundaries of said parcels.
- (h) An owner who has built or is permitted to build on two or more contiguous parcels of record may not sell or transfer a portion or all of said contiguous parcels unless no violation of zoning district parcel dimensions or density will occur on the developed parcel or on the sold parcel if it is developed.
- (i) A substandard parcel, as defined by this Code, shall not be a legal parcel of record and is not buildable unless combined with an adjoining lot or unless a variance or beneficial use determination is obtained. Exceptions apply in the residential low density (RLD) district.
- (j) Prohibited is the creation and sale of any parcel that is a substandard parcel as defined by this Code.
- (k) Parcels combined by deed may never recover original parcel of record status.
- (l) New development shall provide on-site stormwater retention volumes consistent with outstanding state water regulations.
- (m) All new nonresidential development shall utilize low impact development practices for stormwater management set forth in the comprehensive plan in a linked, sequential treatment process that ensures efficient stormwater nutrient treatment. Post-development conditions shall equal pre-development natural conditions with regard to stormwater leaving the site.
- (n) Home business occupations in commercial and residential districts are allowed, providing:
 - (1) Not more than one person not a resident on the premises shall be employed.
 - (2) Such occupation shall be clearly incidental and secondary to the use of the building for residential purposes.
 - (3) Total square footage of premises used for home occupations shall not exceed 300 square feet. Conditional use permit approval by BOA is required if greater area is required.
 - (4) Two additional off-street parking spaces are required if the home occupation involves clients or deliveries.
 - (5) The external appearance of the building shall not be changed because of the conduct of the operation and there shall be no external evidence of such occupation on the buildings or grounds.
 - (6) A small professional notice or sign, not exceeding one-square foot in area, may be mounted against the side of the building, or in an approved site within the lot limits.
 - (7) Traffic density and congestion will not be a hazard in residential districts.

- (o) All new and replacement sanitary wastewater disposal systems shall be located on-site.
- (p) No dredging or filling of wetlands or water bodies shall be allowed for any purpose without state agency approval and a beneficial use determination obtained from the BOA except as otherwise set forth in this LDC and comprehensive plan.
- (q) To determine the extent of uplands for a particular site, the applicant must obtain DEP, ACOE, and SWFWMD approved jurisdictional delineation or demarcation line for the wetlands and uplands in question.
- (r) No construction permit or zoning certificate for major development may be issued unless the town council has determined that the site plan and other submitted documents are consistent with the comprehensive plan and in compliance with the LDC.
- (s) All principal or accessory uses not specifically allowed in a zoning district are hereby prohibited.
- (t) The principal structure must have a certificate of occupancy before approval of an allowable accessory structure:
 - (1) With the exception of a dock;
 - (2) With the exception of a storage shed, if an active principal structure construction permit exists.
- (u) The construction of an uncovered dock, in accordance with section 18-355, is an authorized use on any waterfront parcel of record, which is without a primary structure.
- (v) All accessory structures and uses, with the exception of a dock, shall be located behind the front plane of the structure or dwelling unit (i.e., to the side or rear of the structure), except on islands in the residential environmentally sensitive and resource protection district.
- (w) Guest house is an allowed accessory structure in any residential district, not exceeding 750 square feet in area, but not to exceed 50 percent of the primary structure.
- (x) The noise level of electronic speakers, musical instruments, fixed equipment, machinery, power tools, construction demolition and general construction noise should not be offensive to nearby residents between the hours of 10:00 p.m. and 7:00 a.m.

(Code 2015, ch. 21, § 21.8.1; Ord. No. 2020-01, § 1, 6-8-2020)

Sec. 18-179. - Additional standards for all CN, CWD, and LI districts.

- (a) Parcels in commercial districts that contain lawfully established residential development prior to September 1, 2007, are conforming as to structures and/or uses until the uses of the parcel or structures are converted to another conforming commercial use. Once converted to commercial use, the use of the parcel cannot be changed back to a nonconforming use.
- (b) Clustering of buildings to increase open space, view corridors or preserve wetlands or native vegetation is allowed, encouraged, and preferred.
- (c) Provision must be made and documentation provided to ensure the adequate collection and disposal of trash and garbage.
- (d) The noise level of electronic speakers, musical instruments, fixed equipment, machinery, power tools, construction demolition and general construction noise should not be offensive to nearby residents between the hours of 10:00 p.m. and 7:00 a.m.
- (e) Parking space shall be provided onsite for all vehicles and boat trailers using the facility, on-street or offsite parking shall not be used to meet minimum parking requirements.
- (f) A neighborhood traffic study is required containing:
 - (1) Detailed effect on neighborhood traffic on local streets and roads;
 - (2) Effect on transportation level of service;

- (3) Percentage of trips that will utilize each of the nearby streets;
- (4) Proposed improvements if necessary to accommodate the use.
- (g) Design and architecture of structures shall be in accordance with the architectural standards section. Owners may seek a variance from the BOA if special conditions exist.
- (h) All new commercial development shall utilize low impact development practices in a linked, sequential treatment process that ensures efficient stormwater nutrient treatment, including, as applicable to the specific use:
 - (1) Landscaped bio-filtration swales.
 - (2) Use of native and Florida-friendly plants adapted to soil, water, and rainfall conditions.
 - (3) Minimal use of fertilizers and pesticides.
 - (4) Grease traps for restaurants.
 - (5) Recycle stormwater by using pond water for irrigation of landscaping.
 - (6) Dry wells to capture runoff from roofs.
 - (7) Porous, pervious, permeable pavements.
 - (8) Maintenance of stormwater wetlands and ponds used for nutrient removal.
 - (9) Aerate tree root systems (for example, WANE systems).
 - (10) Vegetate on-site floodplain areas with native and Florida-friendly plants to provide habitat and wildlife corridors.
 - (11) Use of other connected best management practices to increase nutrient removal.
 - (12) At a minimum, post-development condition shall equal pre-development natural conditions with regard to stormwater leaving the site.
- (i) Existing commercial development shall be encouraged, but not required, to use the above recommendations and shall not be considered nonconforming if they do not.
- (j) Shipping, receiving, and loading, or unloading space or areas.
 - (1) In connection with every structure or part thereof, which is a commercial or industrial use, which utilizes shipping and receiving, there shall be provided and maintained, on the same lot with such building, one off-street loading space or area.
 - (2) The off-street loading space or area shall have the following minimum required dimensions:
 - a. Width: 12 feet.
 - b. Length: 25 feet.
 - c. Height: clearance of 14 feet.
 - (3) The off-street loading space or area may not occupy any setback areas.

(Code 2015, ch. 21, § 21.8.2; Ord. No. 2020-01, § 1, 6-8-2020)

Sec. 18-180. - Commercial neighborhood; CN.

- (a) *Purpose and intent.*
 - (1) The principal purpose of this district is to provide for various types of neighborhood retail sales, services, offices, restaurants and transient units.
 - (2) Intensities consistent with the community character and natural environment are allowed.

- (b) *General requirements.* See common standards for all districts and common standards for commercial and light industrial districts.
- (c) *Permitted principal uses and structures.*
 - (1) Retail stores.
 - (2) Customary home occupations.
 - (3) Restaurants. An establishment whose principal and primary source of income is the serving of food and is open to the general public.
 - a. Drive-through windows are prohibited.
 - b. Serving of alcohol is allowed only as a secondary source of income accessory to the service of food.
 - c. Gross revenue from the sales of alcohol may not exceed: 50 percent; or 60 percent if the restaurant meets all of the requirements of the following sections of rule F.A.C. 61A-3.0141(2)(d), (2)(e) and (3)(d) (2009).
 - d. Preparation of food onsite or elsewhere for on-site or off-site catering is allowed.
 - e. The restaurant may contain food specialty areas such as bakery, coffee shop, and delicatessen.
 - (4) Specialty food establishments such as a bakery, coffee shop, or delicatessen.
 - (5) Offices, business or professional.
 - (6) Financial institutions; allows drive-through service.
 - (7) Parking lots.
 - (8) Motor vehicle sales, both new and used.
 - (9) Watercraft and watercraft accessory sales and/or rentals.
 - (10) Family recreational uses and structures, including theaters, shuffleboard courts, and auditoriums.
 - (11) Retail and wholesale sale of seafood, seafood products, fresh fish, and related products.
 - (12) Establishments for the maintenance, overhaul, and repair of boats.
 - (13) Mortuaries and funeral homes.
 - (14) Self-storage facilities.
 - (15) Hotel or motel transient units.
 - a. Maximum 500 interior square feet per unit.
 - b. Transient unit may contain more than one bedroom; however, each bedroom shall be counted as a unit for density/intensity calculations.
 - c. Kitchens in transient units are prohibited.
 - d. Microwave, coffee pot, and mini refrigerator are allowed.
 - e. On-site management, check-in, and reservation desk is required.
 - f. Maximum allowed transient density is four bedrooms per acre.
 - (16) Day care centers.
 - (17) Laundromats.
 - (18) Car washes.
 - (19) Retail liquor sales for off-site consumption (package stores).

- (20) Radio or TV broadcasting studios.
- (21) Food catering services.
- (22) Professional services, such as, but not limited to, accounting, blueprint, computer, insurance, printing, real estate, and secretarial.
- (23) Recreation, activity-based (picnicking, jogging, cycling, arboretums, hiking, playgrounds, ball fields, outdoor ball courts, outdoor swimming pools and gymnasiums are examples of activity-based recreation).
- (24) Second hand retail merchandise sold within an enclosed, commercial structure.
- (25) Personal service businesses, such as, but not limited to, barber, beauty or nail salon, tailor, travel agency, laundromat, dry cleaner pick-up, photography studio, florist, spa, and physical fitness center.
- (26) Wholesale businesses.

Any desired use or structure not listed above requires a conditional use from the BOA.

(d) *Conditional uses.* The BOA must approve all conditional uses. Any requirements listed below are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.

- (1) Bed and breakfast lodging (B&B).
- (2) Temporary and/or portable retail sales stands meeting the following requirements:
 - a. No permanent power or utilities.
 - b. No permanent ground connection or anchor.
 - c. Authorized location on a yearly basis.
 - d. Daily debris removal required.
 - e. Proof of necessary permits required.
 - f. No alcohol sales allowed.
- (3) Gasoline sales and service.
- (4) Combination gasoline sale and food marts or restaurants.
- (5) Medical, dental, veterinary hospitals/offices.
- (6) Indoor kennels (outdoor kennels shall be prohibited).
- (7) Vacation rentals.
- (8) A single-dwelling unit for a caretaker located in, beside, above, or below the business operation and the occupant directly supports the business operation is allowed if meeting the following requirements:
 - a. Size not to exceed 750 square feet.
 - b. Bedroom is not counted as one of the bedrooms allowed onsite.
 - c. Kitchen is allowed.
 - d. No rental of this unit is allowed. There must be an employee or independent contractor business relationship between occupants and the owner or commercial enterprise existing onsite.
- (9) Boat building establishments with additional approval by town council.
- (10) Establishments where the sale of alcoholic beverages, for on-site consumption, is secondary to the primary use as a hotel where:

- a. At least 50 percent of gross revenue must come from primary hotel use.
 - b. No more than 30 percent of gross revenue may come from alcohol sales.
- (11) Facilities for vehicle towing, storage, service, and repair.
- a. No public street, parking space, sidewalk or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments, except for normal parking by individual private owners or operators of such vehicles during business hours.
 - b. No operation in connection with such establishments shall be carried on in a way which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.
 - c. All motor vehicles being stored or repaired by such establishments shall be maintained in such condition that they may be moved under their own power at any time except such vehicles as may be under repair in garages or other buildings as provided in subsection (d)(11)d of this section.
 - d. All repairs of motor vehicles or parts shall be made within garages, service stations, body shops or other buildings used for such purposes.
- (12) Establishments for the maintenance, overhaul, and repair of boats.
- a. No public street, parking space, sidewalk or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments, except for normal parking by individual private owners or operators of such vehicles during business hours.
 - b. No operation in connection with such establishments shall be carried on in a way which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.
 - c. All motor vehicles being stored or repaired by such establishments shall be maintained in such condition that they may be moved under their own power at any time except such vehicles as may be under repair in garages or other buildings as provided in subsection (d)(12)d of this section.
 - d. All repairs of motor vehicles or parts shall be made within garages, service stations, body shops or other buildings used for such purposes.
 - e. Any desired use or structure not listed above requires a conditional use from the BOA.
- (13) Allowed accessory uses and structures.
- a. Support facilities for transient units such as newsstands, laundry centers, or recreation facilities.
 - b. Occupancy of no more than a single recreational vehicle is limited to a period of not more than 14 days in a 90-day consecutive period and only when a primary residence is on the parcel. Existing RV parks are excluded from this limitation.
 - c. Any desired use or structure not listed above requires a conditional use from the BOA.
- (14) Prohibited uses and structures.
- a. Refineries, fuel tank storage farms, fuel transport terminals.
 - b. Incinerators, solid waste, construction, debris, junkyards, and demolition landfills.
 - c. Construction of new residential dwelling units except for caretaker units, as in subsection (d)(8) of this section.
 - d. Communal self-serve cooking facilities are prohibited.
 - e. Stand-alone bars with on-site consumption of alcoholic beverages that derive more than 50 percent of gross revenues from alcoholic beverage sales.
- (15) Dimensional requirements.

- a. Maximum impervious surface ratios shall not exceed 50 percent of the site.
- b. Minimum green space requirement shall be 50 percent.
- c. No structure shall exceed a gross floor space of 3,000 square feet.
- d. FAR is 0.07 for any parcel equal to or greater than 20,760 square feet.
 - 1. FAR for parcels less than 20,760 square feet see Table 1.

Table 1. Nonresidential Structures Size Limits

Nonresidential Structures: Floor Area Ratio (FAR) and Maximum Building Size

Table 1 Nonresidential Structures

| Maximum Lot Size | Minimum Lot Size | Building Maximum Size |
|----------------------|------------------------------|-------------------------------|
| | 20,760 | 0.07 FAR or 3,000 square feet |
| < 20,760 square feet | = to or > 18,720 square feet | 1,460 square feet |
| < 18,720 square feet | = to or > 16,680 square feet | 1,380 square feet |
| < 16,680 square feet | = to or > 14,640 square feet | 1,315 square feet |
| < 14,640 square feet | = to or > 12,600 square feet | 1,253 square feet |
| < 12,600 square feet | = to or > 10,560 square feet | 1,181 square feet |
| < 10,560 square feet | = to or > 8,520 square feet | 1,156 square feet |
| < 8,520 square feet | | 1,050 square feet |

- 2. To calculate density, the parcel area less commercial usage is used to calculate the area available for transient units.
- 3. To calculate intensity, the parcel area less transient unit usage is used to calculate the area available for commercial.
- e. Maximum height is 35 feet above average existing natural grade.

- f. A minimum of 15 feet separation between buildings.
- g. **Setbacks.**
 - 1. Waterfront or wetland setback: 50 feet from the MHWL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.
 - 2. Side: eight feet.
 - 3. Front: 25 feet.
 - 4. Rear: ten feet.
- h. Minimum new parcel width: 100 feet.
- i. Minimum new parcel area: one-half acre.

(Code 2015, ch. 21, § 21.8.3)

Sec. 18-181. - Commercial water dependent; CWD.

(a) *Purpose and intent.*

- (1) This zone provides for water-dependent land uses that facilitate, provide, and protect commercial fishing, recreational fishing, and public access to the waterfront.
- (2) Water-dependent uses can take the form of a commercial business or a public facility.
- (3) Only low to medium commercial intensity uses are allowed.

(b) *General requirements.*

- (1) See common standards for all districts and common standards for commercial and light industrial districts.
- (2) Dumping, polluting, or otherwise disposing of any trash, waste or other matter into the river is prohibited.
- (3) There shall be no net loss of public access to boat ramp facilities existing onsite and available to the public. Public access includes either access to the water on a free or user-fee basis (for example, boat ramp fees, or docking fees open to the general public).

(c) *Permitted principal uses and structures.*

- (1) Marinas.
- (2) Customary home occupations.
- (3) Uncovered boat slips/docks.
- (4) Covered boat slip only within town limits.
- (5) Commercial fishing and customary commercial fishing support activities.
- (6) Fishing net and trap-making businesses.
- (7) Sail making businesses.
- (8) Recreational fishing.
- (9) Charter boat docks.
- (10) Fish houses.
- (11) Sales of recreational boating trips.
- (12) Wholesale and retail sales of fish and seafood.

- (13) Marine scientific and biological laboratories, research facilities, sampling or collection.
- (14) Watercraft and watercraft accessory sales and/or rentals.
- (15) Establishments for the maintenance, overhaul, and repair of boats.
- (16) Bait and tackle shops.
- (17) Water view restaurants: an establishment whose principal and primary source of income is the serving of food and is open to the general public.
 - a. Drive-through windows are prohibited.
 - b. Serving of alcohol is allowed only as a secondary source of income accessory to the service of food.
 - c. Gross revenue from the sales of alcohol may not exceed: 50 percent; or 60 percent if the restaurant meets all of the requirements of the following sections of rule F.A.C. 61A-3.0141(2)(d), (2)(e) and (3)(d) (2009).
 - d. Preparation of food onsite or elsewhere for on-site or off-site catering is allowed.
 - e. The restaurant may contain food specialty areas such as bakery, coffee shop, and delicatessen.
- (18) Water-enhanced food and beverage service areas open to the public may be included on public access ways to the waterfront.
- (19) Outdoor recreation supply stores.
- (20) Recreation, activity-based (picnicking, jogging, cycling, arboretums, hiking, playgrounds, outdoor swimming pools) and water-related or water-dependent uses such as boat ramps, fishing docks and piers, and all similar outdoor recreation uses.
- (21) Office buildings, only if water-dependent functions.
- (22) Retail shops, such as, but not limited to, gift shops, antique shops, art studios, and art shops.
- (23) Hotel, motel, residential transient units, or bed and breakfasts, subject to the following conditions:
 - a. Only if they are water dependent or water enhanced, which can be demonstrated by the following:
 - 1. Access to, and along, the waterfront is required to provide for viewing of waterfront vistas along the waterfront shoreline.
 - 2. Open to the public waterfront areas may be provided in the form of privately-owned river walks, boardwalks, sidewalks, pathways, and food and beverage service areas that allow open to the public:
 - (i) Perpendicular access to a waterfront (at least 15 feet wide);and
 - (ii) Parallel access along the waterfront (at least eight feet wide); or
 - (iii) If the use does not provide the open to the public waterfront access, the town council shall review the site plan, architectural design, and BOA and P and Z recommendations during major development or conditional use, as applicable. The council shall ensure that existing views of the waterfront and river are not degraded and to ensure that the proposed use is truly water dependent or water enhanced and cannot be located in commercial neighborhood or another non-waterfront zoning district.
 - b. Maximum allowed transient unit density is two units per acre.
 - c. Maximum 500 interior square feet each unit.

- d. Transient unit may contain more than one bedroom; however, each bedroom shall be counted as a unit for density/intensity calculations.
 - e. Kitchens in transient units are prohibited.
 - f. Microwave, coffee pot, and mini refrigerator are allowed.
 - g. Stays are limited to 31 days or less.
 - h. On-site management, check in, and reservation desk is required.
- (24) Commercial sales necessary to an ongoing on-site transient unit establishment.
- (25) Any desired use or structure not listed above requires a conditional use from the BOA.
- (d) *Conditional uses.* BOA must approve all conditional uses. Any requirements listed below are the minimum. BOA may add additional requirements.
- (1) Bed and breakfast shall not exceed the standards and criteria, applicable to hotels/motels.
 - (2) Temporary and/or portable retail sales stands provided that there is:
 - a. No permanent power or utilities.
 - b. No permanent ground connection or anchor.
 - c. Authorization of location on a yearly basis.
 - d. Daily debris removal required.
 - e. Proof of necessary permits required.
 - f. No alcohol sales allowed.
 - (3) A single-dwelling unit for a caretaker located in, beside, above, or below the business operation and the occupant directly supports the business operation is allowed if meeting requirements below:
 - a. Size not to exceed 750 square feet.
 - b. Bedroom is not counted as one of the bedrooms allowed on site.
 - c. Kitchen is allowed.
 - d. No rental of this unit is allowed.
 - e. There must be an employee or independent contractor business relationship between occupants and the owner or commercial enterprise existing on-site.
 - (4) Boat building establishments with additional approval by town council.
 - (5) Marine construction enterprises.
 - (6) Vacation rentals.
 - (7) Establishments where the sale of alcoholic beverages for on-site consumption is secondary to the primary use as a hotel or marina where:
 - a. At least 50 percent of gross revenues must come from primary use.
 - b. No more than 30 percent of gross revenues may come from alcohol sales.
 - (8) Any desired use or structure not listed above requires a conditional use from the BOA.
- (e) *Allowed accessory uses and structures.*
- (1) Support facilities for transient units such as newsstands, laundry centers, or recreation facilities.
 - (2) Food, gas and other commercial sales shall be an accessory use to an ongoing marina or motel.

(3) Occupancy of no more than a single recreational vehicle is limited to a period of not more than 14 days in a 90-day consecutive period and only when a primary residence is on the parcel. Existing RV parks are excluded from this limitation.

(4) Any desired use or structure not listed above requires a conditional use from the BOA.

(f) *Prohibited uses and structures.*

(1) Refineries, fuel tank storage farms, and fuel transport terminals.

(2) Incinerators, solid waste, construction, debris, junkyards, and demolition landfills.

(3) Construction of new residential dwelling units except for caretaker unit as in subsection (d)(3) of this section.

(4) Indoor communal self-serve cooking facilities.

(5) Stand-alone bars with on-premises consumption of alcoholic beverages that do not derive at least 50 percent gross revenues from food and non-alcoholic beverage sales.

(6) Package stores selling alcohol for off-premises consumption, except beer and wine, may be sold as secondary to a hotel, restaurant, or marina use where:

a. At least 50 percent of gross revenues must come from primary use.

b. No more than 30 percent of gross revenues may come from package beer and wine sales.

(7) High and dry boat storage.

(8) Live aboard for a period of more than three days is prohibited if an operational pump out facility or portable sanitary treatment facility is not available on the premises.

(g) *Dimensional requirements.*

(1) Maximum impervious surface ratios shall not exceed 50 percent of the site.

(2) Minimum open space shall be requirement 50 percent.

(3) No structure shall exceed a gross floor space of 3,000 square feet.

(4) FAR is 0.07 for any parcel equal to or greater than 20,760 square feet.

(5) For FAR for parcels less than 20,760 square feet, see Table 1 in section 18-180.

(6) To calculate density, parcel area less commercial usage area is used to calculate the net area available for transient units.

(7) To calculate intensity, the parcel area minus transient unit usage area is used to calculate the net area available for commercial.

(8) Maximum height is 35 feet above average existing natural grade.

(9) A minimum of 15 feet separation between buildings.

(10) Setbacks.

a. Waterfront or wetland setback: 50 feet from the MHWL or OHWL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.

b. Side: eight feet.

c. Front: 25 feet.

d. Rear: ten feet.

(11) Minimum new parcel width: 100 feet.

(12) Minimum new parcel area: one-half acre.

(Code 2015, ch. 21, § 21.8.4)

Sec. 18-182. - Light industrial; LI.

(a) *Purpose and intent.* The principal purpose of this district is to provide for small scale, light industrial activities.

(b) *General requirements.*

- (1) See common standards for all districts and common standards for commercial and light industrial districts.
- (2) A spill containment and industrial waste management plan shall be required to ensure that no industrial wastes are introduced to groundwater.
- (3) Said industry shall be of such a nature that it can be operated to be not injurious, offensive, or detrimental to the present or intended character of this district or vicinity because of, including, but not limited to, the emission of noise, dust, glare, smoke, gas, fire, odors, vibration, toxic or noxious waste materials, or fumes.
- (4) This district is designed for those industrial users, which can meet a high level of performance standards.

(c) *Permitted uses and structures.*

- (1) The receiving, sorting, and/or distribution of goods and materials.
- (2) Fabricating shops.
- (3) Activities requiring storage or warehousing.
- (4) Distribution, assembly, packaging, or processing manufacturing of products that are not noxious and do not pose a threat to the environment.
- (5) Building materials yards.
- (6) Equipment storage yards.
- (7) Ice manufacturing and cold storage.
- (8) Truck terminals.
- (9) Bottling and packaging works.
- (10) Electrical repair shops.
- (11) Utility towers.
- (12) General industrial services.
- (13) Catering services.
- (14) Recycling collection centers.
- (15) Self-storage facilities.
- (16) Fishing net and trap storage facilities.
- (17) Any desired use or structure not listed above requires a conditional use from the BOA.

(d) *Conditional uses.*

- (1) Boat building establishments with additional approval by town council.
- (2) Storage of on-site volatile substances. Setback will need to increase to a minimum of the fire code requirements.
- (3) Additional space between buildings will be required.

- (4) A single-dwelling unit for a caretaker located in, beside, above, or below the business operation and the occupant directly supports the business operation is allowed if meeting requirements below:
 - a. Size not to exceed 750 square feet.
 - b. Bedroom is not counted as one of the bedrooms allowed on site.
 - c. Kitchen is allowed.
 - d. No rental of this unit is allowed.
 - e. There must be an employee or independent contractor business relationship between occupants and the owner or commercial enterprise existing on-site.
- (5) Any desired use or structure not listed above requires a conditional use from the BOA.
- (e) *Allowed accessory uses and structures.*
 - (1) Uses requiring primarily outdoor storage or where the industrial activity itself is conducted outdoors.
 - a. Setback may need to be increased for safety reasons.
 - b. Additional space between buildings may be required.
 - (2) Any desired use or structure not listed above requires a conditional use from the BOA.
- (f) *Prohibited uses.*
 - (1) Structures used as places of public assembly.
 - (2) Junk yards and marine salvages.
 - (3) Used car lots.
 - (4) No materials shall be stored in the open that might float or become airborne during flooding or high winds.
 - (5) Refineries, fuel tank storage farms, and fuel transport terminals.
 - (6) More than one bulk 400-gallon or greater capacity LP gas storage tank.
 - (7) Distribution of LP gas.
 - (8) Incinerators, solid waste, construction, debris, and demolition landfills.
 - (9) Construction of new residential dwelling units except for caretaker unit as in subsection (d)(3) of this section.
 - (10) Occupancy of a recreational vehicle.
- (g) *Dimensional requirements.*
 - (1) Maximum impervious surface coverage shall not exceed 50 percent of the site.
 - (2) Minimum green space (including pervious, permeable surfaces) shall cover at least 50 percent of the site.
 - (3) No structure shall exceed a gross floor space of 3,000 square feet.
 - (4) FAR is 0.07 for any parcel equal to or greater than 20,760 square feet.
 - (5) For FAR for parcels less than 20,760 square feet, see Table 1 in section 18-180.
 - (6) No building shall exceed 35 feet in height from the average existing natural grade, except for allowed radio, cell phone, and television transmission towers. These facilities shall require review and approval as conditional uses by the BOA, which shall consider and determine that the location is appropriate and its height is no more than necessary to carry out its function.

- (7) A minimum of 15 feet separation between building.
- (8) Setbacks.
 - a. Waterfront or wetland setback: 50 feet from the MHWL or OWHL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.
 - b. Side: eight feet.
 - c. Front: 25 feet.
 - d. Rear: ten feet.
- (9) Minimum Parcel width: 100 feet.
- (10) Minimum Parcel area: one-half acre.

(Code 2015, ch. 21, § 21.8.5)

Sec. 18-183. - Residential highest density 1 (RHD-1).

- (a) *Purpose and intent.* The principal purpose of this district is to recognize lawfully platted lots and established subdivisions with infrastructure including roads and central potable water to accommodate residential uses.
- (b) *General.*
 - (1) The maximum density is two dwelling units per acre.
 - (2) All lawfully established parcels of record located in this land use district shall be entitled to one dwelling unit regardless of parcel size.
 - (3) Individual dwelling units are encouraged to utilize those low impact development practices for stormwater management that may be required or recommended in the comprehensive plan.
- (c) *Permitted uses and structures.*
 - (1) Single-family detached dwellings reasonably similar in construction, aesthetics, and architecture to dwellings in adjacent or nearby locations.
- (d) *Conditional uses.*
 - (1) Nursery schools (home child care).
 - (2) Any desired use or structure not listed as permitted requires a conditional use from the BOA.
 - (3) The BOA must approve all conditional uses. Any requirements listed are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.
- (e) *Allowed accessory uses and structures.*
 - (1) Attached private garages may be located in front of the principle residence structure.
 - (2) Accessory structures may be placed in front of the primary residence structure if greater than 100 feet separate the front of the accessory from the front parcel line.
 - (3) Accessory structures may not intrude upon any setback.
 - (4) Accessory structures must be architecturally consistent with the primary residential structure.
 - (5) Private garages.
 - (6) Guest houses.
 - (7) Tool sheds.

- (8) Greenhouses.
 - (9) Swimming pools.
 - (10) Tennis and badminton courts.
 - (11) One boat dock per residence.
 - (12) Uncovered boat slips/docks.
 - (13) Covered boat slip only within town limits.
 - (14) Customary home occupations.
 - (15) Other accessory uses and structures customarily incidental to residential or other permitted principal uses when located on the same property.
- (f) *Prohibited uses.*
- (1) Commercial or industrial uses.
 - (2) Private driveways for access to commercial or industrial uses in commercial or industrial districts.
 - (3) Private boat channels for access to commercial or industrial districts.
 - (4) Outside storage yards for commercial or industrial vehicles or materials.
 - (5) Occupancy or storage of manufactured homes.
 - (6) Occupancy of a recreational vehicle for more than 14 days in a 90-day consecutive period.
 - (7) Occupancy or storage of more than a single recreational vehicle at any time.
 - (8) Occupancy or storage of a recreational vehicle when no residence is on the parcel.
 - (9) Live aboard for a period of more than three days is prohibited if an operational pump out facility or portable sanitary treatment facility is not available on the premises.
 - (10) Parking of a commercial licensed or industrial vehicle for more than a period of four hours. This prohibition excludes pleasure campers/RVs, delivery vehicles in the process of loading or unloading, and private boat trailers.
- (g) *Dimensional requirements.*
- (1) No building shall exceed 35 feet in height from the average existing natural grade.
 - (2) Maximum impervious surface ratio of 50 percent.
 - (3) **Setbacks.**
 - a. **Waterfront or wetland setback: 50 feet from the MHWL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.**
 - b. Side: eight feet.
 - c. In lots platted prior to June 10, 1991, the minimum side yard shall be ten percent of the total width, to a maximum of eight feet.
 - d. Front: 25 feet.
 - e. Rear: ten feet.
 - f. New and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.

(Code 2015, ch. 21, § 21.8.6)

Sec. 18-184. - Residential highest density 2 (RHD-2).

- (a) *Purpose and intent.* The principal purpose of this district is to recognize lawfully platted lots and established subdivisions with infrastructure including roads and central potable water to accommodate residential uses.
- (b) *General.*
 - (1) The maximum density is two dwelling units per acre.
 - (2) All lawfully established parcels of record located in this land use district shall be entitled to one dwelling unit regardless of parcel size.
 - (3) Individual dwelling units are encouraged to utilize those low impact development practices for stormwater management that may be required or recommended in the comprehensive plan.
- (c) *Permitted principal uses and structures.*
 - (1) Single-family detached dwellings reasonably similar in construction, aesthetics, and architecture to dwellings in adjacent or nearby locations.
 - (2) Two-family dwellings reasonably similar in construction, aesthetics, and architecture to dwellings in adjacent or nearby locations.
 - (3) Manufactured home reasonably similar in construction, aesthetics, and architecture to dwellings in adjacent or nearby locations.
 - a. Minimum 900 square feet in area.
 - b. Only one home per lot.
 - c. Permanently installed.
- (d) *Conditional uses.*
 - (1) Nursery schools (home child care).
 - (2) Any desired use or structure not listed as permitted requires a conditional use from the BOA.
 - (3) The BOA must approve all conditional uses. Any requirements listed are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.
- (e) *Allowed accessory uses and structures.*
 - (1) Attached private garages may be located in front of the principle residence structure.
 - (2) Accessory structures may be placed in front of the primary residence structure if greater than 100 feet separate the front of the accessory from the front parcel line.
 - (3) Accessory structures may not intrude upon any setback.
 - (4) Accessory structures must be architecturally consistent with the primary residential structure.
 - (5) Private garages.
 - (6) Uncovered boat slips.
 - (7) Covered boat slip only within town limits.
 - (8) One boat dock per residence.
 - (9) Guest houses.
 - (10) Tool sheds.
 - (11) Greenhouses.
 - (12) Swimming pools.

- (13) Tennis and badminton courts.
 - (14) Customary home occupations.
 - (15) Other accessory uses and structures customarily incidental to residential or other permitted principal uses when located on the same property.
- (f) *Prohibited uses.*
- (1) Commercial or industrial uses.
 - (2) Private driveways for access to commercial or industrial uses in commercial or industrial districts.
 - (3) Storage yards for commercial or industrial vehicles or materials.
 - (4) Occupancy of a recreational vehicle for more than 14 days in a 90-day consecutive period.
 - (5) Occupancy or storage of more than a single recreational vehicle at any time.
 - (6) Occupancy or storage of a recreational vehicle when no residence is on the parcel.
 - (7) Live aboard for a period of more than three days is prohibited if an operational pump out facility or portable sanitary treatment facility is not available on the premises.
 - (8) Parking of a commercial licensed or industrial vehicle for more than a period of four hours. This prohibition excludes pleasure campers/RVs, delivery vehicles in the process of loading or unloading, and private boat trailers.
- (g) *Dimensional requirements.*
- (1) No building shall exceed 35 feet in height from the average existing natural grade.
 - (2) Maximum impervious surface ratio of 50 percent.
 - (3) Setbacks.
 - a. Waterfront or wetland setback: 50 feet from the OHWL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.
 - b. Side: eight feet.
 - c. In lots platted prior to June 10, 1991, the minimum side yard shall be 10 percent of the total width, to a maximum of 8 feet.
 - d. Front: 25 feet.
 - e. Rear: ten feet.
 - f. New and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.

(Code 2015, ch. 21, § 21.8.7)

Sec. 18-185. - Agriculture; A.

- (a) *Purpose and intent.* The principal purpose of this district is to provide areas for farming, aquaculture, grazing, and forestry.
- (b) *General.*
 - (1) Maximum density is one dwelling unit per 20 acres.
 - (2) The minimum parcel size for the dwelling is two contiguous acres of uplands.
 - (3) Clustered development is encouraged to minimize impervious surface area and maximize open space.

- (4) All agriculture and silviculture activities shall utilize best management practices, including fertilizer controls, treatment of wastewater prior to release to streams or rivers.
 - (5) Wise use, selective harvesting to preserve habitat and tree canopy is required.
 - (6) Clear-cutting tracts of indigenous native trees at one time is prohibited except for pine trees planted expressly for harvest. Selective harvesting is encouraged, where possible, to preserve some tree canopy and wildlife habitat values on all tracts.
- (c) *Permitted uses and structures.*
- (1) Agriculture.
 - (2) Grazing.
 - (3) Logging.
 - (4) Wildlife management.
 - (5) Aquaculture.
 - (6) Single-family detached dwellings reasonably similar in construction, aesthetics, and architecture to dwellings in adjacent or nearby locations.
- (d) *Conditional uses.*
- (1) Any desired use or structure not listed as permitted requires a conditional use from the BOA.
 - (2) The BOA must approve all conditional uses. Any requirements listed are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.
- (e) *Allowed accessory uses and structures.*
- (1) Private garages.
 - (2) Guest houses.
 - (3) Tool sheds.
 - (4) Greenhouses.
 - (5) Swimming pools.
 - (6) Tennis and badminton courts.
 - (7) Customary home occupations.
 - (8) Necessary farming structures.
 - (9) Other accessory uses and structures customarily incidental to residential or other permitted principal uses when located on the same property.
- (f) *Prohibited uses.*
- (1) Storage yards for commercial or industrial vehicles or materials.
 - (2) Occupancy of a recreational vehicle for more than 14 days in a 90-day consecutive period.
 - (3) Occupancy or storage of more than a single recreational vehicle at any time.
 - (4) Occupancy or storage of a recreational vehicle when no residence is on the parcel.
- (g) *Dimensional requirements.*
- (1) No building shall exceed 35 feet in height from the average existing natural grade.
 - (2) Maximum impervious surface ratio of ten percent.
 - (3) Setbacks.

- a. Waterfront or wetland setback: 50 feet from the OHWL may be reduced to 25 with BOA approval in special circumstances.
- b. Side: eight feet.
- c. Front: 25 feet.
- d. Rear: ten feet.
- e. Nutrient sources other than septic (i.e., fertilized and landscaped areas, livestock sources) of 150 feet from property line.
- f. New and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.

(Code 2015, ch. 21, § 21.8.8)

Sec. 18-186. - Resource protection; RP.

- (a) *Purpose and intent.* The principal purpose of this district is to provide for the perpetual protection of natural resources for land characterized by native vegetation with substantial habitat for threatened and endangered species, species of special concern, and regionally significant or rare plants and animals.
- (b) *General.*
 - (1) No density is allowed other than one on-parcel caretaker residence for the Withlacoochee Gulf Preserve.
 - (2) No new development is permitted other than pile-supported, nonhabitable structures.
 - (3) All development shall utilize low impact development practices.
 - (4) All site plans shall be reviewed to be consistent with the known archaeological resources identified on the future land use map.
 - (5) If an archaeological site is disturbed during development activity:
 - a. The developer shall immediately cease all disturbances to the site until the town council and the department of historical resources has been notified;
 - b. The developer shall continue work only after receiving permission from the department and the town.
 - (6) A buffer of native and/or Florida-friendly vegetation of 50 feet (protection zone) shall be maintained from the MHWL, except for clearing necessary for water-dependent or water-related uses.
 - (7) The use of herbicides, pesticides or chemical fertilizers, the parking or storage of vehicles or fuels, the housing of domestic animals and the introduction of nonnative species of vegetation in the protection zone is prohibited.
 - (8) A berm or swale to allow percolation of stormwater runoff shall be required at the landward edge of the protection zone for all new construction or substantial reconstruction.
- (c) *Permitted principal uses and structures.*
 - (1) Educational and passive recreational activities only.
 - (2) Minimal weather shelter structures may be allowed on publicly-owned lands.
- (d) *Conditional uses.*
 - (1) Any desired use or structure not listed as permitted requires a conditional use from the BOA.

- (2) The BOA must approve all conditional uses. Any requirements listed are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.
- (e) *Allowed accessory uses and structures.*
- (1) One boat dock.
 - (2) Other accessory uses and structures necessary to maintain permitted principal uses when located on the same property.
- (f) *Prohibited uses.*
- (1) Residential, commercial or industrial uses other than one on-parcel caretaker residence for the Withlacoochee Gulf Preserve.
 - (2) Occupancy of a recreational vehicle.
- (g) *Dimensional requirements.*
- (1) No building shall exceed 35 feet in height from the average existing natural grade.
 - (2) Maximum impervious surface ratio of ten percent.
 - (3) A 50-foot buffer of natural vegetation shall be retained adjacent to all water bodies and wetlands jurisdiction line.
- (h) *Setbacks.*
- (1) Waterfront or wetland setback: 50 feet from the MHWL or OHWL may be reduced to 25 with BOA approval in special circumstances.
 - (2) Side: eight feet.
 - (3) Front: 25 feet.
 - (4) Rear: ten feet.
 - (5) 150 feet to MHWL or OHWL for nutrient sources other than septic.
 - (6) New and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.
 - (7) Minimum 25 feet to archaeological and historical sites within which no structures or land-clearing activity shall take place.

(Code 2015, ch. 21, § 21.8.9)

Sec. 18-187. - Residential low density; RLD.

- (a) *Purpose and intent.* The principal purpose of this district is to recognize lawfully platted lots and established subdivisions with existing roads that have sufficient uplands to accommodate residential uses, to allow transfer of units from sending areas, and to allow platting or planned unit developments on parcels that have sufficient uplands to accommodate residential uses.
- (b) *General.*
- (1) Maximum density is one dwelling unit per five upland acres.
 - (2) The minimum contiguous upland area for a structure containing a dwelling is two contiguous acres of uplands.
 - (3) In order to determine the extent of uplands for a particular parcel, the applicant must obtain a DEP-approved jurisdiction line for the parcel.

- (4) All lawfully established parcels of record located in this land use district as of June 10, 1991, shall be entitled to one dwelling unit regardless of parcel size. However, the minimum contiguous upland area for a structure containing a dwelling is two contiguous acres of uplands. A beneficial use determination is not required for such parcels.
 - (5) All development must comply with the 500-foot well field protection and 200 feet well field exclusion zones.
 - (6) All:
 - a. New planned unit residential developments; or
 - b. New platted subdivisions of two or more units (construction of one single-family dwelling unit or duplex is exempt) shall utilize low impact development practices for stormwater management. Individual dwelling units and duplexes are encouraged to utilize those low impact development practices that may be required or recommended in the LDC.
 - (7) Individual dwelling units are encouraged to utilize those low impact development practices for stormwater management that may be required or recommended in the comprehensive plan.
 - (8) Cluster development is allowed.
- (c) *Permitted uses and structures.*
- (1) Single-family detached dwellings.
- (d) *Conditional uses.*
- (1) Any desired use or structure not listed as permitted requires a conditional use from the BOA.
 - (2) The BOA must approve all conditional uses. Any requirements listed are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.
- (e) *Allowed accessory uses and structures.*
- (1) Attached private garages may be located in front of the principle residence structure.
 - (2) Accessory structures may be placed in front of the primary residence structure if greater than 100 feet separate the front of the accessory from the front parcel line.
 - (3) Accessory structures may not intrude upon any setback.
 - (4) Accessory structures must be architecturally consistent with the primary residential structure.
 - (5) Private garages.
 - (6) Guest houses.
 - (7) Tool sheds.
 - (8) Greenhouses.
 - (9) Swimming pools.
 - (10) Tennis and badminton courts.
 - (11) Customary home occupations.
 - (12) Other accessory uses and structures customarily incidental to residential or other permitted principal uses when located on the same property.
- (f) *Prohibited uses.*
- (1) Commercial or industrial uses.
 - (2) Storage yards for commercial or industrial vehicles or materials.
 - (3) Occupancy or storage of manufactured homes.

- (4) Occupancy of a recreational vehicle for more than 14 days in a 90-day consecutive period.
 - (5) Occupancy or storage of more than a single recreational vehicle at any time.
 - (6) Occupancy or storage of a recreational vehicle when no residence is on the parcel.
 - (7) Parking of a commercial licensed or industrial vehicle for more than a period of four hours. This prohibition excludes pleasure campers/RVs, delivery vehicles in the process of loading or unloading, and private boat trailers.
- (g) *Dimensional requirements.*
- (1) No building shall exceed 35 feet in height from the average existing natural grade.
 - (2) Maximum impervious surface ratio 15 percent.
 - (3) **Setbacks.**
 - a. **Waterfront or wetland setback: 50 feet from the OHWL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.**
 - b. Side: eight feet.
 - c. Front: 25 feet.
 - d. Rear: ten feet.
 - e. New and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.

(Code 2015, ch. 21, § 21.8.10)

Sec. 18-188. - Development rights receiving area (DRRA) overlay district.

- (a) Within the DRRA, with the purchase of transfer of development rights, a maximum density of one dwelling unit per two acres shall be allowed.
- (b) If density is to exceed one dwelling unit per five acres in the receiving area, aerobic septic tanks shall be required, if allowed by comprehensive plan.
- (c) The value of the transferred DRs shall be determined by the market.
- (d) To determine the DRs available to be used in a parcel in the DRRA, divide the acreage of the parcel by two. For example, a 6.8-acre parcel divided by two, equals 3.4 DRs in this parcel in the DRRA. Since only complete dwellings may be constructed, this is three dwellings for the 6.8-acre parcel in the DRRA.

(Code 2015, ch. 21, § 21.8.11)

Sec. 18-189. - Well field overlay district.

- (a) No transfer of DRs shall allow construction within the protection zone.
- (b) No plan amendment or district change shall be granted which allows any existing lot of record to develop at a density of greater than one dwelling unit per five acres within the 500-foot radius.
- (c) No variance be granted to allow any development within the district of exclusion, other than structures, etc., which are associated with the well, pump, distribution system, or other development essential for operation, maintenance or expansion of the public well system.
- (d) Prohibited uses within the well field overlay district:

- (1) Landfills.
 - (2) Facilities for the bulk storage, handling or processing of materials on the Florida Substance List.
 - (3) Activities that require the storage, use, handling production or transportation of restricted substances: agricultural chemicals, petroleum, medical wastes, etc.
 - (4) Feedlots or other concentrated animal facilities.
 - (5) Wastewater treatment plants, percolation ponds, and on-site wastewater treatment systems (septic tanks).
 - (6) Excavation of waterways or drainage facilities, which intersect the water table.
- (e) Variances. A variance may be allowed in certain cases within the well field protection district, limited as follows:
- (1) Where enforcement of the well field protection district denies an adjacent property owner all use of his property, the adjacent property owner may apply for a variance to use one-half acre of the property for development of a single-family residence.
 - (2) An aerobic-type sewage treatment system must be used (unless central sewer service is available), sited as far as is possible from the wellheads, if allowed by comprehensive plan.
 - (3) The variance must ensure the development complies with all pertinent DOH standards and setbacks.
 - (4) The town shall not issue a variance until it has received satisfactory documentation from the applicant that granting of the variance will not result in harm to the potable water well field.

(Code 2015, ch. 21, § 21.8.12)

Sec. 18-190. - Residential environmentally sensitive; RES.

- (a) *Purpose and intent.* The principal purpose of this district is to encourage preservation of open space and natural resources while providing for very low density development in coastal, island, and marsh areas.
- (b) *General.*
 - (1) The maximum gross density for property shall be one dwelling unit per ten gross (uplands and wetlands, but not submerged lands) acres.
 - (2) The maximum net density for property shall be one dwelling unit per five acres of uplands. The minimum five acres of pre-development upland acreage used to calculate net density need not be contiguous.
 - (3) A minimum of at least two contiguous natural pre-development upland acres of area must be present in the area utilized for the dwelling unit.
 - (4) No land defined as jurisdictional wetlands or sovereign, submerged lands shall be eligible for DRs.
 - (5) No dredging or filling of wetlands or water bodies shall be allowed in order to obtain road access or increase island areas or meet the pre-development five-acre upland minimum or two contiguous acre pre-development upland minimum for an area where the dwelling will be constructed.
 - (6) Parcel of record.
 - a. Notwithstanding the density and limitations above, one single-family dwelling unit shall be permitted on any parcel of record that has at least two contiguous acres of uplands in order to preserve reasonable economic use of private property.

- b. No re-plats, vacation of plats, or new subdivision plats or divisions of parcels of record shall be permitted unless each parcel created complies with the requirement of a minimum of ten gross acres with five acres of uplands within each parcel.
 - c. The boundary line of parcels of record may, however, be adjusted so long as such adjustment does not increase the total number of parcels of record and so long as each resulting new parcel of record has at least two contiguous acres of upland.
- (7) All development shall provide on-site retention volume equivalent to three-fourths of an inch of depth over the entire site or lot; grassed swales may be used, as long as equivalent storage is provided.
 - (8) Docks and walkways shall not exceed four feet in width, and be constructed in accordance with OFW and aquatic preserve regulations.
 - (9) All development shall provide on-site retention volume equivalent to three-fourths of an inch of depth over the entire site or lot. As an alternative, four- to six-inch-deep grass swales may be used, so long as equivalent storage is provided.
 - (10) Aerobic septic tanks approved by the state department of health and rehabilitative services shall be required, if allowed by the comprehensive plan.
 - (11) A 50-foot buffer of native vegetation shall be retained adjacent to all water bodies and wetland jurisdiction lines, within which only shoreline access structures (docks, cat walks, or piers) shall be allowed. Maintain only native and/or Florida-friendly vegetation under such pile-supported structures in the setback zone.
 - (12) Islands with existing dwellings may not develop additional units, or be used for transfer of development rights.
 - (13) All site plans shall be reviewed consistent with the known archaeological resources identified on the future land use map.
 - (14) If an archaeological site is disturbed during development activity:
 - a. The developer shall immediately cease all disturbances to the site until the town council and the department of historical resources has been notified.
 - b. The developer shall continue work only after receiving permission from the department and the town.
 - (15) Dwellings may be clustered.
 - (16) A buffer of native and/or Florida-friendly vegetation of 50 feet (protection zone) shall be maintained from the MHWL or OHWL, except for clearing necessary for water-dependent or water-related uses.
 - (17) The use of herbicides, pesticides or chemical fertilizers, the parking or storage of vehicles or fuels, the housing of domestic animals and the introduction of nonnative species of vegetation in the protection zone is prohibited.
 - (18) A berm or swale to allow percolation of stormwater runoff shall be required at the landward edge of the protection zone for all new construction or substantial reconstruction.
- (c) *Permitted uses and structures.*
 - (1) Single-family detached dwellings.
 - (d) *Conditional uses.*
 - (1) Any desired use or structure not listed as permitted requires a conditional use from the BOA.
 - (2) The BOA must approve all conditional uses. Any requirements listed below are the minimum conditions. The BOA may add additional site- or use-specific conditions to ensure compatibility with surrounding lands and uses.

(e) *Allowed accessory uses and structures.*

- (1) Attached private garages may be located in front of the principle residence structure.
- (2) Accessory structures may be placed in front of the primary residence structure if greater than 100 feet separate the front of the accessory from the front parcel line.
- (3) Accessory structures may not intrude upon any setback.
- (4) Accessory structures must be architecturally consistent with the primary residential structure.
- (5) Guest houses.
- (6) Tool/storage sheds.
- (7) Greenhouses.
- (8) Swimming pools.
- (9) Tennis and badminton courts.
- (10) One uncovered boat dock per parcel without construction of a primary residence.
- (11) Customary home occupations.
- (12) Other accessory uses and structures customarily incidental to residential or other permitted principal uses when located on the same property.

(f) *Prohibited uses.*

- (1) Commercial or industrial uses.
- (2) Storage yards for commercial or industrial vehicles or materials.
- (3) Occupancy or storage of manufactured homes.
- (4) Occupancy of a recreational vehicle for more than 14 days in a 90-day consecutive period.
- (5) Occupancy or storage of more than a single recreational vehicle at any time.
- (6) Occupancy or storage of a recreational vehicle when no residence is on the parcel.
- (7) Live aboard for a period of more than three days is prohibited if an operable pump out facility or portable sanitary treatment facility is not available on the premises.
- (8) New publicly funded infrastructure for potable water, sewer, or roads.

(g) *Dimensional requirements.*

- (1) No building shall exceed 35 feet in height from the average existing natural grade.
- (2) Where base flood elevation is 18 feet or more, a building located on an island may exceed the height limit of 35 feet, but may not exceed a height limit of 25 feet above base flood elevation.
- (3) Maximum impervious surface ratio of ten percent.
- (4) Clearing of native vegetation, including that for all nonhabitable structures, is limited to the percentage of impervious surface requirement.
- (5) Clearing limitation calculations shall include that upland area used for pile-supported, nonhabitable structures such as docks and walkways.
- (6) Setbacks.
 - a. Waterfront or wetland setback: 50 feet from the MHWL or OHWL, excluding manmade slips, may be reduced to 25 with BOA approval in special circumstances.
 - b. Side: eight feet.
 - c. Front: 25 feet.

- d. Rear: ten feet.
- e. New and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.
- f. There shall be a setback for nutrient sources, other than septic, of 150 feet from MHWL or OHWL.
- g. Archaeological and historical sites shall be protected through a minimum 25-foot setback within which no structures or land-clearing activity shall take place.

(h) *Development rights.*

- (1) Owners of parcels of record in the RES district, which have not been subdivided and meet building requirements for this district may sell or transfer, whole or partial, DRs to the DRRRA at a ratio of 1:1½ (one unit in this district can be sold or transferred to build 1½ units in the DRRRA.)
- (2) Once transferred, the right to build on all or the portion of the subject parcel is extinguished. One dock is an allowable use.
- (3) The transfer must be recorded as a conservation easement on the parcel with the county clerk allowing the property owner of the subject parcel to reduce ad valorem tax burden on the subject parcel.
- (4) A copy of the recorded transfer must be given to the ZO for inclusion in the parcel record.
- (5) The parcel may be used only for passive recreational if all DRs are extinguished.
- (6) Owners of parcels of record in this land use district which do not have sufficient area to build may transfer one unit to the DRRRA at the same 1:1½ ratio or file an application for a determination of vested rights or beneficial use.
- (7) Once a parcel of record has been subdivided, development rights may no longer be transferred.
- (8) In order to determine the extent of uplands for a particular parcel, the applicant must obtain DEP, USACOE, and SWFWMD (if applicable), approved jurisdictional delineation or demarcation line for the wetlands and uplands in question.
- (9) One DR requires ten gross acres, five upland acres, and two contiguous upland acres.
- (10) To calculate the transferable DRs of a parcel in the RES, you must first determine the limiting acreage. This involves dividing the gross acreage of the parcel by ten, the uplands acreage by five, and the contiguous uplands acreage by two. (See limits immediately above.) The smallest result is the number of DRs that are available for transfer from this parcel.
- (11) Examples.
 - a. A 57-acre parcel that is all contiguous uplands would have:
 - 1. $57/10 = 5.7$ DRs for gross acreage;
 - 2. $57/5 = 11.4$ DRs for upland acreage; and
 - 3. $57/2 = 28.5$ DRs for contiguous acreage.
 - 4. Therefore, up to 5.7 DRs may be transferred from this parcel as gross acreage DRs is the smallest number. Therefore, this parcel could sell or transfer all or part of these 5.7 DRs to the DRRRA at the 1½ ratio. This means 8.55 DRs are available to a parcel in the DRRRA.
 - b. A 57 acre parcel with 27 acres of contiguous uplands would have:
 - 1. $57/10 = 5.7$ DRs for gross acreage;
 - 2. $27/5 = 5.4$ DRs for uplands acreage;

3. $27/2 = 13.5$ DRs for contiguous acreage;
 4. Now only up to 5.4 DRs may be transferred from this parcel as the uplands acreage DRs is the smallest number. Therefore, this parcel could sell or transfer all or part of these 5.4 DRs to the DRRA at the $1\frac{1}{2}$ ratio. This means 8.1 DRs are available to a parcel in the DRRA.
- c. A 57 acre parcel with 27 acres of uplands and nine acres of contiguous acreage would have:
1. $57/10 = 5.7$ DRs for gross acreage;
 2. $27/5 = 5.4$ DRs for uplands acreage;
 3. $9/2 = 4.5$ DRs for contiguous acreage;
 4. Now only up to 4.5 DRs may be transferred from this parcel as the contiguous uplands acreage DRs is the smallest number. Therefore, this parcel could sell or transfer all or part of these $4\frac{1}{2}$ DRs to the DRRA at the $1\frac{1}{2}$ ratio. This means 6.75 DRs are available to a parcel in the DRRA.

(Code 2015, ch. 21, § 21.8.13)

Sec. 18-191. - Public use; PU.

- (a) *Purpose and intent.* The principal purpose of the public use (PU) zoning district is to provide buildings and grounds to accommodate local, regional, state, and federal government and quasi-public uses for public benefit.
- (b) *General requirements.*
 - (1) All new development shall utilize low impact development practices.
 - (2) All uses must comply with these land development regulations and must also be consistent with the duly adopted comprehensive plan.
 - (3) If a variance is required in addition to conditional use approval, an applicant may seek a concurrent variance from the BOA at a public hearing, but first must submit a variance application and meet all procedural and substantive standards and criteria for variances set forth in this LDC.
- (c) *Permitted uses that do not require conditional use approval.*
 - (1) Government offices.
 - (2) Government maintenance facilities.
 - (3) Government utility facilities.
 - (4) Quasi-governmental public uses for public benefit.
 - (5) Community services facilities.
 - (6) Public assembly structures (regardless of worship or non-worship) such as churches and other places of worship including Sunday school.
 - (7) Fraternal clubs, community centers, and lodges.
 - (8) Nonprofit and professional associations.
 - (9) Scientific research facilities.
 - (10) Social services facilities.
 - (11) Cultural facilities.
 - (12) Recreational facilities such as the following:

- a. Parks.
- b. Playgrounds.
- c. Boat launch facilities.
- d. Picnic shelters.
- e. Observation decks.

(13) Festivals and celebrations, including temporary event ticket and vending tables, shade umbrellas, garbage, recycling and restroom trucks or port-a-lets, beverage trucks and concession vehicles.

Any use or facility not listed above is prohibited unless the LDC is amended to allow such a use.

(d) *Accessory uses.*

- (1) Accessory uses, subordinate to a permitted use listed in subsection (c) of this section that is customarily incidental to government buildings and facilities when located on the same parcel.
- (2) Any use or facility not listed above is prohibited unless the LDC is amended to allow such a use.

(e) *Conditional uses.* The following uses require a conditional use approval by the BOA:

- (1) Concession or catering activities.
- (2) Non-governmental quasi-public utility equipment for public benefit, such as cell phone or telecommunications towers, utility facilities, and substations (public and private utilities and facilities), with appropriate legal agreement (i.e., agreements for use of right-of-way, lease of property, easements, license, indemnity, hold harmless, etc., as appropriate) approved by the town council.
- (3) Any desired use or structures not listed as an allowable conditional use above or in the permitted uses section above are expressly prohibited and new unforeseen uses must apply for a text amendment to the LDC.
- (4) Educational facilities including public and private schools.

(f) *Prohibited uses.*

- (1) Prisons.
- (2) Occupancy of a recreational vehicle.
- (3) Other uses not specifically listed or described in permitted, conditional, or accessory uses above are expressly prohibited and new unforeseen uses must apply for a text amendment to the LDC.

(g) *Dimensional requirements.*

- (1) No building shall exceed 35 feet in height from the average existing natural grade, except for certain nonhabitable public facility structures that, due to their intrinsic nature, may require heights exceeding the specified limit.
- (2) These include, but are not limited to, water storage tanks, telecommunication antennae, and utility transmission poles and lines.
- (3) These facilities shall require review and approval as conditional uses by the BOA, which shall consider and determine that the location is appropriate and its height shall not exceed the minimum necessary to carry out its function.
- (4) A minimum of 15 feet separation between buildings.
- (5) Maximum impervious surface ratio of 35 percent.
- (6) Maximum 5,000 square feet total structure footprint.
- (7) Setbacks.

- a. Waterfront or wetland setback: 50 feet from the MHWL, excluding manmade slips, may be reduced to 25 feet with BOA approval in special circumstances and shall be consistent with the duly adopted comprehensive plan, including policy 1.1.1.2.7 and policy 1.1.1.2.8.
 - b. Side: eight feet.
 - c. Front: 25 feet.
 - d. Rear: ten feet.
 - e. There shall be a setback for nutrient sources other than septic (i.e., fertilized and landscaped areas, livestock sources) of 150 feet in those portions of the public use land use district outside the urban service area.
- (8) Minimum new parcel width: 100 feet.
 - (9) Minimum new parcel area: one-half acre.

(Code 2015, ch. 21, § 21.8.14)

Sec. 18-192. - Planned unit development; PUD. (Reserved title only.)

Sec. 18-193. - Mixed use.

(a) *Purpose and intent.*

- (1) The principal purpose of this zone is to provide for commercial and residential uses on a parcel under single ownership.
- (2) Intensities consistent with the community character and natural environment are allowed.

(b) *General requirements.*

- (1) Plan shall conform to all requirements of the town comprehensive plan.
- (2) See common standards for all districts and common standards for commercial and light industrial district.

(c) *Permitted principal uses and structures.*

- (1) All uses allowed in the CN district.
- (2) Residential uses allowed in RHD-1, limited to two dwelling units per acre.
- (3) All uses must be consistent with the underlying land use designations as set forth in the comprehensive plan, future land use element and future land use map (FLUM).

(d) *Conditional uses.*

- (1) Board of adjustment must approve all conditional uses. Any requirements listed below are the minimum. BOA may add additional requirements.
- (2) Conditional uses allowed in CN and RHD-1 district.
- (3) Any desired use or structure not listed above requires a conditional from the board of adjustment.

(e) *Allowed accessory uses and structures.*

- (1) Accessory uses allowed in CN and RHD-1 districts.
- (2) Any desired use or structure not listed above requires a conditional use from the board of adjustment.

(f) *Prohibited uses and structures.*

- (1) All prohibited uses in CN and RHD-1 districts.

(g) *Dimensional requirements.*

- (1) Dimensional restrictions as called for in CN and RHD-1 districts.
- (2) The most restrictive shall apply if a structure has both commercial and residential uses.

(h) *Setbacks.*

- (1) Setbacks shall apply as in CN and RHD-1 district.
- (2) The most restrictive setback shall apply if a structure has both commercial and residential uses.

(Code 2015, ch. 21, § 21.8.16)

Secs. 18-194—18-211. - Reserved.

ARTICLE XI. - FEES, CHARGES AND EXPENSES

Sec. 18-212. - Establishing.

The council shall establish, by resolution, regulations concerning recovery of expenditures through collection of costs, charges, fees, expenses in connection with permits; certificates, zoning, or comprehensive plan changes, and appeal procedures.

(Code 2015, ch. 21, § 21.9.1)

Sec. 18-213. - Adoption.

The fee schedule shall be adopted by resolution of the town council.

(Code 2015, ch. 21, § 21.9.2)

Sec. 18-214. - Schedule.

The fee schedule is available in the offices of the zoning officer (ZO) and the town clerk.

(Code 2015, ch. 21, § 21.9.3)

Sec. 18-215. - Payment.

Full payment of all applicable costs, charges, fees, and town expenses, including any anticipated necessary specialists needed to review an application, is required before initiating any action on any permit or proceeding required by this LDC.

(Code 2015, ch. 21, § 21.9.4)

Secs. 18-216—18-239. - Reserved.

ARTICLE XII. - INTERPRETATION OF CODE

Sec. 18-240. - Minimums.

In their interpretation and application, the provisions of this LDC are the minimum requirements, adopted for the promotion of the public health, safety, or general welfare.

(Code 2015, ch. 21, § 21.10.1)

Sec. 18-241. - Conflicts.

Wherever the requirements of this LDC are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, restrictions or covenants, the most restrictive, or that imposing the higher standard, shall govern.

(Code 2015, ch. 21, § 21.10.2)

Secs. 18-242—18-261. - Reserved.

ARTICLE XIII. - NONCONFORMING USES AND STRUCTURES

Sec. 18-262. - Changes in nonconforming use.

Nonconforming uses shall not be converted to other nonconforming uses even if the proposed use is less nonconforming.

(Code 2015, ch. 21, § 21.11.1)

Sec. 18-263. - Increasing nonconformity.

- (a) Nonconforming structures may be expanded, provided that portion of the structure that creates the nonconformity is not increased. For example, a structure that intrudes into a front lot line setback may increase the footprint of the structure on the rear and sides, but may not increase the portion of the structure that intrudes into the front setback. This applies both horizontally and vertically.
- (b) Any extensions must comply with chapter 12.

(Code 2015, ch. 21, § 21.11.2)

Sec. 18-264. - Reconstruction after damage.

- (a) If a nonconforming structure is involuntarily substantially damaged, it may be replaced in the same footprint and shall comply with LDC regulations to the greatest extent possible.
- (b) Voluntarily and involuntarily destroyed structures must be constructed in compliance with chapter 12.
- (c) Involuntarily destroyed structures must have permits applied for within one year of the occurrence of such damage or nonconforming status will be lost.

(Code 2015, ch. 21, § 21.11.3)

Sec. 18-265. - Resumption of discontinued nonconforming use prohibited.

If a nonconforming use is discontinued, the use of the property must be brought into full compliance with the code and be fully consistent with the comprehensive plan.

(Code 2015, ch. 21, § 21.11.4)

Sec. 18-266. - Use of nonconforming parcels of record at time of passage of the ordinance from which this section is derived.

Notwithstanding the limitations imposed by any other provisions of the ordinance from which this section is derived, the erection of a structure in any district shall be permitted on any parcel of record, at the time of passage of the ordinance from which this section is derived, provided that the parcel is not a substandard parcel as defined herein.

(Code 2015, ch. 21, § 21.11.5)

Sec. 18-267. - Certificate of occupancy.

- (a) No existing structure or use made nonconforming by this LDC or any amendment shall be allowed to continue without a certificate of occupancy.
- (b) The owner or occupant of every nonconforming structure or use shall apply for such certificate within three months after the adoption of the ordinance from which this section is derived or any amendment under which the nonconforming structure or use is created.
- (c) Failure to have made application within this period shall be presumptive evidence of discontinuance of use.
- (d) Certificate must be received within one year of the application date.

(Code 2015, ch. 21, § 21.11.6)

Secs. 18-268—18-297. - Reserved.

ARTICLE XIV. - PUBLIC NOTICE

Sec. 18-298. - Statute.

- (a) Public notice shall comply with the requirements of state statutes.
- (b) Administrative rezonings or administrative future land use map amendments shall only meet the requirements of state statutes, in lieu of the requirements contained in section 18-301.

(Code 2015, ch. 21, § 21.12.1)

Sec. 18-299. - Posting.

Notice must be posted conspicuously on the premises or in the area affected, for the same period as the published notice.

(Code 2015, ch. 21, § 21.12.2)

Sec. 18-300. - Major development.

Notice for a proposed major development shall also contain a site plan and architectural rendering of the proposed major development.

(Code 2015, ch. 21, § 21.12.3)

Sec. 18-301. - Courtesy mailing notice.

- (a) The town may send a courtesy mailing notice to all property owners within 500 feet of the property, which is the subject of a land use change, by U.S. mail.
- (b) This notice shall state the date, time, and place of the hearing; the type of petition to be considered at the hearing; and the location where the petition may be reviewed.
- (c) However, failure to mail, or the failure of a property owner to receive the notice if mailed, shall not affect any action or proceedings taken on the subject matter.
- (d) When a property within the 500-foot distance is included in a legally constituted homeowners' association, a courtesy notice will also be provided to that association based on the latest contact information available from the office of the town clerk.

(Code 2015, ch. 21, § 21.12.4)

Sec. 18-302. - Costs.

Costs of the courtesy mailing shall be borne by the applicant.

(Code 2015, ch. 21, § 21.12.5)

Sec. 18-303. - Names.

Courtesy notice shall be sent to the first property owner of record on the county appraiser website.

(Code 2015, ch. 21, § 21.12.6)

Secs. 18-304—18-324. - Reserved.

ARTICLE XV. - RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Sec. 18-325. - Rules.

When uncertainty exists with respect to the boundaries of districts as shown on the official zoning map, the following rules (in addition to the requirements of article III of this LDC) shall apply:

- (1) Boundaries described or shown as following or approximately following any street are the centerline of the street right-of-way.
- (2) Boundaries described or shown as following or approximately following any platted lot line or other property line when adjacent to a street are the centerline of the street right-of-way.
- (3) Boundaries described or shown as following or approximately following any platted lot line or other property line when adjacent to another parcel are the property line.
- (4) Boundaries described or shown as following or approximately following section lines, half-section lines, or quarter-section lines are said lines.
- (5) Boundaries described or shown as following or approximately following the shoreline of a water body are the shoreline.
- (6) Boundaries described or shown as following or approximately following a canal are the centerline of the canal.

(Code 2015, ch. 21, § 21.13.1)

Sec. 18-326. - Subdivisions.

References to recorded subdivisions refer to said subdivisions as originally platted and appear of record among the county public records.

(Code 2015, ch. 21, § 21.13.2)

Sec. 18-327. - Parcel numbers.

References to parcel numbers refer to said numbers in effect on November 10, 2008, and appear of record among the county public records.

(Code 2015, ch. 21, § 21.13.3)

Sec. 18-328. - Ground-proofing of maps.

Where the layout existing on the ground is different from that shown on the official zoning map and the legal description of the zone, the ZO shall interpret the zone boundaries of this LDC.

(Code 2015, ch. 21, § 21.13.4)

Sec. 18-329. - Appeal.

Allowed is appeal of any interpretation to the BOA.

(Code 2015, ch. 21, § 21.13.5)

Sec. 18-330. - Precedence and priority in disputed boundaries.

In the event of a dispute over zoning district boundary zoning lines, the language of a more specific legal description shall prevail over the official zoning map.

(Code 2015, ch. 21, § 21.13.6)

Secs. 18-331—18-353. - Reserved.

ARTICLE XVI. - SUPPLEMENTARY REGULATIONS

Sec. 18-354. - Fences.

(a) *Plans, permit, fee.*

- (1) A town permit is required for any new fence or wall.
- (2) An additional permit may be required for certain types of fences and walls from the county building official, county building department under the applicable technical building codes and/or the county code. (e.g., block and structural walls).
- (3) Fences or walls less than three feet in height do not require a town permit but must conform to allowable types.

- (4) A permit is required to repair or replace any fence or wall anywhere on property, when more than 50 percent of the area of the fence or wall is repaired or 50 percent or more of the fence or wall is damaged.
 - (5) Application for a permit shall be submitted on forms provided by the town.
 - (6) A town fence/wall permit application form can be obtained from the zoning official, town hall, or town website, prior to start of construction.
 - (7) Applicants shall submit information describing the location and materials of any proposed fence, wall, gate, or enclosure.
 - (8) Any fence that provides structural support to a building is part of the building and shall meet the building setback and engineering standards.
 - (9) A fence may tie-in to a structure, where such fence does not provide support as set forth in subsection (a)(8) of this section.
 - (10) All fences in residential districts shall be constructed with a finished side facing the adjoining property or the right-of-way.
 - (11) The property owner or agent must give a written statement, after construction, that the fence or wall is located on property owner's property.
 - (12) Fence/wall permit fees shall be established by town resolution.
 - (13) Payment of applicable fence/wall permit fees in full is required before any action on any application is taken.
 - (14) If construction begins before permit approval, or a permit is issued after the fact, a fine shall be assessed per town code.
 - (15) Any newly constructed fence or wall that violates permit requirements or was constructed without a permit shall be removed or corrected by the owner within 30 days of notification.
 - (16) Transparent or screen pool enclosures are not considered a fence. Greater than 50 percent opaque pool enclosures are considered a fence. Pool enclosures require additional permits from other jurisdictions or regulatory agencies.
 - (17) Enclosure of space beneath an elevated structure is covered by chapter 12.
- (b) *Allowable types of fences/walls.* Fences and walls constructed within the town shall conform to one or any combination of the following:
- (1) Type A. Wood fences with posts constructed of rot and termite-resistant types of wood or pressure-treated wood.
 - (2) Type B. Posts of rot and termite-resistant wood or corrosion-resistant composite material, or plastic or vinyl or metal and welded wire fabric of galvanized or other corrosion resistant metal. Posts must be interior to the wire fabric.
 - a. This type of fence is not allowed in RHD-1 and RHD-2 districts for yard fencing.
 - b. This type of fence may be used to enclose a small garden area in RHD-1 and RHD-2 Zones if the fence is less than three feet tall and:
 1. The fence is not located in the front yard; or
 2. The fence is not located in the front or street-facing side yard for a corner parcel.
 - (3) Type C. Ornamental metal and chainlink or open weave.
 - (4) Type D. Concrete, stone, or masonry. Note: an additional permit may be required from the county.
 - (5) Type E. Plastic, vinyl, or synthetic composite material intended for use in fencing.

- (6) Nonconforming fences in place on the date of the passage of the ordinance from which this section is derived are permitted to remain until the limitations of subsection (a)(9) of this section are exceeded.
 - (7) Those uses authorized or permitted by state laws pertaining to the use of agriculture fencing to restrain/retain livestock and for other authorized or permitted agricultural purposes are allowed in agricultural zoned districts. Livestock crossing-fences or gates in the agriculture land use district do not require a permit.
 - (8) Low voltage, ground level, pet containment systems.
 - (9) Security fences shall only be allowed in light industrial, commercial neighborhood, and public use districts.
 - a. The security fence must be of chainlink or open weave construction.
 - b. Barbed wire may be placed on the top of the fence or wall, but if used, barbed wire shall only be placed above a minimum six-foot vertical height fence to prevent injury to children.
 - c. Security fences may be a conditional use in other districts with BOA approval.
 - (10) Open weave garden enclosures that are located outside of town right-of-way, utility, and drainage easements are exempt from this LDC and require no permit.
- (c) *Prohibited fences.*
- (1) Barbed wire fence in any residential zoning district.
 - (2) Electrical fence, in any form, in any zoning district, except to contain livestock where clearly marked and identified as electric fencing with appropriate universal visually understood markers or signage (for example, the electricity lightning bolt sign) at each gate and every 50 feet along fence.
 - (3) Security fences are not allowed in residential districts.
- (d) *Gates.*
- (1) Must be of materials allowed for fencing.
 - (2) Archways over gates are allowable.
 - (3) May be powered.
- (e) *Limitations and restrictions on height.*
- (1) The height of any fence or wall shall be measured from the ground below the fence plus six inches.
 - (2) In residential districts fences and walls may be located in any front yard, side yard, and/or rear yard, including setback areas subject to the following height limitations:
 - a. No fence or wall shall exceed four feet in height when located in the front yard. For corner lots, all street facing lot sides shall be subject to the four-foot height requirement.
 - b. No fence or wall shall exceed six feet in height when located in the side and rear yard.
 - (3) In areas where the property faces two roadways or is located in any area construed to be a corner lot, no fence or wall of greater than four feet in height, unless it is of open weave construction, shall be located in the clear visibility triangle in the urban service area.
 - (4) A security fence may only be constructed in the PU and LI districts and shall not exceed a total height of ten feet. Barbed wire, if used, shall not exceed two-foot vertical height and shall not be placed lower than six feet to prevent injury to children.
 - (5) Archways in place over vehicular driveways must have a minimum vertical clearance of 12 feet to allow passage of emergency equipment.

(f) *Town right-of-way.*

- (1) It shall be unlawful for any person to place a fence, wall, gate, or hedge in, on, or over, any town right-of-way, utility, or drainage easement.
- (2) Agricultural uses in agricultural districts may apply for and obtain a permit with conditions established by the zoning official to ensure minimal agricultural fence crossings of town right-of-way, utility, or drainage easements for the agricultural use.
- (3) If the removal of an existing fence, wall, gate, or vegetation by the town or utility is required in an emergency for the installation, repair, or replacement of any item within the right-of-way, utility or drainage easement, the obstruction shall be removed at the owner's expense. The town or utility shall not be liable for removal of the obstruction. Costs for removal shall be the property owner's responsibility. The property owner may be billed and if not paid a lien may be placed upon the property to cover the costs of removal.
- (4) The property owner is responsible for maintenance of the area clear and free from obstructions within a utility or drainage easement, regardless of the placement of the fence.

(g) *Drainage, rights-of-way.*

- (1) No fence, wall, hedge, or other vegetation shall prevent or impede drainage or hamper access to drainage or street right-of-way.
- (2) No fence, wall, hedge, or vegetation shall be constructed, planted or installed in such a manner as to interfere with stormwater management or to impede drainage on the site.

(h) *Fence, wall and gate maintenance.*

- (1) Fences, walls and gates shall be properly maintained within ten degrees of vertical.
- (2) Fences, walls and gates shall be kept in good condition and shall not remain in an unsafe or deteriorated condition. Any missing boards, ironwork, wire fabric, or posts shall be replaced with material of the same type and quality.
- (3) The code enforcement official may direct the property owner of fences, walls, or gates that are severely dilapidated, deteriorated, and unsafe or present a safety hazard, to repair or remove the structure to correct the problem. The owner shall have 90 days to repair or remove the structure.
 - a. Upon showing good progress towards remediation, the official may grant three additional 30-day extensions.
 - b. After this time, the town may remove the structure.
 - c. The property owner may be billed and a lien may be placed upon the property to recover removal costs.

(i) *Nonconforming fences, walls, and gates.*

- (1) Any fence, wall, or gate made nonconforming by this LDC shall be removed or brought into compliance whenever the property owner replaces 50 percent or more of the fence or wall or 50 percent or more of the fence or wall is destroyed or damaged.
- (2) Any fence, wall, or gate, which intrudes into the clear visibility triangle, shall be moved, relocated, or otherwise brought into compliance within 90 days of the enactment of the ordinance from which this LDC is derived.

(j) *Appeals.* Any decision of the zoning official may be appealed to the board of adjustment within 30 days of the date the signed, written decision.

(k) *Variance or special exception.* A variance or special exception may be requested from the board of adjustment pursuant to the procedure and standards set forth for variances and special exceptions in this Code.

(l) *Enforcement.*

- (1) This section may be enforced as provided by F.S. ch. 162, this Code or in a court of competent jurisdiction.
- (2) Any fence, wall, hedge, or vegetation located on town property or town right-of-way, utility or drainage easement shall be removed within 30 calendar days of notice to the adjoining property owner.
- (3) If no appeal or variance is filed then the fence or wall on town property or town right-of-way, utility or drainage easement must be removed.
- (4) If all appeals are denied and the fence, wall, hedge, or vegetation on town property or right-of-way is not removed or relocated, the town may remove the structure from town property or town right-of-way, utility or drainage easement.
- (5) If the town removes the fence, wall, hedge or vegetation, the property owner may be billed for the actual cost including legal expenses and hourly labor required for removal, and a lien may be placed upon the property to recover costs.

(Code 2015, ch. 21, § 21.14.1)

Sec. 18-355. - Docks.

- (a) *Jurisdiction.* All structures addressed in this LDC must also comply with any and all applicable county, state or federal permitting requirements and standards.
- (b) *The county.*
 - (1) Docks on the Withlacoochee River up to the mean high water line of the historic natural shore are under the jurisdiction of the county.
 - (2) If part of the construction is inland from the historic natural, mean high water line, a town permit is required for that phase of construction.
 - (3) The county will not approve a dock permit on the Withlacoochee River unless it complies with this LDC.
 - (4) The town zoning and code enforcement official must approve the application for dock construction to certify compliance prior to submission to the county.
- (c) *Yankeetown.*
 - (1) The town's jurisdiction is inland of the historic natural mean high water line of the Withlacoochee River.
 - (2) The town also has jurisdiction over lakes, creeks, and manmade features inland from the historic natural river shoreline such as the basin between Nancy Parkway and 50th Street, applicable areas of marinas, inlets, basins and canals.
 - (3) This jurisdiction applies to both commercial and residential properties.
 - (4) Those areas falling solely within the jurisdiction of the town require a town dock permit.
- (d) *Documentation for issuance of a town permit.* Documentation, as follows, must be submitted to the town zoning official before the permit application will be considered.
 - (1) Construction of a new dock or expansion of an existing dock.
 - a. Proof of property ownership.
 - b. Legal property description.
 - c. Site plan that shows water depth at mean high water and mean low water.
 - d. Set of construction plans approved by a state-licensed marine contractor and material list showing the height, width, and length of all proposed structures to include, but not limited to,

- pilings, boatlifts, platforms, pavilions, seawalls, detailed construction specifications, and all other information deemed necessary by the town zoning official to evaluate the plan.
- e. A dock permit, submerged land lease or exemption letter shall be obtained for all proposed construction of docks from the Southwest Florida Water Management District, Army Corps of Engineers, and the state department of environmental protection as necessary.
 - f. For a joint dock, a copy of the owners' agreement and a record of the filing of the owners' agreement in the county public records with the permit application for a joint dock.
- (2) Construction or repair of a boat ramp.
- a. Proof of property ownership.
 - b. Legal property description.
 - c. Site plan that shows water depth at mean high water and mean low water.
 - d. Set of construction plans approved by a state-licensed marine contractor and material list showing the height, width, and length of all proposed structures to include, but not limited to, pilings, boatlifts, platforms, pavilions, seawalls, detailed construction specifications, and all other information deemed necessary by the town zoning official to evaluate the plan.
 - e. A dock permit, submerged land lease or exemption letter shall be obtained for all proposed construction of ramps from the Southwest Florida Water Management District, Army Corps of Engineers, and the state department of environmental protection as necessary.
- (3) Modification to an existing dock that changes the original footprint of the dock.
- a. Proof of property ownership.
 - b. Legal property description.
 - c. Site plan that shows water depth at mean high water and mean low water.
 - d. Set of construction plans approved by a state-licensed marine contractor and material list showing the height, width, and length of all proposed structures to include, but not limited to, pilings, boatlifts, platforms, pavilions, seawalls, detailed construction specifications, and all other information deemed necessary by the town zoning official to evaluate the plan.
 - e. A dock permit, submerged land lease or exemption letter shall be obtained for all proposed construction of docks from the Southwest Florida Water Management District, Army Corps of Engineers, and the state department of environmental protection as necessary.
 - f. For a joint dock, a copy of the owners' agreement and a record of the filing of the owners' agreement in the county public records with the permit application for a joint dock.
- (4) Repair to an existing dock that changes any structure (e.g., gazebo, fish-cleaning station, and davit) on, or off the dock.
- a. A detailed sketch showing existing structure.
 - b. A detailed sketch showing changes to the existing structure.
 - c. A material list for the changes.
 - d. For a joint dock, a copy of the owners' agreement and a record of the filing of the owners' agreement in the county public records with the permit application for a joint dock.
 - e. Any other information deemed necessary by the town zoning official to evaluate the project.
- (5) Adding electrical or water service.
- a. A detailed sketch showing existing structure.
 - b. A detailed sketch showing changes to the existing structure.
 - c. A material list for the changes.

- d. For a joint dock, a copy of the owners' agreement and a record of the filing of the owners' agreement in the county public records with the permit application for a joint dock
 - e. Any other information deemed necessary by the town zoning official to evaluate the project.
 - f. County permit may be required for this change.
- (6) Repair to an existing dock when replacement is required to more than 50 percent of the materials of the dock's structure. If a nonconforming structure is voluntarily demolished or allowed to deteriorate through lack of maintenance, the structure shall be brought into compliance and shall be fully consistent with this Code. Structures that are involuntarily destroyed may be replaced in the existing footprint.
- a. Proof of property ownership.
 - b. Legal property description.
 - c. Site Plan that shows water depth at mean high water and mean low water.
 - d. Set of construction plans approved by a state-licensed marine contractor and material list showing the height, width, and length of all proposed structures to include, but not limited to, pilings, boatlifts, platforms, pavilions, seawalls, detailed construction specifications, and all other information deemed necessary by the town zoning official to evaluate the plan.
 - e. A dock permit, submerged land lease or exemption letter shall be obtained for all proposed construction of docks from the Southwest Florida Water Management District, Army Corps of Engineers, and the state department of environmental protection as necessary.
 - f. For a joint dock, a copy of the owners' agreement and a record of the filing of the owners' agreement in the county public records with the permit application for a joint dock.
- (e) *Dock sizing.*
- (1) Construction of new docks in residential zones shall be limited to one dock per 100 linear feet or portion thereof, of owned shoreline.
 - (2) If more than one dock already exists on a residential property, the owner can maintain said docks.
 - (3) If more than one dock already exists on a residential property, the owner must apply to the board of adjustment (BOA) for a variance if the owner is seeking to replace or enhance the dock and change the size, footprint, or structure.
 - (4) The dock footprint, including any terminal platform will be no more than 250 square feet for the first 50 linear feet of shoreline. For each additional linear foot of shoreline, the owner may add five square feet of dock footprint, up to a maximum of 500 square feet, which will include piles and platforms.
 - (5) Previously platted lots with less than 100 feet of shoreline may have one boat dock per main residence.
 - (6) Any noncommercial dock walk-on surface shall be a minimum of 2½ feet in width.
 - (7) If DEP requires specific mean low water line water depth at the terminal platform, the 500-square-foot limitation may be exceeded as necessary to allow a 300-square-foot terminal platform. This provision applies only to the RES and RP districts.
- (f) *Height.*
- (1) No pier or dock deck shall be higher than four feet above the mean or ordinary high water line, unless specifically required by DEP.
 - (2) Piles and pilings may extend up to 12 feet above the mean or ordinary high water line.
 - (3) The maximum height of a boat davit, boatlift, boat cover, or boathouse is 17 feet over the mean high water line to the highest point of the structure.

- (g) *Guardrails.* A guardrail, if installed, may be no more than 25 percent opaque.
- (h) *Lighting.* All lighting of any pier, dock, or boathouse shall be shielded, shaded, or directed in such a manner that the light source does not shine into adjacent homes, adjacent docks, across the waterway, or interfere with navigation.
- (i) *Completion.* Upon completion of a commercial dock or pier, the owner or agent shall submit to the zoning official for final approval a certification of the as-built location documenting compliance with the setback requirements.
- (j) *Maintenance.*
 - (1) No owner, lessee, or other person otherwise occupying any lot shall permit any piers, docks, or boathouses under said person's control or ownership, located on or adjacent to said lot, under said owner's, lessees or other persons control to become dilapidated, deteriorated, and structurally unsound or a safety hazard.
 - (2) Piers, docks, and boathouses shall be kept free of conditions that cause an unsightly appearance.
- (k) *Marking.* All pilings, docks, and other mooring devices located in a waterway shall be marked with;
 - (1) Red or yellow reflectors; or
 - (2) Other acceptable reflectorized markings on each side.
- (l) *Dock location.*
 - (1) One dock, conforming to this article, is permitted on any residential parcel before construction of the primary structure.
 - (2) Dock location must meet appropriate side yard setback requirements from the riparian lines. Docked vessels shall not intrude into the side yard setback without written permission from the adjacent property owners.
 - (3) The dock shall not infringe on the right to navigate.
 - a. Piers, docks alone or together in combination to include the boat, boat mooring spaces and pilings, shall not project into the waterway more than 25 percent of the width of the waterway at that particular location measured from the mean high water line.
 - b. The limitations of this subsection shall not apply to docks or lots having frontage at the inland end of a canal, as long as such docks do not extend into any applicable side yard setback as applied to side lot riparian lines.
 - (4) Docks, piers, and other shoreline structures must be designed and built to avoid or protect sea grass beds.
- (m) *Boat storage.* All boat docks, boat davits, boatlifts, boathouses, and boat covers shall comply with the following requirements, conditions, and limitations:
 - (1) Such structures are not required to meet rear yard or waterfront setback requirements, but, except as provided hereinafter for joint docks, shall comply with any applicable side yard setback as applied to riparian lines.
 - (2) Joint docks and boat slips, including boatlifts and davits.
 - (3) If serving more than one adjacent lot or parcel are permissible:
 - a. Provided the owners of such lots or parcels record an executed and effective agreement providing for the dock's location and joint use, access to the dock for all users, and enforceable joint maintenance obligations.
 - b. A joint dock or boat slip may be located on a property line or within a side yard setback, as long as it serves the owners of both affected lots and parcels.

- c. Joint docks have a 1,000-square-foot maximum size limit based upon the total property shoreline length.
- (4) Enclosure of covered docks, boathouses, boat covers and other structures constructed over the water is prohibited.
- (5) Boat covers and boathouse roofs will not be used as a deck, patio, dive platform, or elevated viewing area.
 - a. No use is allowed that would permit the occupation of the roof area.
 - b. No railings around the cover or roof area or devices for access to the cover or roof area are allowed.
- (6) No dock or other structure constructed over water shall include flotation devices that contain non-encapsulated Styrofoam-type materials.
 - a. Any dock or other structure constructed over water with flotation devices that contain non-encapsulated Styrofoam-type materials will be a nonconforming structure upon the adoption of this regulation.
 - b. If a structure with non-encapsulated Styrofoam-type, material deteriorates to the extent that particles are released into the waterway, such structure shall be made to conform to this section within 90 days after notice by the town.
- (7) Boat davits and boatlifts are permissible on seawalls and on permitted boat docks.
 - a. Such structures shall be constructed pursuant to sound engineering practices sufficient to protect the structural integrity of seawalls.
 - b. Boats stored on such structures shall not protrude into the side yard setback or the setback as applied to riparian lines.
- (8) No permit issued according to this section for a dock authorizes dredge or fill activity or any other structure.
- (n) *Marinas and commercial dockage.* Siting of marinas and commercial dockage shall prevent the need to alter the existing shoreline, dredge, fill, or excavate uplands, which shall be prohibited.
 - (1) Further, marinas and commercial dockage shall be located to ensure compatibility with adjacent land uses.
 - (2) Construction and expansion of multi-slip docking facilities and boat ramps shall be allowed in locations where:
 - a. There is quick access to deep, open water;
 - b. The associated increase in boat traffic and construction will not disturb wetlands supporting manatee habitat;
 - c. There is no alteration of existing shoreline, dredge, fill, or excavation of uplands.
 - (3) Marinas and commercial dockage are intended for the use of recreational and commercial boats.
 - (4) Conversion, change of use, or division of land or submerged lands from marina and commercial dockage to the private individual ownership of individual slips or any type of dockominium private ownership shall be prohibited.
 - (5) New marinas, existing marinas, and commercial dockage that redevelop shall designate at least ten percent of the wet slips, appropriately sized and located, and make them available as demand warrants for rent by vessels with saltwater products licenses for the purpose of commercial fishing. This requirement does not apply to repair of existing facilities.
 - (6) Any marina or commercial dockage desiring certification as a working waterfront is required to set aside ten percent of wet slips, appropriately sized and located, and make them available as

demand warrants for rent by vessels with saltwater products licenses for the purpose of commercial fishing.

- (7) Pump-out facilities. All marina dock construction and commercial dockage or reconstruction shall require a wastewater pump-out facility be available for each boat slip.
 - (8) Repair to an existing dock when more than 50 percent of the materials of the dock's structure is replaced requires a permit. Repair percentage shall refer to total dock square footage of the facility.
 - (9) If a nonconforming structure is voluntarily demolished or allowed to deteriorate through lack of maintenance, the structure shall be brought into compliance and shall be fully consistent with this Code.
 - (10) Structures that are involuntarily destroyed may be replaced in the same footprint.
- (o) *Residential docks.*
- (1) Docks or moorings constructed in any residential zoning district may not be used for conducting a commercial enterprise operation.
 - (2) Mooring of a commercial boat is allowed where the property owner and the boat owner are the same person or enterprise.
- (p) *Safety.*
- (1) When a structure is found by the code enforcement official to be severely dilapidated or deteriorated, or presents a navigational or safety hazard, the official may direct the property owner to sufficiently repair the structure to remove the hazard or to remove the structure.
 - (2) The owner shall have 90 days to repair or remove the structure, which 90 days may be extended for additional 30-day periods by the code enforcement official.
 - (3) After this time, the town may remove the structure and shall charge the costs of such removal to the owner.
 - (4) The town may place a lien upon the property.
- (q) *Nonconforming.*
- (1) Any structure made nonconforming by this LDC shall be brought into compliance when replacement is required to more than 50 percent of the materials of the structure, except that involuntarily destroyed structures may be replaced in the existing footprint.
 - (2) If a nonconforming structure is voluntarily demolished or allowed to deteriorate through lack of maintenance, the structure shall be brought into compliance and shall be fully consistent with this Code. Structures that are involuntarily destroyed may be replaced in the existing footprint.
 - (3) Repair to an existing dock that has an existing dimension or location not in compliance with the provisions herein is nonconforming and a variance may be required.
- (r) *Appeal.* Any decision of the zoning or code enforcement official may be appealed to the board of adjustment.
- (s) *Prohibited.* Live aboard for a period of more than three days is prohibited if a pump out facility or portable sanitary treatment facility is not available on the premises.

(Code 2015, ch. 21, § 21.14.2)

Sec. 18-356. - Architectural standards.

- (a) *Purpose.*

- (1) The town is made up largely of historic structures, many of which are older than 50 years and others which exhibit important architectural styles that provide mutual benefits to all structures in the town.
 - (2) The town desires to preserve that the sense of place, scenic vistas, aesthetics, and uniquely diverse but complementary architectural design from which the town and all structures in the town benefit is maintained and enhanced.
 - (3) The remaining sections of this article apply to new buildings and structures in all commercial zoning districts, except light industrial.
 - (4) The objective standards and criteria listed below in subsection (b) of this section shall be applicable to:
 - a. All new commercial construction in any district;
 - b. Additions or external renovations to or redevelopment of an existing commercial building or project, where the cost of such addition, renovation or redevelopment exceeds 50 percent of the structure the county tax appraiser total building value, or exceeds 50 percent of the square footage of the existing structure.
- (b) *Objective standards and criteria.* Design principles.
- (1) Plans for all structures to be located in commercial zones shall be reviewed by the planning and zoning commission to determine whether the structures which by their design, location, and appearance will contribute to a commercial district having a character consistent with the historic streets of the town, as specified below.
 - (2) The architectural style of new construction shall be restricted to those that replicate major design elements of the Southern Vernacular Cracker-style, 1900—1940 Craftsman, and Bungalow architectural style that predominate the original town site.
 - (3) For more detailed criteria refer to information contained on the architectural standards application form and the following references available for review at the zoning office:
 - a. "Classic Cracker," by Ronald Haase, Pineapple Press (1992);
 - b. "The American Collection: Craftsman style," Simon Hyoun, Home Planners (2006);
 - c. "American Bungalow Style," Robert Winter, Simon, & Schuster (1996);
 - d. Prohibited architectural styles. Structures located in commercial zones that do not incorporate the objective listed standards and criteria for design elements set forth below.
- (c) *Design requirements.* Objective standards and criteria.
- (1) The Florida Southern Vernacular (Cracker-style), 1900—1940 Craftsman, or Bungalow architectural style for each structure shall include the following architectural elements:
 - a. A metal panel, five-V-crimp silver, or a contemporary variation thereof is the preferred roofing material.
 1. A five-tab, 25 year or longer dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable.
 2. Three-tab shingles, barrel vaulted tiles, or corrugated roof systems are prohibited.
 - b. Roof pitch.
 1. Pitch of the main roof, hipped or gable, shall be no less than 5:12 and no greater than 12:12;
 2. A mansard roof pitch shall be between 24:12 and 48:12;
 3. A porch roof shall be a lower pitch than the main roof: and all structures must have a minimum 4:12 roof pitch;

4. Multiple roof systems with matching roof pitches are encouraged.
 - c. Low slope, equal or less than 3:12, ("flat") roof systems are prohibited. However, renovation of existing commercial structures with low slope ("flat") roof systems is allowed when screened by a mansard roof meeting the design requirements.
 - d. Roof overhang at the eaves and gables must be at least 12 inches as measured along the underside of the slant of the roof.
 - e. Open beam roof overhang design is preferred to an enclosed soffit.
- (2) The predominant exterior color shall be a monochromatic color scheme that conforms to the Munsell Color System having a value greater than 6 and a chroma less than 7.
- a. Iridescent and fluorescent colors are prohibited.
 - b. The predominant exterior color shall be applied to all sides of the structure.
 - c. Trim shall include railings, columns, door and window surrounds, soffits, shutters, gingerbread, and other decorative elements.
 - d. Trim finishes shall be of a contrasting color than that of the primary building color.
- (3) Allowed finishes.
- a. At least 50 percent of the non-glass face of all new commercial buildings shall consist of lime rock type stone, wood, or synthetic materials, which have the appearance of wood siding or stone.
 - b. Siding shall be ship-lap, bevel or other narrow course horizontal material;
 1. Clapboard 3½ inches to six inches to the weather;
 2. Drop siding less than 10 inches to the weather.
 - c. Manufactured brick and stone, or facing materials that have the appearance of brick or lime rock stone are acceptable.
 - d. Horizontally struck stucco.
 - e. Horizontally struck exterior finish system panels which give the appearance of lap siding, or board and batten.
 - f. Wood appearance vinyl or aluminum siding.
- (4) Prohibited finishes.
- a. Plain concrete block whether painted or unpainted;
 - b. Unfinished concrete, except that decorative units resembling allowed finishes shall be allowed;
 - c. Plywood panels whether plain or decorated;
 - d. Vertical or diagonal application of siding, except that board and batten siding may be applied vertically;
 - e. Oriented strand board siding.
- (5) A porch is required on a street-facing facade.
- a. The porch must be longer than 50 percent of the street-facing facade.
 - b. The porch must be a minimum of 60 inches in depth.
- (6) Gingerbread trim and/or porch railings, columns or posts shall have the appearance of light frame wood construction.

- (7) There shall exist no area greater than 400 square feet or 50 lineal feet on any level of the structure with a contiguous blank wall area on any facade that remains unadorned by architectural features that include, but are not limited to, windows, doors, banding trim, or porch elements.
- (8) There shall not exist any singular facade that has greater than 50 lineal feet of run without a minimum 16-inch break, by using a directional or material change.
- (9) Metal-sided structures are permissible.
 - a. The provisions of subsection (b) of this section shall apply to the roof and all facades of the structure.
 - b. All design requirements must be met for metal-clad structures as for any other new structure including exterior siding treatments.
 - c. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels.
 - d. No external "X" bracing is to be visible on any facade.
 - e. Finish panels must be able to accept a painted finish.
 - f. The use of exposed corrugated, or fiberglass panels is prohibited on any exterior wall or any roof surface.
- (d) *Accessory structures.* The design requirements listed in subsection (b) of this section shall be applicable to all accessory structures, unless they are screened so as not to be visible from the public rights-of-way, waterways, or pedestrian walkways.
- (e) *Approval process.*
 - (1) Conceptual drawings of all building elevations and color and material samples shall be submitted to the planning and zoning commission before the detailed site plan review for non-binding conceptual comments and to preliminarily identify any concerns or deficiencies.
 - (2) As part of the detailed site plan approval process, the architectural design on the application for the detailed site plan approval shall not vary significantly from approved conceptual drawings.
 - a. After receipt of the detailed site plan, the zoning official will make a recommendation to the planning and zoning commission regarding the architectural design.
 - b. The planning and zoning commission must review this final architectural design to determine if it is compliant with conceptual design.
 - c. All submittals shall be set for a public hearing before the planning and zoning commission for their final determination within 45 days of the zoning official receiving a complete application.
 - d. The planning and zoning commission approval must occur before final approval of the detailed site plan application by the zoning official.
- (f) *Signs.* In addition to meeting all requirements of the town sign code, permanent signs in commercial zoning districts shall also comply with the following:
 - (1) *Materials.* The color, construction, and material of each sign shall be compatible with the architecture on the site.
 - (2) *Design.* Signs shall be designed using colors, materials, and architectural themes compatible with the building to which they are related.
 - (3) *Freestanding signs.* Freestanding signs shall have landscaping at the base per the sign ordinance.
- (g) *Adoption.* The town council may, by resolution, adopt such administrative policies, manuals, and/or fees as necessary to implement the design requirements identified above.

- (h) *Appeal.* Any decision of the zoning official, code enforcement official, or the planning and zoning commission may be appealed to the board of adjustment.

(Code 2015, ch. 21, § 21.14.3)

Sec. 18-357. - Off-street parking.

(a) *General.*

- (1) Off-street parking spaces are required in all districts for vehicles and trailers in accordance with the tables and diagram below for new construction.
- (2) Any modification to the existing parking area design of an existing use or structure requires that the parking be brought into compliance with the tables and diagram below.
- (3) For any structure or use not specifically mentioned, the requirements of the most similar use, in the opinion of the planning and zoning commission, shall apply.
- (4) If calculated results for parking spaces result in a fraction, the result must be rounded up to the next integer.
- (5) The minimum number of required off-street parking spaces shall be three for commercial and industrial districts.
- (6) The calculation requiring the greatest number of parking spaces shall apply if two possibilities exist.
- (7) Parking facilities shall be landscaped and screened from public view pursuant to subsection (d) of this section to the extent necessary to eliminate unsightliness and monotony of parked cars in commercial and light industrial districts.
- (8) Pedestrian connections between parking areas and buildings shall be via pedestrian walkways.
- (9) Parking facilities shall be developed as an integral part of an overall site design. The planning and zoning commission may modify the parking layout, if the layout illustrates a poor design according to recognized parking engineering principles, or is unsafe but complies with required parking guidelines.

(b) *Size.*

- (1) *Automobiles.* Parking space design shall conform to the table and diagram below.
- (2) *Trailers.* Minimum width to be 12 feet and minimum length to be 25 feet.
- (3) *Handicapped accessible.* Design must meet the requirements of the Americans with Disabilities Act.

(c) *Access.*

- (1) *Nonresidential entrance/exit.*
 - a. Minimum width is 24 feet if sharing a common entrance/exit.
 - b. Minimum width is 16 feet if separate entrance/exit.
 - c. No more than one entrance/exit per 100 feet of road frontage.
 - d. Entrance/exit to be centered on property, if possible, or no closer than 100 feet to property line.
 - e. Adjacent property owners are encouraged to share access.
- (2) *Residential entrance/exit.*
 - a. Minimum width to be 14 feet for entrance/exit.

- b. Entrance/exit may not be in setback areas.
- c. Adjacent property owners are encouraged to share access.

(3) *Interior roadways nonresidential.*

- a. Back out distances shall be maintained where parking areas exist.
- b. Interior bi-direction roadways shall be a minimum 24 feet wide where commercial traffic exists.
- c. Interior bi-direction roadways shall be a minimum of 16 feet wide where no commercial traffic is allowed.
- d. Interior bi-direction roadways shall be 20 feet for private vehicular traffic if pedestrian or bicycle use is necessary.

(d) *Landscaping requirements; nonresidential.*

(1) Landscaping requirements adjacent to right-of-way.

- a. A 15-foot wide strip of land shall be located between the abutting right-of-way and the off-street parking area.
- b. This buffer shall include one two-inch DBH tree for each 30 linear feet of abutting right-of-way or major fraction thereof.
 - 1. A hedge or other durable barrier fence shall be placed along the interior perimeter of the landscaped strip.
 - (i) If the barrier is of non-living material, for each ten feet, or major fraction thereof, one shrub or vine shall be planted abutting the barrier.
 - (ii) The shrubs or vines shall be planted along the street side of the barrier, unless they are of sufficient height at the time of planting to be readily visible over the top of the barrier.
 - (iii) The barrier shall not interfere with the visibility triangle.
- c. All property lying between the right-of-way and off-street parking area, including the required landscaped strip, shall be landscaped with grass or other ground cover.
- d. Necessary pedestrian access ways from the public right-of-way are permitted to service parking or other vehicular use areas and the nonresidential structures.
- e. Landscaped earthen berms may be used in conjunction with the planting of a continuous hedge if the intent of the visual barrier created by the hedge is maintained.
 - 1. Maximum slope ratios for all earthen berms shall be no greater than 3:1.
 - 2. The berm and landscaping shall not interfere with the visibility triangle.

(2) Landscaping requirements adjacent to abutting property.

- a. A ten-foot buffer shall be located between the abutting property owner and the off-street parking area;
- b. Upon agreement of adjacent property owners, this buffer may be reduced to ten feet total. Such agreement must be filed with the county clerk of the court.
 - 1. This buffer shall be planted with a hedge or other durable landscape barrier not less than six feet in height and form a continuous screen between the off-street parking area or other vehicular use area and such abutting property.
 - 2. A six-foot-high barrier fence set in the buffer area may be substituted for the planted buffer.

3. One two-inch DBH tree shall be provided for each 30 linear feet or major fraction thereof of such landscape barrier within the landscape buffer.
 4. Each buffer shall be landscaped with grass, ground cover, or other permeable material in addition to the required tree.
 5. When a proposed parking area abuts an existing hedge, wall or other durable landscape barrier on abutting property, said existing barrier may be used to satisfy the landscape barrier requirements of this subsection, provided that said existing barrier meets all applicable standards of the code and protection against vehicular encroachment is provided.
- c. Landscaped earthen berms may be used in conjunction with the planting of a continuous hedge if the intent of the visual barrier created by the hedge is maintained. Maximum slope ratios for all earthen berms shall be no greater than 3:1.
- d. The barrier shall not interfere with the visibility triangle.
- (3) Interior landscaping requirements.
- a. *General.*
1. Vehicular off-street parking areas shall have interior landscaped islands in accordance with subsections (d)(3)c and d of this section.
 2. Each separate landscaped area shall include at least one tree with the remaining area adequately landscaped with shrubs, ground cover, or other authorized landscaping material not to exceed three feet in height.
 3. Properties that are designated public use will be exempt from any parking area interior landscaping requirements.
- b. *Vehicular encroachment into landscaped areas.*
1. The front of a vehicle may not encroach upon any landscaped area.
 2. Two feet of the required depth of each parking space abutting a landscaped area may be planted in grass or ground cover if a suitable motor vehicle stop is provided.
- c. *Terminal landscape islands.*
1. Each row of parking stalls shall be required to end in a landscaped island.
 2. Landscape island shall be no less than nine feet in width.
 3. Landscape island shall be the length of the parking space.
 4. At least one tree shall be provided for each terminal island.
 5. Landscape island shall have a parallel face to the roadway.
- d. *Interior landscape islands.*
1. No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by a landscape island.
 2. Landscape island shall have a minimum width of nine feet.
 3. At least one tree shall be provided for each terminal island.
 4. Landscape island shall be the length and shape of the parking spaces.
 5. Landscape island shall have a parallel face to the roadway.
- e. *Bicycle parking.* For every 50 spaces of vehicle parking required, a bicycle rack serving at least two bicycles shall be provided.
- f. *Off-street parking schedule.*

Vehicle

| <i>Uses</i> | <i>Required Parking Spaces</i> |
|-----------------------------------|---|
| Churches | 1 per 4 seats in church or auditorium or for each 10 classroom seats |
| Community buildings, social halls | 1 for each 250 square feet of floor area |
| Dwellings | 2 for each dwelling unit |
| Motels, hotels, etc. | 1 for each sleeping unit |
| Industrial | 1 for each employee in the working shift or 1 for each 500 square feet of floor space |
| Restaurants, bars and night clubs | 1 for each 100 square feet of floor space |
| Retail stores, shops, etc. | 1 for each 100 square feet of floor space |
| Wholesale or warehouses | 1 for each employee in maximum shift or 1 for each 300 square feet of floor area |
| Offices, general | 1 for each 300 square feet of floor area |
| Marinas and boat slips | 1 parking space per boat slip |
| Home businesses | 2 additional |

g. *Off-street parking schedule.*

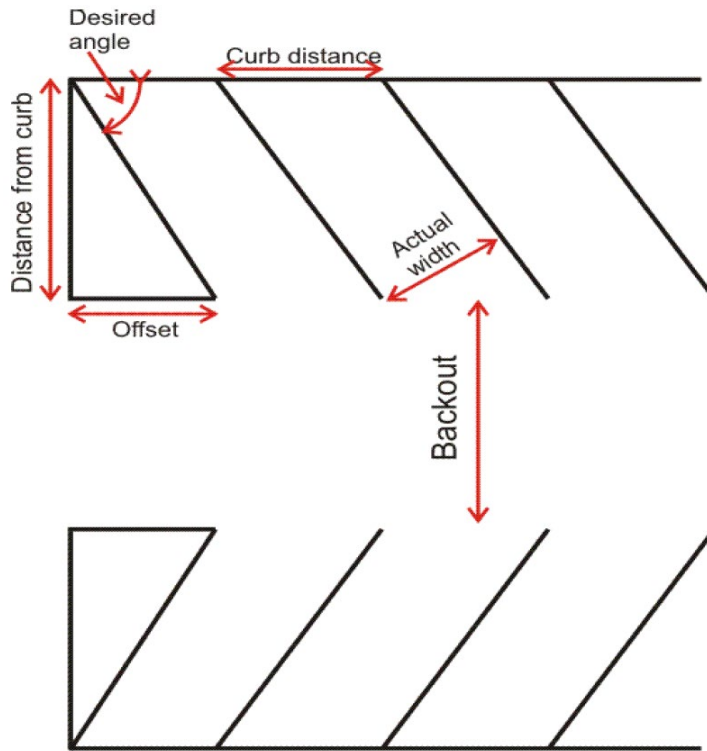
Trailers

| <i>Uses</i> | <i>Required Parking Spaces</i> |
|----------------------|--------------------------------|
| Motels, hotels, etc. | 1 for each 3 bedrooms |

| | |
|---------------------------|--|
| Marinas and boat slips | 1 for each 3 slips |
| High and dry boat storage | 1 for each space |
| Commercial | 1 for each loading berth |
| Industrial | 1 for each loading berth |
| Wholesale or warehouses | 1 for each 3,000 square feet of floor area or 1 for each loading berth |

h. *Off-street parking diagram.*

| <i>Angle</i> | <i>From base line</i> | <i>Along curb</i> | <i>Offset</i> | <i>Backout</i> |
|--------------|-----------------------|-------------------|-----------------|----------------|
| 90 | 18 | 9 | 0 | 24 |
| 75 | 17 | 9 foot 4 inches | 4 foot 6 inches | 22 |
| 60 | 16 | 10 foot 4 inches | 9 | 20 |
| 45 | 15 | 12 foot 7 inches | 15 | 19 |



Sec. 18-358. - Pedestrian access standards.

- (a) Where a proposed development includes improvements or new construction of collector or arterial facilities, facility designs shall include provision for bikeways and/or sidewalks within the right-of-way.
- (b) Residential projects adjacent to or in the immediate vicinity of an activity center comprised of commercial, office, service or recreation activities may provide pedestrian and bicycle access from the development to the activity center.
- (c) Design and construction of sidewalks, bikeways or other footpaths shall conform to the requirements of this Code, including provisions for access by physically handicapped persons.

Sec. 18-359. - Handicapped access.

- (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:
- (1) All spaces shall be accessible to curbramp or curbcut, 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 with a five-foot isle. If two handicapped spaces are adjacent, one five-foot isle can be shared between them.
 - (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 which will not interfere with the opening and closing of motor vehicle doors.
 - (4) Each such parking space shall be prominently outlined with blue paint and posed with a nonmovable, fixed sign of a color and design approved by the state department of transportation, bearing the internationally accepted wheelchair symbol and the caption "PARKING BY DISABLED PERMIT ONLY."

(Code 2015, ch. 21, § 21.14.4; Code 2015, ch. 6, art. X, §§ 6-39—6-41)

Sec. 18-360. - Signs.

- (a) General regulations. If any particular section or subsection or definition in the town sign regulation conflicts with a state statute, or the Constitution of the United States, or the State of Florida, the state statute or Constitution will prevail.
- (1) Signs must be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.

- (2) Signs, other than an official traffic sign, quasi-public sign for governmental agencies, civic clubs, or for sale signs, shall not be erected within the right-of-way lines of any street.
 - (3) Signs shall not project beyond property lines or over public sidewalk areas.
 - (4) A permit shall not be required for the erection, alteration, or maintenance of any signs permitted in a residential district.
 - (5) A permit shall be required for the erection, alteration, or reconstruction of any business or advertising sign.
 - (6) All temporary signs erected for a special event, which shall include campaign signs, shall be removed by the person causing the sign to be erected no later than seven days after a special event or election date.
- (b) Residential signs.
- (1) Signs indicating only the name or address of the occupant, except in the case of corner lots where two such signs (one facing each street) shall be permitted for each dwelling unit.
 - (2) For multiple-family dwellings, hotels and for buildings other than dwellings, a single identification sign not exceeding 12 square feet in area and indicating only the name and address of the building and the name of management may be displayed, provided that, on a corner lot, two such signs (one facing each street) shall be permitted.
 - (3) Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises and signs bearing the word "sold" or "rented" with the name of the persons affecting the sale or rental may be erected or maintained, provided:
 - a. The size of any such sign is not in excess of four square feet; and
 - b. Not more than one sign is placed upon any property unless such property fronts upon more than one street, in which event, one such sign may be erected on each frontage.
- (c) Signs designating entrances or exits to or from a parking area are limited to the following:
- (1) One sign for each such exit or entrance;
 - (2) A maximum size of two square feet each shall be permitted;
 - (3) One sign per parking area shall be permitted;
 - a. Designating the conditions of use or identity of such parking area; and
 - b. Limited to a maximum size of nine square feet if on a corner lot two such signs shall be permitted, one facing each street.
- (d) Business and advertising signs are permitted in commercial and manufacturing districts in accordance with the following regulations:
- (1) The gross surface area of all freestanding signs on a parcel under one ownership shall not exceed 60 square feet.
 - (2) No sign in a nonresidential district shall project more than three feet from the main wall of a building.
 - (3) One free standing business sign shall be allowed for service stations.
 - (4) No sign shall project into a public way.
 - (5) No signs shall be higher than the height limit in the district where such sign is located.
 - (6) No sign shall be located upon the roof of any building.
 - (7) Advertising signs shall not be permitted in R districts.

- (e) Signs of schools, colleges, churches, hospitals, sanatoria, or other institutions of similar public or semi-public nature may be erected and maintained, provided:
 - (1) The size of any such sign is not in excess of 20 square feet; and
 - (2) Not more than one such sign is placed on a property, unless such property fronts upon more than one street, in which event two such signs may be erected, one on each frontage.

(Code 2015, ch. 21, § 21.14.5)

Sec. 18-361. - Minor/major development projects and land subdivision plats.

(a) *Determination of minor and major development.*

- (1) *Generally.* For purposes of these review procedures, all development or redevelopment activity shall be determined to be either a minor development or a major development.
- (2) *Major development project.*
 - a. Any commercial development or redevelopment.
 - b. Any residential development except for one single-family dwelling or one duplex dwelling on one parcel.
 - c. Subdivision of land into three or more parcels.
- (3) *Minor development project.* A minor development project is:
 - a. Any one single-family dwelling or one duplex dwelling on one parcel.
 - b. An accessory structure.
 - c. Interior remodeling.
 - d. Any structural repair.
 - e. Any reroof, greater than 300 square feet and door or window replacement.
 - f. Parcel split into two parcels.

(b) *Approval process; minor development.*

- (1) The applicant shall file, along with the appropriate fee, a minor development permit application at the town hall.
- (2) The ZO shall expeditiously review and make a determination regarding whether or not the application is complete.
- (3) If the application is incomplete, the ZO shall notify the applicant within one week of the necessary incomplete information.
- (4) The ZO may need the assistance of a qualified consultant in reviewing the minor development.
 - a. The ZO shall notify the applicant in writing with an estimate of the expense involved.
 - b. The applicant will be required to reimburse the town for full payment of the estimated fee in advance.
 - c. The town may then obtain the qualified consultant to assist in the review of the minor development plan.
- (5) If the minor development meets all provisions of this Code, the ZO shall sign and date this approval on the final page of the application and stamp all attachments.

- (6) If the minor development does not meet all provisions of this Code, the ZO shall sign and date this denial on the final page of the application and notify the applicant in writing. The applicant may appeal the ZO's decision to the BOA.
 - (7) If a variance, special exception, or conditional use is required to obtain approval, the applicant may apply for a variance, special exception, or conditional use and must obtain approval prior to the approval of the minor development.
- (c) *Approval process; major development.*
- (1) It is suggested that a pre-application meeting between the applicant and the ZO to review the development plan be held.
 - a. The ZO can review the proposal and indicate whether comprehensive plan amendment (text or map) or a rezoning (amendments to text or map) would be required for the proposed use on the property as currently designated.
 - b. The ZO can review the proposal and indicate whether a variance, special exception, or conditional use would be required for the proposed use on the property.
 - c. The ZO can review the proposal and indicate whether if special studies will be required to review the proposed use.
 - d. The ZO can review the proposal and indicate whether a qualified consultant or engineer will be required by the town to review the proposed use.
 - (2) The applicant shall file, along with the appropriate fee, a major development permit application at the town hall.
 - (3) The ZO shall expeditiously review and make a determination regarding whether or not the application is complete.
 - (4) If the application is incomplete, the ZO shall notify the applicant of the necessary incomplete information.
 - (5) As soon as the package is determined to be complete, the ZO shall commence review.
 - (6) The town may need the assistance of a qualified consultant in reviewing the major development plan.
 - a. The ZO shall notify the applicant in writing with an estimate of the expense involved.
 - b. The applicant will be required to reimburse the town for full payment of the estimated fee in advance.
 - c. The town may then obtain the qualified consultant to assist in the review of the major development plan.
 - (7) If the major development application does not meet code, the ZO shall inform the applicant of any necessary modifications or additions required. This decision may be appealed to the BOA.
 - (8) If needing a variance, special exception, or conditional use, the applicant shall obtain a decision from the BOA for inclusion into the package for the P and Z.
 - (9) When the application package is complete and has been reviewed, allowing time for any modifications, additions, or appeals, the ZO shall forward his findings along with any consultant reports and BOA action to the P and Z.
 - (10) The clerk will then forward the information to the P and Z, and set a public hearing for the P and Z as soon as a quorum (or any required super-majority) is available.
 - (11) The P and Z shall hold a duly noticed hearing providing a due process opportunity for the applicant and any other member of the public to present sworn testimony and evidence, subject to cross-examination.

- (12) The P and Z and town council shall consider competent substantial evidence relating to the following factors in reviewing the development plan. The P and Z or town council may request additional information from the applicant if necessary to determine whether the proposed major development:
- a. Is consistent with the characteristics and natural conditions and hazards of the site.
 - b. Complies with the concurrency and other requirements of this Code.
 - c. Is compatible with surrounding land uses.
 - d. Is compatible with community character and sense of place.
 - e. Is consistent with all comprehensive plan goals, objectives and policies.
 - f. Conforms with all provisions of other applicable regulations.
 - g. Design factors are compatible with and further the community vision.
 - h. Is designed, located, and operated in a way that will protect the public health, safety, and welfare.
 - i. Will not cause substantial injury to the value of other property in the neighborhood where it is located.
 - j. Is compatible with the intended purpose of the district in which it is to be located, unless zoning and comprehensive plan changes are requested.
 - k. Will not result in substantial economic, noise, glare, or odor impacts on adjoining properties and properties generally in the district.
 - l. Provides adequate ingress and egress to property, off-street parking and loading areas, and access for emergency vehicles.
 - m. Signs and exterior lighting conform to code.
- (13) The P and Z may recommend reasonable conditions on the determination of concurrency necessary to ensure meeting the requirements of state law.
- (14) The P and Z shall prepare a written recommendation for the town council of its review of the development plan.
- a. The written report shall set forth its factual conclusions.
 - b. The written report shall contain as attachments all of the information presented at the hearing.
 - c. The written report shall forward the factual and legal basis for its recommendation for review by the town attorney.
 - d. The written report recommends:
 1. Approval of the proposed development plan.
 2. Approval of the proposed development plan with conditions or modifications described in sufficient detail and exactness to permit the applicant to amend the proposal accordingly.
 3. Denial of the proposed development plan, and the reasons therefor.
- (15) The town council shall schedule a review of the P and Z recommendation at a hearing, which shall include a staff report and the report from the P and Z.
- a. If zoning changes are required, two hearings are required.
 - b. If comprehensive plan changes are required, a referendum may have to be held before council action is possible.

- (16) The council, by motion, may take one of the following actions:
- a. Approve the P and Z recommendation or the proposed development plan.
 - b. Approve the proposed P and Z recommendation or development plan with conditions or modifications described in sufficient detail and exactness to permit the applicant to amend the proposal accordingly.
 - c. Deny the P and Z recommendation or the proposed development plan, and the reasons therefor.
- (17) Upon notification of an approved major development, the ZO shall issue the necessary certificates and allow the development to proceed.
- (d) *Land subdivision plats.*
- (1) *Generally.*
- a. Land subdivision platting shall be the division of a parcel of land existing on April 29, 1999, into three or more parcels or lots.
 - b. The ZO may approve subdivision plat applications of three or less parcels.
 - c. The P and Z must approve a parcel subdivision plats application of more than three lots, but less than ten lots.
 - d. The town council must approve all subdivision plats of more than en lots.
 - e. A "parcel split" is the division of an existing parcel on April 29, 1999, into two parcels.
 - f. May be submitted as part of a major or minor development.
 - g. Applicant shall use forms as provided by the town.
- (2) *Exceptions.*
- a. The division of property for conveyance of land to a governmental agency, entity, political subdivision, or a public utility does not constitute subdividing within the meaning of this LDC.
 - b. A parcel split.
- (3) *Procedure for splitting a parcel.*
- a. The ZO may approve parcel splits that conform to the requirements of this section.
 - b. The ZO shall consider a proposed parcel split upon submittal of the following materials:
 1. A completed application form and the appropriate fee to town hall.
 2. Two paper copies of the proposed parcel split.
 3. Land descriptions and acreage or square footage of the original and proposed parcels.
 4. A scaled drawing of the intended split showing any structures on the parcel.
 5. Clearly label the drawing, "This is not a survey," if it is not a survey.
 - c. ZO review procedures.
 1. If the parcel split meets the conditions of this section and otherwise complies with all applicable laws and ordinances, the ZO shall approve the parcel split by signing the application form.
 2. If the parcel split does not conform, the ZO shall explain the deficiency in the plat to the applicant and inform him that a corrected plat may be resubmitted for approval.
 3. This decision may be appealed to the BOA.
 - d. Filing of a parcel split.

1. Upon approval of the parcel split, the ZO shall document the split on the appropriate maps and in the appropriate files.
 2. Applicant must:
 - (i) File with the county clerk.
 - (ii) Provide ZO with a stamped copy of the parcels after filing within 30 days.
- e. Standards.
1. Lot shall meet all requirements contained in this LDC.
 2. No further division of an approved parcel split shall be permitted under this section, unless a development plan is prepared and submitted in accordance with this article.
 3. Each parcel must further meet all requirements for new subdivisions set forth below:
 - (i) Each parcel or lot must abut a public or private street that meets minimum design criteria in this Code.
 - (ii) Shall not be less than 75 feet wide at street front line.
 - (iii) Shall not contain less than 7,500 square feet.

(4) *Procedure for obtaining a subdivision.*

- a. New subdivisions. All areas not platted as of the effective date of the ordinance from which this LDC is derived which are subsequently divided into parcels shall not:
 1. Be less than 75 feet wide at street front line; and
 2. Contain less than 7,500 square feet.
- b. Existing subdivisions. All areas which were platted before the effective date of the ordinance from which this LDC is derived which are subsequently divided into parcels shall not:
 1. Be replatted into parcels less than 75 feet wide at street front line; and
 2. Contain less than 7,500 square feet.
- c. The applicant shall submit to the ZO a plat conforming to the requirements of state statutes when submitting the development plan.
- d. Review by ZO.
 1. The ZO shall review the plat and determine whether it conforms to the requirements of state statutes.
 2. The ZO:
 - (i) Determines that the plat conforms to the town code and land development regulations.
 - (ii) Forwards it to the P and Z for consideration, along with the development plan if applicable.
- e. If it does not conform to state statutes or the Code or land development regulations, the ZO shall:
 1. Explain the deficiency in the plat to the applicant in writing;
 2. Inform them that a corrected or revised plat application may be resubmitted for approval.
- f. The ZO's decision may be appealed to the BOA.
- g. If needing a variance, special exception, or conditional use, the applicant shall obtain a decision from the BOA prior to approval of the subdivision plat.

- h. When the application package is complete, allowing time for any modifications, additions, or appeals, the ZO shall forward his findings, along with any consultant reports and BOA action, to the P and Z.
- (5) *Review by the P and Z.*
- a. When the ZO's recommendation is complete, the clerk shall forward the information to the P and Z, and set a public hearing for the P and Z as soon as a quorum (or any required super-majority) is available.
 - b. The P and Z shall hold a duly noticed hearing providing a due process opportunity for the applicant and any other member of the public to present sworn testimony, evidence, subject to cross-examination.
 - c. The P and Z shall review the proposed land subdivision, as part of the entire development plan if applicable.
 - d. Review of the proposed land subdivision shall be strictly limited to whether or not the plat conforms to the platting requirements of state statutes.
 - e. The P and Z may recommend reasonable conditions on the determination of concurrency necessary to ensure meeting the requirements of state law.
 - f. The P and Z must specifically note action on the land subdivision if reviewed as part of a major development.
 - g. The P and Z shall prepare a written report of its review of the land subdivision.
 - 1. The written report shall set forth its factual conclusions.
 - 2. The written report shall contain as attachments all of the information presented at the hearing.
 - 3. The written report shall forward the factual and legal basis for its recommendation for review by the town attorney.
 - h. The written report may recommend:
 - 1. Approval of the proposed land subdivision.
 - 2. Approval of the proposed land subdivision with conditions or modifications described in sufficient detail and exactness to permit the applicant to amend the proposal accordingly.
 - 3. Denial of the proposed land subdivision, and the reasons therefor.
 - i. Final approval.
 - 1. Upon notification of an approved land subdivision, the ZO shall issue the necessary certificates.
 - 2. If changes to the land subdivision are required by the P and Z certificates shall not be issued until a final plat is submitted incorporating the changes.
 - 3. The ZO shall document the land subdivision on the appropriate maps and in the appropriate files.
 - 4. The applicant must file with the county clerk and provide the ZO with a stamped copy of the plat after filing within 30 days.

(Code 2015, ch. 21, § 21.14.6)

Sec. 18-362. - Visibility at intersections.

On a corner parcel, there shall be no obstruction to vision in the clear visibility triangle planted, allowed to grow, placed, or erected in such a manner as to materially impede visibility between a height of four feet to ten feet above the grades of the intersecting streets at their point of intersection.

(Code 2015, ch. 21, § 21.14.7)

Sec. 18-363. - Stormwater management.

(a) General.

- (1) When deemed necessary by any zoning official, department, commission, or the governing body, a drainage system design prepared by a state-registered professional engineer may be required which will include detailed construction plans, supportive calculations, and any additional information related or required therewith.
- (2) Land, subject to flooding (floodprone area) or land deemed by any zoning official, floodplain manager, department, commission, or governing body to be unsuitable for development, shall:
 - a. Not be platted for residential occupancy, or other uses that may cause danger to life, or property, or aggravate the flood hazard.
 - b. Within a parcel:
 1. Be set aside for such uses as shall not be endangered by periodic or occasional inundation;
 2. Alternatively be improved in a manner satisfactory to the zoning official, floodplain manager, department, commission, or governing body to remedy said hazardous conditions.

(b) Information required prior to issuance of a development permit for all new nonresidential development, and residential subdivisions:

- (1) For developments meeting SWFWMD thresholds for surface water and/or stormwater permitting, the developer shall provide a copy of the appropriate approved permit from SWFWMD.
- (2) For developments, which are exempt from SWFWMD permitting requirements, the applicant shall provide documentation from those agencies that no permit is needed.
- (3) Where drainage runoff comes from outside the limits of the subdivision, it shall be included in the design.
- (4) Post-development runoff shall not exceed predevelopment runoff rates. Design storm shall be the 25-year, 24-hour storm (eight inches) or may be taken from storm intensity-frequency data published by another governmental agency if approved prior to use.

(c) Single-unit residential development and substantial improvement.

- (1) All single-family and duplex residential units, which are not part of a larger development, and do not otherwise require compliance with SWFWMD permitting rules, shall meet the following standards:
 - a. Comply with the OFW standards for retention volumes.
 - b. All new development and redevelopment activities shall utilize appropriate techniques during construction to minimize erosion. Staked hay bales shall be required to prohibit erosion into adjacent property. Construction near wetlands shall require the use of approved silt screens to prevent erosion and siltation.
- (2) In the residential environmentally sensitive district:
 - a. All development shall comply with OFW standards for retention volumes.
 - b. Grassed swales may be used, as long as equivalent storage is provided.

- c. Clearing of native vegetation for all development shall be limited to ten percent of the total site.
- (3) Expansion of existing residential development of greater than 300 square feet of additional impervious coverage shall provide site-suitable stormwater management in accordance with OFW regulations.

(Code 2015, ch. 21, § 21.14.8; Code 2015, ch. 6, art. IX, § 6-38)

Sec. 18-364. - Concurrency management and proportionate share.

(a) *Purpose and intent.*

- (1) *Intent.* It is the intent of this section to ensure that proposed development is consistent with the town's comprehensive plan, and that public facilities are available at prescribed levels of service concurrent with the impact of the development upon those facilities.
- (2) *Purpose.* It is the purpose of this article to establish procedures and criteria to ensure that facilities and services needed to support development are available concurrent with the impacts of such development, except as otherwise defined in this section, through a:
 - a. Concurrency management system and fair share methodology.
 - b. Whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors.
 - c. To be known as the "Proportionate Fair-Share Program," as required by and in a manner consistent with, state statutes.

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

Current level of demand means the average of the 12 previous monthly peak days and is calculated every January.

Development approval, for the purposes of determining concurrency, means approval of any of the following:

- (1) Site plan or development plan;
- (2) Subdivision;
- (3) Building permit; or
- (4) Other official action of the town having the effect of permitting the development of land.

Development order means any order granting, denying, or granting with conditions an application for development approval.

Major development means any commercial development or redevelopment or any residential development except for one single-family dwelling or one duplex dwelling on one parcel.

Minor development means any one single-family dwelling or one duplex dwelling on one parcel.

(c) *Concurrency management system.* The town shall ensure that facilities and services needed to support development are available concurrent with the impacts of such development, except as otherwise defined in this article, through a concurrency management system, concurrency checklists and letter certifications of available capacity from the applicable service providers.

- (1) *Determination of concurrency.* A concurrency determination shall be made for the following facilities:
 - a. Transportation;

- b. Sanitary sewage;
- c. Solid waste;
- d. Drainage;
- e. Potable water and water supply;
- f. Parks and recreation;
- g. Schools.

(2) *Standards to meet concurrency.*

- a. A development order will be issued only if the proposed development does not lower any adopted level of service.
- b. A project shall be deemed concurrent if one of the following standards is met:
 - 1. Necessary facilities and services are in place at the time the development permit is issued;
 - 2. Necessary facilities will be in place when the impacts of development occur;
 - 3. Necessary facilities and services are under construction when the development order is issued; or
 - 4. Necessary facilities and services are guaranteed in an enforceable development agreement that includes any of the provisions of subsections (c)(2)b.1 through 3 of this section, and guarantees that the necessary facilities and services will be in place when the impacts of the development occur.
- c. Concurrency determinations and the development approval process:
 - 1. For minor development, concurrency determinations shall be made by the town zoning official at the time a building permit application is made.
 - 2. For major development, concurrency determinations shall be made by the planning and zoning commission after a recommendation by the zoning official, and forwarded to the town council as part of the development plan approval process.
 - 3. Pursuant to state statutes, consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent.
 - 4. Prior to approval of a building permit or its functional equivalent, the town shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance of a certificate of occupancy or its functional equivalent.
 - 5. Pursuant to state statutes, consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction no later than one year after issuance by the local government of a certificate of occupancy or its functional equivalent.
 - 6. However, the acreage for such facilities shall be dedicated or be acquired by the local government prior to issuance by the town of a certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed no later than the town's approval to commence construction.
 - 7. Pursuant to state statutes, consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction within three years after the town approves a building permit or its functional equivalent that results in traffic generation.

- d. Adopted levels of service and concurrency management:
 - 1. Transportation system.
 - (i) Adopted level of service. The operational level of service "C" peak hour bicycle shall be the standard for roads.
 - (ii) Management procedures.
 - A. The town has vacant lots capable of accommodating new single-family or duplex development. Individual single-family or two-family development on a lot of record shall be exempt from these requirements along with other de minimus impacts as defined in state statutes.
 - B. Single-family subdivisions, multifamily, and nonresidential uses shall be evaluated by the town zoning official for the traffic impact of the development upon major and minor collector roadways in the town.
 - (iii) Available roadway capacities shall be determined in the following manner:
 - A. In January of each year, the town zoning official will evaluate roadway capacity of each of the major and minor collectors in the town, using the Florida Highway System Plan Level-of-Service and Guidelines Manual issued by the state department of transportation and effective January 1, 1989, using bicycle mode capacity.
 - B. Available roadway capacity will be calculated using the highest county highway department of transportation traffic counts, or other available traffic counts, as appropriate, from the previous year.
 - C. The impact of any given project on the roadway system will be calculated using the trip generation standards contained in the most recent edition of Trip Generation, published by the Institute of Traffic Engineers.
 - D. It shall be the responsibility of the applicant to provide all traffic data necessary for a determination of concurrency.
 - E. The estimated number of trips to be generated by the proposed project will be subtracted from the available capacity of the roadway and compared to the town's adopted level of service to determine whether the available capacity is adequate to support the project.
 - F. If no official traffic count is available for the major or minor collector to be impacted, the town will arrange, at the applicant's expense, to have such counts made.
 - G. Calculation of traffic to be generated by the proposed project will assume 100 percent build-out and occupancy.
 - 2. Sanitary sewage.
 - (i) Adopted level of service. Pursuant to state statutes, the town may meet the concurrency requirement for sanitary sewer through the use of on-site sewage treatment and disposal systems approved by the department of health (DOH) to serve new development. All new or replacement sanitary sewage systems in all land use districts shall also meet the following requirements:
 - A. All new or replacement sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
 - B. Joints between sewer drain components shall be sealed with caulking, plastic, or rubber gaskets.

- C. Backflow preventers are required.
 - D. All new or replacement sanitary sewage systems shall be located and constructed to minimize or eliminate damage to them and contamination from them during flooding.
 - E. All new and replacement septic systems are to be performance-based certified to provide secondary treatment equivalent to ten milligrams per liter maximum nitrogen.
 - F. Further, all new and replacement septic systems and on-site sanitary WWTF systems shall be set back from mean high water line or ordinary high water line or wetland demarcation line in all districts per DOH and OFW requirements.
 - G. No publicly or privately funded, central collection sanitary WWTFs shall be constructed within the coastal high hazard area of the town.
 - H. All sanitary wastewater shall be treated on-site until a publicly funded central sewer system exists to serve the town.
 - I. On-site sewage treatment and disposal systems in the town must also be consistent with all other requirements of the town comprehensive plan.
- (ii) Management procedures. Prior to the issuance of zoning official's site plan approval, applicants shall be required to obtain:
- A. Permits from the county health department for on-site sanitary wastewater disposal; and
 - B. Certification from the town indicating that on site systems meet all other local requirements.
3. Solid waste.
- (i) Adopted level of service. The adopted levels of service for solid waste is 2.5 pounds per capita per day.
- (ii) Management procedures.
- A. Prior to the issuance of zoning official's site plan approval, applicants shall be required to obtain certification from the county indicating that solid waste capacity is available at the time of development or prior to the issuance of a Certificate of Occupancy.
 - B. In January of each year, the ZO will obtain a letter or formal allocation agreement from the county certifying that the county landfill has the capacity to handle garbage projected to be generated within the town during the following year.
 - C. The projected amount will be based upon the projected town population for the applicable period multiplied by the town's adopted per capita level of service.
 - D. The impact of any development requiring development plan approval shall be determined by the ZO:
 - I. For residential projects, the impact shall be calculated by multiplying the estimated population of the project, as provided by the applicant, by the town's adopted per capita level of service.
 - II. For nonresidential projects, the impact shall be provided by the applicant, and approved by the ZO.

- III. The ZO shall determine the adequacy of capacity by adding the amount of demand to the demand for any other approved developments and the current level of demand generated within the town.
 - IV. The cumulative total demand shall be compared with the capacity certified to be available to the town by the county.
 - V. If total demand exceeds the capacity certified to be available to the town by the county, the ZO shall request a letter from the county stating whether or not the county has the capacity to dispose of the amount of solid wastes to be generated by the proposed project.
4. Drainage.
- (i) Adopted level of service. The adopted levels of service for drainage requires that all new development and expansion of existing residential development greater than 300 square feet of additional impervious coverage shall meet requirements as specified in the F.A.C. for Outstanding Florida Waters.
 - (ii) Management procedures. The ZO or a town stormwater engineer shall require and review drainage plans and calculations for all development and shall make and record a determination that the impact on the drainage system will not lower the established level of service.
5. Potable water and water supply.
- (i) Adopted level of service. The adopted levels of service for potable water is 125 gallons per capita per day.
 - (ii) Existing allocated demand.
 - A. Vacant residential parcels within the urban service area shall be included as demand upon the water system as if they were fully built out and calculated at 125 gallons per capita per day times two persons per parcel times number of vacant residential parcels.
 - B. Developed lots north of CR40 in urban service area with well potable water service shall be included as demand upon the water system and calculated at 125 gallons per capita per day times two persons per parcel times number of parcels.
 - C. Commercial demand shall be calculated at 450 gallons per day per commercial enterprise.
 - (iii) Management procedures.
 - A. Prior to the issuance of ZO's site plan approval, applicants shall be required to obtain certification from the town ZO indicating that potable water supply is available at the time of development or prior to the issuance of a certificate of occupancy.
 - B. In January of each year, the ZO will certify that the town has the capacity to provide the volume of potable water projected to be needed during the following year. The projected volume will be based upon the projected town population for the applicable period multiplied by the town's adopted per capita level of service.
 - C. The impact of any development requiring development plan approval shall be determined by the town zoning official:
 - I. For residential projects, the impact shall be calculated by multiplying the estimated population of the project, as provided by the applicant, by the town's adopted per capita level of service.

- II. For nonresidential projects, the impact shall be provided by the applicant, and approved by the town zoning official.
- III. The town zoning official shall determine the adequacy of the existing plant capacity by adding the volume of demand to the demand for any other approved developments and the current level of demand generated within the town including consideration of allocated vacant parcel demand as defined in subsection (2)d.5.(iii)B of this section.
- IV. The cumulative total demand shall be compared with the withdrawal volumes permitted under the town's water use permit (groundwater withdrawal amounts) and WTP SRF water system improvements permit (engineered plant capacity).
- V. If total demand exceeds the volume allowed by the town's water use permit or WTP permit, the major development applicant shall be responsible for all costs associated with receiving a new water withdrawal use permit.
- VI. If total demand exceeds the capacity of the plant, the applicant shall be responsible for all costs associated with providing the additional water plant capacity.

6. Parks and recreation.

- (i) Adopted level of service. The adopted levels of service for parks and recreation are as follows:
 - A. Neighborhood parks: two acres per 1,000 population.
 - B. Community parks: two acres per 1,000 population.
 - C. Equipped tot play area: 0.5 acres per 1,000 population.
- (ii) Management procedures. Any major development causing a decrease in level of service shall be responsible for providing additional park or payment of a proportionate fair share of all improvements and costs associated with meeting the level of service requirements set forth above.

7. Schools.

- (i) Level of service. The level of service in schools shall be as follows:
 - A. The town is exempt from school concurrency;
 - B. The town may enter into an interlocal agreement regarding school concurrency and school concurrency impact fees with the county school district if:
 - I. The town is no longer exempt from school concurrency review; or
 - II. The school district and town decide to implement school impact fees for major residential development that would be applicable within the town.
- (ii) Management procedures. The applicant for any major residential development shall obtain a letter of concurrency from the county school district board demonstrating adequate school capacity to accommodate proposed new development.

e. Concurrency determinations for redevelopment.

- 1. Redevelopment shall be exempt from concurrency determinations relative to transportation, sanitary sewer, solid waste, potable water, and recreation/open space, provided the following conditions are met:

- (i) Residential redevelopment. For residential redevelopment, there is no increase in the density from that existing prior to redevelopment.
 - (ii) Commercial redevelopment. For commercial redevelopment, there is no increase in the square footage of the building or intensity of use of the property from that existing prior to redevelopment.
 - 2. Redevelopment which is not determined to be exempt:
 - (i) Shall be subject to concurrency determinations only with respect to those impacts in excess of that attributable to the property prior to the redevelopment;
 - (ii) Except that concurrency with respect to the town's drainage level of service, shall be determined and based upon the drainage needs of the entire use of the property.
 - f. Limitations and expiration of concurrency determinations.
 - 1. Longevity and validity of concurrency determinations are contingent upon building permit issuance within one year of the concurrency determination.
 - 2. Concurrency determinations shall expire with the expiration of the development plan approval or building permit, as applicable.
- (d) *Proportionate fair share program.*
 - (1) The proportionate fair-share program shall apply to all development in the town that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility per the concurrency management system (CMS) or concurrency review checklist (CRC), including transportation facilities maintained by the state department of transportation (FDOT) or another jurisdiction that are relied upon for concurrency determinations.
 - (2) The proportionate fair-share program does not apply to:
 - a. Developments of regional impact (DRI) using proportionate fair-share under state statutes; or
 - b. Developments, which may be exempted from concurrency as provided in the town comprehensive plan and this article, and/or state statutes, regarding exceptions and de minimus impacts.
 - (3) General requirements.
 - a. An applicant may choose to satisfy the transportation concurrency requirements of the town of by making a proportionate fair-share contribution, pursuant to the following requirements:
 - 1. The proposed development is consistent with the comprehensive plan and applicable LDC.
 - 2. The five-year schedule of capital improvements in the town CIE currently includes the proposed project.
 - 3. Additional requirements may apply if a project needed to satisfy concurrency is not presently contained within the town's CIE.
 - 4. The town 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 the requirements of the CMS or CRC requirements, but is not contained in the five-year schedule of capital improvements in the CIE, where the following apply:
 - (i) The town adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE no later than the next regularly-scheduled update.

- (ii) To qualify for consideration under this section, the proposed improvement must be:
 - A. Reviewed by the town council.
 - B. Determined to be financially feasible pursuant to state statutes, (financial feasibility for this section means that additional contributions, payments, or funding sources are reasonably anticipated during a period not to exceed ten years to fully mitigate impacts on the transportation facilities.)
 - C. Consistent with the comprehensive plan.
 - D. In compliance with the provisions of this LDC.
 - (iii) If the funds allocated for the five-year schedule of capital improvements in the town CIE are insufficient to fully fund construction of a transportation improvement required by the CMS or CRC, the town may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of only that amount of development on which the proportionate fair-share is calculated, if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity maintaining the transportation facilities, significantly benefit the impacted transportation system.
- b. Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of:
 - 1. The town locally maintained roadways;
 - 2. The county for county-maintained roads; and
 - 3. The FDOT for the state highway system.
- (e) *Intergovernmental coordination.*
 - (1) Pursuant to policies in the intergovernmental coordination element of the town comprehensive plan and applicable policies in the strategic regional policy plan for the Withlacoochee Region, the town shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation.
 - (2) An interlocal agreement may be established with other affected jurisdictions for this purpose.
- (f) *Application process.*
 - (1) Upon notification of a lack of capacity to satisfy any concurrency, the applicant shall be notified in writing of the opportunity to satisfy concurrency through the proportionate fair-share program pursuant to the requirements of this section.
 - (2) Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss the following:
 - a. Eligibility;
 - b. Application submittal requirements;
 - c. Potential mitigation options;
 - d. And related issues.
 - (3) If the impacted facility is on the state intermodal system (SIS), then the FDOT will be notified and invited to participate in the pre-application meeting.
 - (4) Eligible applicants shall submit an application to the town that includes:
 - a. An application fee as established within the town's fee resolution, as amended;

- b. Name, address and phone number of all owners;
 - c. Name, address and phone number of developer, if required;
 - d. Copy of agent authorization (form 10), if required;
 - e. Copy of concurrency review certificate (form 2);
 - f. Property location, including parcel numbers and 911 address;
 - g. Legal description;
 - h. Survey of property showing;
 - 1. Boundaries;
 - 2. Location of driveways and access roads.
 - i. Project description, including type, intensity and amount of development;
 - j. Phasing schedule, if applicable;
 - k. Description of requested proportionate fair-share mitigation method.
- (5) The town zoning official shall review the application and certify that the application is sufficient and complete.
- (6) If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program, as indicated in this section, then:
- a. The applicant will be notified in writing of the reasons for such deficiencies.
 - b. If such deficiencies are not remedied by the applicant within 30 calendar days of receipt of the written notification, then the application will be deemed abandoned.
 - c. The town council may, at its discretion, grant an extension of time to cure such deficiencies, if the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.
- (7) Pursuant to state statutes, proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- (8) When an application is deemed sufficient, complete, and eligible, the applicant shall be:
- a. Advised in writing.
 - b. A proposed proportionate fair-share obligation and binding agreement will be prepared by the town at applicant expense or by the applicant with direction from the town and delivered to the appropriate parties for review, also at applicant's expense, including a copy to the FDOT for any proposed proportionate fair-share mitigation on an SIS facility.
- (9) The town zoning official shall notify the applicant regarding the date of the town council meeting when the agreement will be considered for final approval.
- (10) No proportionate fair-share agreement will be effective until approved by the town council.
- (g) *Determining proportionate fair-share obligation.*
- (1) Proportionate fair share mitigation includes, without limitation, separately or collectively, the following:
- a. Private funds;
 - b. Contributions of land; and/or
 - c. Contribution of transportation facilities.

- (2) The methodology used to calculate a developer's proportionate fair share obligation to meet transportation concurrency shall be as provided in state statutes, and as represented by the formula: Proportionate Share equals ((Development Trips)/(SV Increase)) times Cost. Where:
 - a. Development trips equals number of trips from the development that are assigned to roadway segment;
 - b. SV increase equals service volume increase, new service volume minus current service volume, provided by the improvement to roadway segment;
 - c. Cost equals all improvement costs and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.
- (3) For the purposes of determining transportation proportionate fair share obligations, capital improvement costs shall be based upon the actual cost of the improvement as obtained from the CEI, or the state department of transportation work program. Where such information is not available, the improvement cost shall be determined using one of the following methods:
 - a. The most recent issue of state department of transportation "transportation costs," as adjusted, based upon the type of cross section (urban or rural); and/or
 - b. Locally available data from recent projects on acquisition, drainage, and utility costs; and/or
 - c. Significant changes in the cost of materials due to unforeseeable events.
- (4) If the town has accepted an improvement project proposed by the developer, then the value of the improvement shall be determined by using one of the methods provided in this section.
- (5) If the town accepts any right-of-way dedication for the proportionate fair share payment, credit for the dedication of the non-site-related right-of-way shall be valued on the date of the dedication at:
 - a. 120 percent of the most recent assessed value of the land, upon which the right-of-way is or will be located, by the county property appraiser; or
 - b. At the mutual agreement of the town and the developer, by fair market value established by an independent appraisal approved by the town and at no expense to the town.
- (6) The developer shall supply a certificate of title or title search of the land to the town at no expense to the town.
- (7) If the estimated value of the right-of-way dedication proposed by the developer is less than the town estimated total proportionate fair share obligation for that development, then the developer must also pay the difference.
- (8) Proportionate fair-share agreements.
 - a. Upon execution of a proportionate fair-share agreement (agreement), the applicant shall receive a concurrency approval certificate issued under the CMS or CRC from the town.
 - b. Should the applicant fail to apply for a development permit within 12 months or a timeframe provided in the town's capital improvements element of the execution of the agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.
 - c. Payment of the proportionate fair-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable.
 - d. Payment must be submitted within 12 months of the execution of the agreement.
 - e. If the payment is submitted more than six months from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to this section and adjusted accordingly.

- f. The application fee and all associated costs to the town will be nonrefundable.
 - g. No agreement will be issued until all fees have been paid in full.
 - h. It is the intent of this section that, where possible, any required improvements be completed before issuance of certificates of occupancy. However, consistent with the public welfare, and consistent with any other requirements or exemptions provided state statutes, transportation facilities needed to serve new development shall be in place or under actual construction within three years after the local government approves a building permit or its functional equivalent that results in traffic generation.
 - i. 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.
 - j. 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 load that would require mitigation.
 - k. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement.
- (9) Selected corridor improvements. The town council may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.
- (10) 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 town CIE, or as otherwise established in the terms of the proportionate fair-share agreement.
 - b. At the discretion of the town council, 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.
 - c. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the FDOT agreements or programs.
 - d. In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of this article.
 - e. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan, as provided in state statutes:
 - 1. The town 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 TRIP or other FDOT agreements or programs.
 - 2. Such coordination shall be ratified by the town through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.

(Code 2015, ch. 21, § 21.14.9)

Secs. 18-355—18-380. - Reserved.

ARTICLE XVII. - VIOLATIONS, GENERAL PENALTIES, ENFORCEMENT, JUDICIAL REVIEW

Sec. 18-381. - Violation and non-compliance of article.

- (a) *Violations.* In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, land or water is used in violation of this article, the town council may institute any appropriate legal or equitable action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration or repair, conversion, maintenance or use, to restrain, correct or abate such violation.
- (b) *General penalties.*
 - (1) It shall be unlawful for any person to violate or fail to comply with any provision of this municipal article and it shall be enforced and subject to the penalties provided by state law.
 - (2) A violation of any provision of this article shall be punished by a fine not exceeding \$500.00 or as otherwise provided by law.
 - (3) Each and every day any violation of any provision of this LDC continues past the date given by the ZO or code enforcement officer to bring the property into compliance shall constitute a separate offense subject to imposition of a daily fine.

(Code 2015, ch. 21, § 21.15)

Secs. 18-382—18-405. - Reserved.

ARTICLE XVIII. - DEVELOPMENT AGREEMENT PROCEDURES (RESERVED)

Secs. 18-406—18-422. - Reserved.

ARTICLE XIX. - VESTED RIGHTS OR BENEFICIAL USE

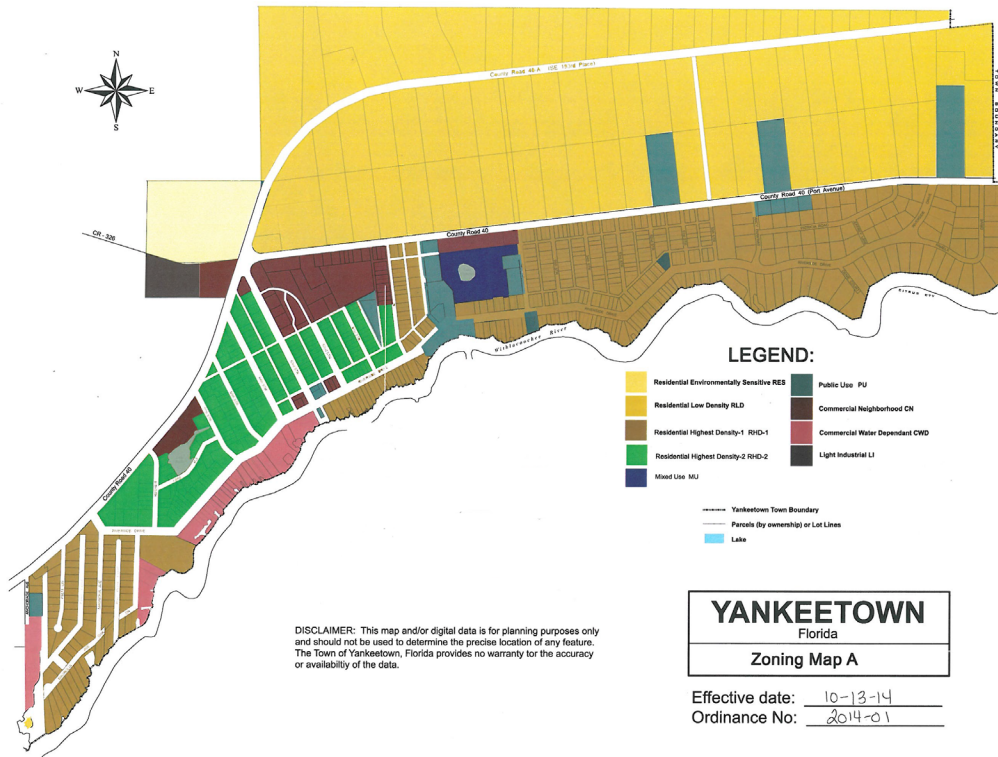
Sec. 18-423. - General requirements; determination of vested rights and beneficial use.

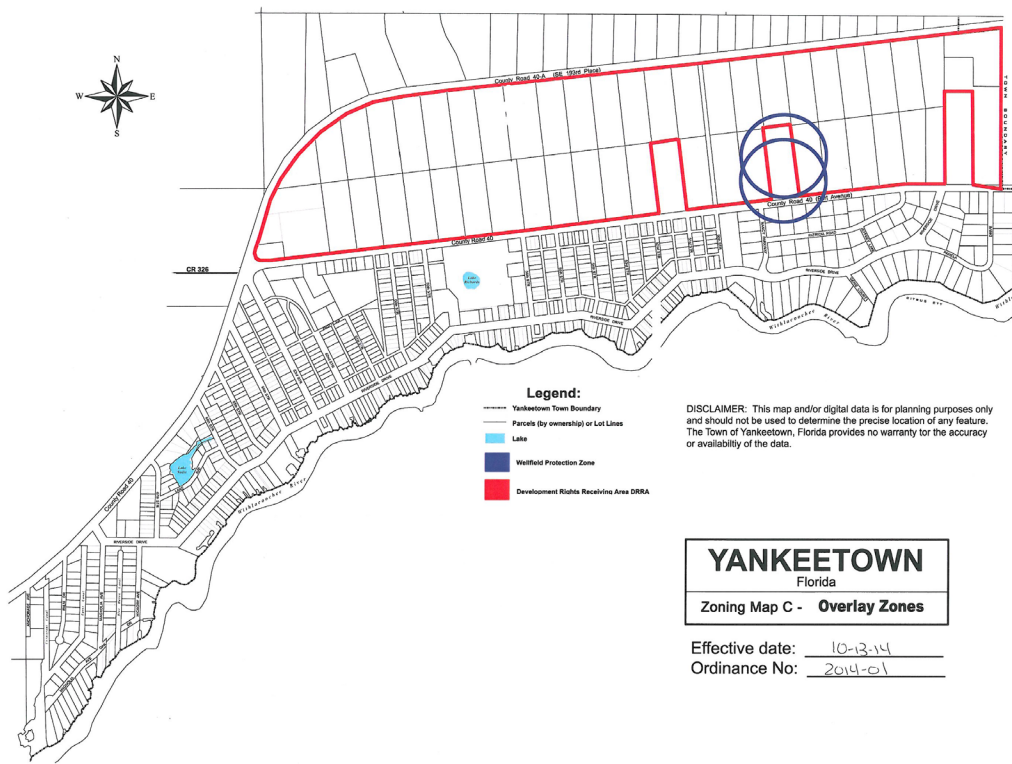
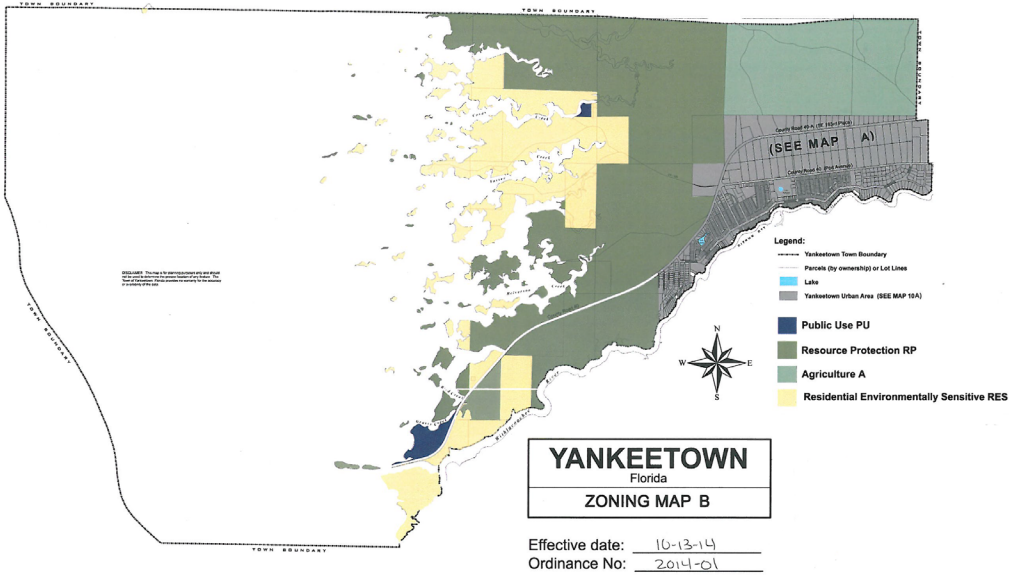
- (a) *Requirements.*
 - (1) Applications shall go to the BOA who shall give notice, schedule, and conduct a public hearing on the application.
 - (2) The preparation of a proposed BOA recommended determination, including findings of fact and conclusions of law that shall be submitted to the town council.
 - (3) A final determination that shall specify the development rights that are vested or the beneficial use to which the landowner is entitled, including the following:
 - a. The geographic scope of the determination in relation to the total area of the development site.
 - b. The duration of the determination and an expiration date.
 - c. The substantive scope of the determination, including, but not limited to, whether the development is vested for density, concurrency, and building permit allocation.
 - d. The applicability of existing and future county land development regulations.
 - e. Verification that construction timely commences and quarterly reporting requirements to ensure that the development is continuing in good faith.
 - f. Such other limitations and conditions necessary to ensure compliance with the comprehensive plan.
- (b) *Vested rights.*

- (1) A determination of vested rights shall be based upon one or more valid, unexpired permits or approvals issued by the town prior to the effective date of the comprehensive plan of the town.
- (2) The determination of vested rights shall be limited to the development expressly contemplated by said permits or approvals and to those aspects of development, which meet the standards, and criteria of this policy.
- (3) The applicant for a vested rights determination shall have the burden of proving that:
 - a. The applicant has reasonably relied upon an official act by the town. For the purposes of a vested rights determination pursuant to this comprehensive plan, any of the following may constitute an official act:
 1. One or more valid, unexpired permits or approvals issued by the town, provided that the zoning or land use designation of property shall not be deemed to constitute a permit or approval for the purpose of a determination of vested rights;
 2. A subdivision plat recorded in the official records of the county that fulfills the criteria established in F.S. § 380.05(18);
 3. An unexpired determination of vested rights granted by the town; or
 4. A valid, unexpired building permit issued prior to the effective date of the comprehensive plan of the town; and
 - b. The applicant, acting in good faith, has made such a substantial change of position or has incurred such extensive obligations and expenses that it would be highly inequitable or unjust to effect such rights by requiring the applicant to now conform to the comprehensive plan and land development regulations. Substantial changes of position or expenditures incurred prior to the official town act upon which the vested rights claim is based shall not be considered in making the vested rights determination; and
 - c. The development has commenced and has continued in good faith without substantial interruption.
- (4) A vested rights determination shall not preclude the town from subjecting the proposed development to:
 - a. Town land development regulations in effect on the date of the vested rights determination or adopted subsequent to the vested rights determination.
 - b. Unless the development is shown to be vested with regard to the subject matter addressed by a prior development order and the specific requirements.
 - c. A vested rights determination shall specify an expiration date by which all building permits necessary for development shall have been issued. The expiration date shall be reasonable, and, in no event later than the date specified in the original development order.
- (5) Beneficial use.
 - a. It is town policy that the provisions of neither the comprehensive plan nor the LDC shall deprive a property owner of all reasonable economic use of a parcel of record as of June 10, 1991.
 - b. An owner of real property may apply for relief from the literal application of applicable land use regulations when such application would have the effect of denying all economically reasonable use of that property unless such denial is necessary to prevent a nuisance or to protect the health, safety, and welfare of the town citizens.
 - c. For the purpose of this policy, all reasonable economic use shall mean the minimum use of the property necessary to avoid a taking within a reasonable period as established by current land use case law.

- d. The relief to which an owner shall be entitled may be provided with one or a combination of the following:
1. Granting of a permit for development in order to prevent an unconstitutional taking by inverse condemnation arising from implementation of the plan or LDC as applied to the specific property, that renders it wholly unbuildable;
 - (i) Transfer the development rights to the DRRA.
 - (ii) Government swap or purchase of all or a portion of a parcel upon which all beneficial use is prohibited is allowed.
 - (iii) Such other relief as the town may deem appropriate and adequate.
- (c) The relief granted shall be the minimum necessary to avoid a taking of the property under state and federal law.
- (d) Development approved pursuant to a beneficial use determination shall be consistent with all other objectives and policies of the comprehensive plan and land development regulations unless specifically exempted from such requirements in the final beneficial use determination.

(Code 2015, ch. 21, § 21.17)





(Code 2015, ch. 21, att.)

Secs. 18-424—18-444. - Reserved.

ARTICLE XX. - SEPTIC TANKS

Sec. 18-445. - Access for inspection.

The town, through its officers, agents and employees, shall have the right of access to any property upon which a septic tank or sewage connection is located, for the purpose of inspection, and if necessary, corrective orders, when, in its opinion, such septic tank or connection, through neglect, accident, deterioration or Act of God, has become unsafe or unsanitary or otherwise inimical to the health and welfare of the inhabitants of the town.

(Code 2015, ch. 11, art. XIV, § 11-18; Ordinance reference 120)

Sec. 18-446. - New facilities.

All toilet facilities that are installed within the incorporated area of the town must be connected to a central sewage system or septic tank and drain field, in accordance with the rules of the state department of health and rehabilitative services, F.A.C. ch. 10D-6, Standards for On-Site Sewage Disposal Systems, or any amendments thereto; permits of other federal and state agencies, if needed, and approved by the county health department.

- (1) All new development in the conservation area shall be required to use alternatives to septic tanks approved by DOH, such as aerobics class I treatment systems. Coastal islands are defined as islands without dry land (upland) or existing road access.
- (2) Septic tanks which are proposed for nonresidential uses shall not exceed the sewage flow limitations of the state department of health and rehabilitative services and the department of environmental regulation.
- (3) Any change in use for an existing dwelling from residential to nonresidential use shall certify that the proposed use will not result in the disposal of any hazardous waste defined in this LDC consistent with F.S. § 383.0076.

(Code 2015, ch. 11, art. XIV, § 11-19; Ord. No. 97-03, § 5, 4-7-1997; Ordinance reference 120)

Sec. 18-447. - Order of permits.

Any person, firm or corporation, before being issued a building permit from the town for construction or installation of any building, must first acquire a septic tank permit from the county health department.

(Code 2015, ch. 11, art. XIV, § 11-20; Ordinance reference 120)

Sec. 18-448. - Appeals.

Appeals to decisions of the zoning official in relation to this article may be made in accordance with article VI of this LDC.

(Code 2015, ch. 6, art. X, § 6-42)