

City of Palm Coast, Florida Agenda Item

Agenda Date: June 9, 2026

Agenda Item: E.5

Department	COMMUNITY DEVELOPMENT	Amount
Division	PLANNING	Org/Account #
Subject:	PRESENTATION - PROPOSED UNIFIED LAND DEVELOPMENT CODE AMENDMENTS TO CHAPTER 4 - CONDITIONS FOR LIMITED SPECIFIC USES AND ACTIVITIES	
Presenter:	Michael Hanson, AICP, Senior Planner	
Attachments:	<ol style="list-style-type: none">1. Presentation2. Draft LDC Chapter 4 - Redline Version	
Background:	<p>In May 2025, the City completed the update of the Comprehensive Plan. To implement the goals, objectives, and policies of the 2050 Comprehensive Plan, the Unified Land Development Code (LDC) needs to be updated.</p> <p>As part of the City’s ongoing efforts to update the LDC to ensure consistency with the 2050 Comprehensive Plan, staff has prepared proposed amendments and a related presentation for Chapter 4 – Conditions For Limited Specific Uses And Activities. Attached to the agenda item is a strike-thru and underline format of the proposed LDC amendments to Chapter 4.</p> <p>The proposed amendments include changes directly related to policies in the Comprehensive Plan. Additionally, the proposed amendments may include clarification of the code, update of references, or updates necessitated by best practices as applied in the City, or to address on-going/repetitive issues in applying the land development code.</p> <p>Planning and Land Development Regulation Board (PLDRB) Meeting: This item was presented to the PLDRB on 5/13/2026 for comments on the proposed amendments. At this meeting the PLDRB discussed the proposed changes. No changes were requested by the PLDRB.</p> <p>This is a legislative item.</p>	
Recommended Action:	STAFF IS SEEKING COMMENT ON THE PROPOSED AMENDMENTS AS WELL AS SUGGESTIONS FOR ADDITIONAL AMENDMENTS	



Land Development Code Amendments

Chapter 4 - Conditions for Limited Specific Uses and Activities

City Council
Workshop
June 9, 2026

Land Development Code Amendments

Chapter 4 - Conditions for Limited Specific Uses and Activities

Amendments are based on the following:

- Recent update of the Comprehensive Plan
 - Implement a goal, objective, and/or policy
- To clarify the intent of the regulation
- To update references (to Florida Statutes, or agencies)
- Address on-going/repetitive issues

Land Development Code Amendments

Chapter 4 - Conditions for Limited Specific Uses and Activities

Proposed Amendments

- Clarifies that 4.01 covers any accessory structure, and grants the LUA the ability to make an interpretation if an accessory structure is not listed, they can treat it as a similar use/structure to one covered by the text. Lays out a potential appeal avenue based on the appeals process in Chapter 2.
- Provides language that supports aboveground mechanical structures in a front yard if infeasible to locate on side/rear, requires screening.
- Limits the size of accessory structures to not exceed 50% of the living area of the principal dwelling, with exceptions for EST-1, EST-2, AGR zoning for agricultural buildings.
- Provides modifications to fencing requirements to limit fences within traffic sightlines, and increase the height of perimeter fencing/walls to meet landscaping screening requirements due to grading differences.
- Modifies garage size limitations to potentially allow for RV garages. They are limited to 20 feet in height, and the max size of 50% of the living area of the principal dwelling, along with meeting building setbacks.

Land Development Code Amendments

Chapter 4 - Conditions for Limited Specific Uses and Activities

- Provides an exception for Boathouses material requirement to match the principal dwelling unit, if the principal dwelling has a clay tile roof, color must still match.
- Provides language to treat gazebos and pergolas the same as sheds.
- Provides language to provide a max height and locational siting requirements for playsets, playhouses, and similar structures at the request of the Building Division. The intent is not to require permits, but provide language if placement of such temporary structures becomes problematic between adjacent property owners and caps height at a max of 12 feet to reduce risk of fall injury.
- Provides language for Residential Manufactured Buildings to be compliant with Chapter 553 of Florida Statutes. Shall be permitted within a manufactured/mobile home park or subdivision.
- Replaces Home Occupations Class 1, 2, and 3 with Home-Based Businesses to be compliant with state preemptions of F.S. 559.955.
- Provides for some minor grammatic corrections throughout.

Land Development Code Amendments

Chapter 4 - Conditions for Limited Specific Uses and Activities

- Clarifies and expands accessory uses of a recreational park to allow for playgrounds, dog parks, clubhouse, accessory restaurant, and similar uses. Language allows for cabins and residential manufactured buildings. Maintains the six month in one year limitation to preserve transient nature.
- Moves Sec 3.06 (Live Local) to Sec 4.23 and updates it to be consistent with each Live Local glitch bill up to HB1389 (2026).
 - Due to state preemptions, these are now permitted in the nonresidential portions of MPDs, government or school owned property, or property owned by a house of worship at least 3 acres in size, in which a house of worship has operated for at least 10 years.
 - Additionally, the state preempted the City from requiring at least 35% of the building area (33% when vertically stacked) for non-residential uses. The City is only able to require 10%. The state mandates at least 65% is used for residential but is silent on if a City can cap the residential component, the proposed LDC updates caps the residential component to 70% and provides language that allows a developer to exceed the required 10% nonresidential component size.

Land Development Code Amendments

Chapter 4 - Conditions for Limited Specific Uses and Activities

Next Steps

- Additional questions on proposed amendments?
- Other potential amendments from the Council?
- Schedule for moving forward
 - All chapters will be scheduled for an LDC Wrap-Up Presentation by PLDRB (6/17) and City Council (7/14) and public hearings: PLDRB (7/15), City Council (7/21 & 8/4).

Sec. 4.01. - Accessory Structures.

This section provides additional specific development standards for swimming pools, fences, walls, sheds, residential garages, generators, clotheslines, seawalls, and docks accessory structures within the City.

4.01.01. *General provisions for accessory structures.*

- A. *Location.* Accessory structures, other than fences or as otherwise specified in this Code, shall not be located in public drainage or utility easements or within the required building setbacks. In addition, all accessory structures, other than fences, walls, arbors, trellises, pergolas, and detached garages, and aboveground mechanical equipment pursuant to Section 3.05.02, or as otherwise specified in this Code, shall be located behind the front and side street building facades of the principal structure. However, on corner lots, swimming pools and their enclosures, may be located in front of the side street building facade but shall meet the front yard setback requirements in lieu of the side street setback. Screening accessory structures with a fence or foundation plants (may be required in Chapter 11) when facing a right-of-way, golf course, canal, or other similar highly visible area.
- B. *Construction and occupancy.* Permits for accessory structures shall not be issued until a permit has been issued for the principal structure. Seawalls are not considered accessory structures and building permits for these facilities may be issued in advance of the principal structure in accordance with City regulations.
- C. *Architecture.* Refer to Chapter 13 for design standards.

D. Accessory Structure Maximum Size. Unless otherwise stated within this Section, the maximum size of a residential accessory structure shall not exceed 50 percent of the living area of the principal dwelling unit; provided that this requirement shall not apply to agricultural buildings constructed on an EST1, EST2 or AGR zoned property.

E. Accessory Structures not listed in this Chapter. The accessory structures listed in this section are not meant to be all-inclusive. Structures not specifically listed shall be reviewed by the Land Use Administrator to determine if the proposed use is similar in nature and character to others listed in the section. Based on the determination, the proposed structure shall be classified in the same manner as those similar structures listed in terms of it being permitted as an accessory structure. The Land Use Administrator may also determine that other structures are not permitted on the basis that they are not similar in nature or character to the other structures listed in the zoning district. Determinations may be appealed in accordance with the appeal procedures established in Chapter 2.

4.01.02. *Fences and walls.*

A. *General requirements.*

1. *Setbacks, orientation, and placement.*

- a. Fences shall be installed with the finished side facing the exterior of the property.
- b. No fence or wall shall interfere with drainage on a site.
- c. Fences and walls may be located within an easement as long as they do not interfere with utilities; provided, however, such structures are subject to removal and replacement at the property owner's expense by the requesting utility agency.
- d. Fences and walls in front of the front building facade of residential dwellings shall only be permitted in the AGR, EST-1, and EST-2 Districts.
- e. Refer to Chapter 11 for applicable buffer and screening requirements for fences and walls.

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- f. Decorative walls and solid fences are permissible surrounding the perimeter of a development that is at least five acres in size.
 - g. Gates are considered parts of fences and walls and are regulated accordingly. Gates shall not open or swing onto neighboring properties.
2. *Height.*
- a. The maximum height shall be measured from finished grade to the top of the fence or wall. The finished grade shall not be altered to increase fence height and where a berm is constructed, the height of the berm over the finished grade shall be included in determining fence height. Decorative wall columns and occasional architectural embellishments to fences may extend up to 12 inches above the maximum height permitted.
 - b. The maximum height of any fence or wall located in interior side or rear yards behind the nearest front building facade shall be six feet, unless otherwise specified in this Code or as approved by the Land Use Administrator for health, safety, or environmental protection purposes.
 - c. A fence or wall on a residential lot located to the rear of the principal structure and within 20 feet of a saltwater waterway is limited to a height of four feet, except in the following situations:
 - (1) An open fence is allowed to a height of six feet.
 - (2) A fence or wall enclosing a pool deck that is setback at least 7.5 feet from the side property lines and at least 15 feet from the saltwater waterway is allowed to a height of six feet.
 - d. Within the EST Districts, the maximum height of any fence or wall in front of the front building facade or located in a street side yard shall be a maximum of four feet.
 - e. Fences immediately surrounding civic ~~or~~, public, or private recreational sports playing fields located on lots over one acre in size may be constructed to a maximum height of 12 feet and hooded backstops for diamond sports may be increased to a maximum height of 28 feet, with approval of the Land Use Administrator.
3. *Design and Materials.*
- a. Fences shall be constructed utilizing rot-resistant material for any part of the fence coming in contact with the ground. All fences shall be constructed of customary fencing materials and finishes. Wood and vinyl fences shall meet the color standards of Section 13.02.06.B.1. or be finished in a wood stain or simulated wood finish in a non-prohibited color as outlined in Section 13.02.06.B.3. Fences constructed of treated lumber may remain unfinished.
 - b. Chainlink, aluminum (except for decorative aluminum fences), or similar fences shall be prohibited in yards fronting along arterial and collector roadways.
 - c. Chainlink, aluminum, or similar metal fences shall be black or bronze in color, except that aluminum fences may also be white in color. Chainlink fences shall not have slats, fabric or similar types of screening materials attached to them.
 - d. Walls shall be made of the following materials:
 - (1) Brick, Norwegian brick, jumbo brick or stone.
 - (2) Split-faced block or finished masonry walls where block seams are not visible. Finished masonry walls shall also include a tile, brick, or decorative trim at or near the top of the wall.

- (3) Wrought iron or aluminum fence in combination with brick, jumbo brick, or finished masonry columns.
- (4) Pre-cast concrete having a simulated wood stone or brick pattern.
- (5) Other materials as approved by the Land Use Administrator.
- e. Walls shall have columns spaced as follows:
 - (1) Twenty-foot maximum spacing on walls 100 linear feet, or less.
 - (2) Thirty-foot maximum spacing on walls 101—200 linear feet.
 - (3) Forty-foot maximum spacing on walls over 200 linear feet
- f. No barbed wire, razor wire, or electrically charged fence shall be erected, unless otherwise specified in this section. Broken glass, steel spikes, or other sharp objects intended to restrict access along the top edge of a fence or wall are prohibited.
- g. Chicken wire, field fences, and other similar fence types are prohibited, except in the utilization of bona-fide agricultural purposes in the AGR and EST-2 Districts.

B. *Nonresidential districts.*

- 1. Setbacks may be required between fences or walls to property lines in order to provide landscape buffers in accordance with the requirements of Chapter 11 or in the event that a proposed fence is located within sight triangles or in a manner that obstructs visibility to vehicular traffic, in either case the Land Use Administrator shall determine the appropriate distance to setback the proposed fencing or walling.
- 2. Within the IND, COM, ~~and~~ PSP Districts and nonresidential portions of Master Planned Developments, the following shall apply:
 - a. Fences and walls may exceed maximum permitted height by up to two feet if they are part of an approved or required landscape buffer meeting the requirements of Chapter 11.
 - b. Fences or walls needed to provide extra security or safety may exceed maximum permitted height by up to two feet, with an additional 18 inches of barbed wire or other material upon approval by the Land Use Administrator.

C. *Special provisions for subdivision entrance features.*

- 1. Fences and walls used as decorative features at subdivision entrances may exceed maximum permitted heights by up to four feet upon approval by the Land Use Administrator. This measurement shall exclude decorative wall columns, which may extend a maximum of 12 inches beyond the top of the wall or 18 inches above the height of a wall framing an identification sign. Light fixtures may extend up to 42 inches above the height of the wall.
- 2. Entrance walls and landscaping shall be located within a designated easement, tract, or common area.
- 3. Wall jogs and spanned footer intervals shall be used, where possible, to avoid existing trees. Buffer width requirements may be waived to the extent necessary to protect the specimen trees.
- 4. The main entrance wall shall be landscaped in accordance with Chapter 11.
- 5. Only perimeter fences and walls may exceed maximum permitted height by up to two feet if they are part of an approved or required landscape buffer meeting the requirements of Chapter 11, or to address significant differences in grading between the subdivision or adjacent property.

- D. *Special provisions for fences and walls in the AGR Districts.* Fences used to contain farm animals or to separate crops relative to bona fide agricultural uses are exempt from this section.

4.01.03. *Garages, attached and detached.*

A. *General requirements.*

1. Enclosed garages shall be constructed in association with the construction of all detached single-family residential units, duplexes, and townhouses.
2. Garages shall not be converted into any other use, unless another garage is constructed in compliance with this Code.
3. Garage units for multifamily projects shall be provided for a minimum of one-third of the proposed multifamily units.
4. Garages shall not exceed ~~the 20 feet in height of the first story of the principal dwelling unit.~~
5. Carports shall be prohibited in all residential districts except for developments in the MHD District.

B. *Attached garages.*

- ~~1. Shall have a maximum depth of 30 feet.~~
21. Shall not exceed 50 percent of the total living area of the principal dwelling unit.

C. *Detached garages.*

1. Detached garages are permitted in all zoning districts; however, in the MHD District special exception approval is required.
2. ~~Shall not exceed 50 percent of the total living area of the principal dwelling unit. Detached garages shall have a maximum building footprint of 500 square feet.~~

D. *Garages in neotraditional developments.* For garage requirements in a neotraditional development, refer to Section 4.08.

4.01.04. *Generators, permanently installed.* The following standards shall apply to all permanently installed generators:

- A. Generators ~~are prohibited with~~ in the required front and street side yard ~~and prohibited in front of the front building line of the principal structure~~ shall be screened by either a fence or a vegetative screening.
- B. Generators may be operated for testing purposes one time per week, excluding Sundays, for a period not exceeding 30 minutes between the hours of 10:00 a.m. and 6:00 p.m.
- C. A maximum of one generator is allowed per single-family, duplex, or townhouse residential dwelling unit and one generator is allowed per multiple family building.
- D. Generators shall be set back a minimum of ten feet from the rear property line in all zoning districts.
- E. Generators shall be set back a minimum of three feet from the side interior property line(s) in all zoning districts, but shall not be located within an easement.

4.01.05. *Residential docking facilities along saltwater and freshwater canals (and intracoastal waterway, as applicable).*

A. *Prohibitions.*

1. Under no circumstances shall a vessel docked or moored off a residential docking facility be used as a live aboard watercraft.

2. Accessory structures and concrete decks are prohibited along a seawall or in the rear easements and setbacks of property along waterbodies.
- B. *General standards.*
1. *Drainage rights-of-way.*
 - a. Any groundcovers disturbed in the drainage rights-of-way during construction or maintenance activities shall be promptly replaced and properly maintained by the abutting property owner to prevent erosion.
 - b. Drainage rights-of-way shall not be filled in such a way as to reduce the cross-sectional area used for flow of stormwater.
 2. *Dredging and spoil management in saltwater canals.* Dredging activities shall be conducted by a qualified contractor and consistent with the applicable best management practices concerning dredging operations and performed only after approval by the Land Use Administrator. Dredging activities shall be accomplished in conformance with existing permits.
 3. *Safety.*
 - a. All structures and associated facilities shall be properly constructed and secured to prevent potential hazards from floating into the waterbody.
 - b. To eliminate potential waterbody contamination, all structures shall be constructed with materials that do not result in contamination.
 - c. The City shall require removal of derelict vessels and lifts consistent with City standards.
 4. *Roofs.*
 - a. Roofs over docks and lifts shall be a maximum height of 13 feet above seawall cap for saltwater canals and above the deck for freshwater canals.
 - b. Roofs shall be constructed with the same material and ~~of the same~~ color as the principal structure adjacent to the waterbody, with the exception that tile roofing is not required on a residential docking facility; however, the color shall still match the color of the principal structure.
 - c. All roofs shall be "Hip" style roofs.
 - d. All roofs shall be constructed with a minimum 4½:12 pitch.
 - e. For roofed structures on freshwater canals, the size of a roof shall not be greater than 12 feet by 14 feet and the roof overhang shall not exceed two feet.
 - f. The maximum length of roofs located over a dock slip, dock lift, or water on saltwater canals shall be 26 feet of dock roof for the first 60 feet of property frontage, plus four feet of roof length for every five feet of property frontage thereafter, not to exceed 46 feet. Roof length for property with a frontage less than 60 feet shall be determined by the Land Use Administrator on a case-by-case basis based on generally accepted planning practices.
- C. *Saltwater canal single-family residential docking facilities.*
1. *Placement of docking facilities.* The location of docks, lifts, and boathouses within the navigable waters of the City shall be determined on an individual basis, with visual impact, navigational use, and aesthetic quality of prime concern.
 2. *Single pilings.* Single pilings or "dolphins" are prohibited, except for installation alongside a seawall or bulkhead.
 3. *Setbacks and size.*

- a. The minimum setbacks from a projection of the side property line to the structure shall be a minimum of ten feet. Other setbacks may be considered by the Land Use Administrator based upon lot size, location, easements, existing structures, and navigation.
- b. The length of all docks, inclusive of all components, shall not exceed 65 percent of the property frontage along the canal. The size of the vessel and location of adjacent docks shall be considered to ensure that the vessel does not interfere in any manner with the navigation of ingress and egress. Setbacks may be increased or decreased for lots less than 60 feet in width or lots that have a storm drainage easement.
- c. Vessels shall be docked/moored parallel to the property line/seawall. Docks/moorings perpendicular to the property line/seawall are prohibited.
- d. Other than cantilevered safety walks, all dock walkways shall be no less than three feet or greater than six feet. The maximum width for docks, including boatlifts, shall be determined based on the width of the waterbody as described in Table 4-2. Dock width shall be measured at right angles from the boundary of the waterbody at the proposed structure location.

Table 4-2. Maximum Dock Widths for Saltwater Canals

Waterbody Width	Maximum Dock Width
Less than 100 feet	12 feet
100 feet or greater	16 feet

- 4. *Floating docks.*
 - a. Floating docks shall not exceed a length of 20 feet as measured parallel to the canal frontage.
 - b. Floating docks may be used in conjunction with permanent docking structures but must meet the criteria established herein.
 - 5. *Boatlifts within canal areas.*
 - a. All boatlifts, inclusive of all components, shall be mounted or installed within the 12 feet or 16 feet dimension allowed for structures in the waterbody.
 - b. Boatlifts on waterfront lots with dimensions less than 60 feet of water frontage or lots with unusual conditions are not allowed unless granted an administrative waiver by the Land Use Administrator. The location of easements, culvert pipes, and navigability are unusual conditions that may be considered.
 - 6. *Cantilever safety walk extensions.* Cantilever safety walk extensions may be approved by the Land Use Administrator based upon the following criteria:
 - a. The length of a cantilever safety walk extension shall be the minimum necessary to access the watercraft.
 - b. Cantilever safety walk extensions shall not extend more than 12 inches beyond a 12-foot boat slip or lift and pilings.
- D. *Freshwater canal residential docking facilities.*

1. Docks and decks over the waterbody shall meet the Florida Department of Environmental Protection minimum clearance requirements.
2. Structures shall not project into the waterbody more than eight feet from the shoreline at normal water level.
3. No permanent source of electrical power, water, telephone, gas, or other items requiring piping or cable shall be extended onto the drainage rights-of-way.
4. Floating docks are not permitted.
5. Roofed structures shall not contain enclosed sides including, but not limited to, solid material, screening, or clear plastic.

4.01.06. *Seawalls and revetments.*

- A. *Permit required.* A building permit shall be obtained prior to commencement of new construction and reconstruction or repair of seawalls and revetments. Seawalls and revetments shall be constructed in accordance with the following requirements.
- B. *Prevent soil erosion, runoff and debris.*
 1. Prior to construction of a seawall or revetment on undeveloped property, the following actions shall be taken to prevent soil erosion and protect the waterbody from runoff and debris:
 - a. Only the minimum area necessary for access and construction of the seawall or revetment and backfill shall be cleared.
 - b. A minimum 15-foot wide buffer of natural vegetation shall be preserved along each side lot line starting at a point ten feet from the waterfront.
 - c. Access to the waterfront shall be limited to an area no wider than 15 feet located in the interior of the lot.
 - d. A 30-foot wide buffer shall be preserved along all property lines abutting a street right-of-way except for the area cleared for the access point. Tree protecting barricades shall be erected around the perimeter of the buffer areas that are to remain.
 2. Prior to construction, reconstruction, or repair of a seawall or revetment, a floating turbidity barrier shall be installed to prevent siltation into the canal until the slopes are stabilized. The ends of returns and the backside of the seawall or revetment shall be sodded or stabilized with other appropriate vegetation a minimum of five feet from the edge of the structure, or stabilized with erosion control devices, to prevent siltation on adjacent properties or into the canal.
 3. Prior to the reconstruction or repair of existing seawalls and revetments, backfill shall be deposited behind the seawall in order to establish a swale not less than five feet from the seawall to collect any eroded material before it reaches the canal.
 - a. Construction and vegetative debris on the site shall be continually removed throughout the construction activities and when construction is complete.
 - b. When construction is complete, all cleared areas shall be sodded with native or water-conserving turf grasses. It shall be the responsibility of the lot owner to insure sodded areas are watered until established.
- C. *Violations.* It is prohibited and unlawful:
 1. To allow material to be deposited or to erode into any waterbody and fail to remove it.
 2. For a contractor to fail to backfill bulkheads within 30 days after construction or repair of the bulkhead.

- D. *Exceptions to violations.* The following are exceptions to the violations listed above:
1. Temporary waterbodies created to hold runoff water during construction.
 2. Special exceptions granted by the City on applications where sufficient reason and safeguards are shown to protect the public interest.
- E. *Vertical seawalls.* The following establishes criteria for construction, repair, and replacement of vertical seawalls in all saltwater canals in the City.
1. Vertical seawalls shall have reinforced concrete cap, with top of cap to be set at elevation two and one-half feet, North American Vertical Datum (NAVD 1988), above mean sea level (1929 NAVD) or match abutting existing caps. Cap height exposed face shall be 12 inches.
 2. Vertical seawalls shall be located at and along the property line common with the waterbody or approved otherwise by other agencies.
 3. The materials for all vertical seawalls shall be reinforced concrete or vinyl.
 4. Vertical seawalls shall be grey in color. No painted surfaces are permitted.
- F. *Landscape.* Any groundcover disturbed in the drainage rights-of-way during construction or maintenance activities shall be promptly replaced and properly maintained by the abutting property owner to stabilize the soil and prevent erosion.
- G. *Safety.* All structures and associated facilities shall be properly constructed and secured to prevent potential hazards from floating into the waterbody.

4.01.07. *Sheds, gazebos, and pergolas.*

- A. *Permitted locations and size.*
1. Only one shed, not to exceed 200 square feet, shall be allowed per lot.
 2. The shed, gazebo, or pergola shall not be located in front of the building line of the principal structure.
 3. A shed, gazebo, or pergola 100 square feet and less may be located up to five (5) feet from an abutting interior side or rear property line. A shed, gazebo, or pergola exceeding 100 square feet shall be set back at least ten feet from meet the rear property line setback and shall meet the interior side setback requirements of the district. However, sheds that do not exceed 100 square feet in size may be located up to five feet from the abutting interior side or rear property line. Any shed, gazebo, or pergola shall meet the street side setback, if applicable.
 4. In no event shall a shed, gazebo, or pergola, or any part thereof, be permitted within an easement or buffer.
- B. *Height.* The maximum building height for any shed, gazebo, or pergola shall be 12 feet.

4.01.08. *Swimming pools.*

- A. *General.*
1. Lights used to illuminate any swimming pool shall be arranged and shaded to reflect light away from adjoining properties.
 2. All swimming pools, hot tubs, and spas shall be enclosed by a permanent full screen enclosure or with a permanent wall or fence of a least four feet in height. Any solid roof covering for a swimming pool, hot tub, or spa shall adhere to the setbacks of the principal structure.
- B. *Setback requirements.*
1. Setbacks for pools with decks shall be measured from the outer edge of the pool deck.

2. Setbacks for pools without decks, including above-ground pools, shall be measured from the outer walls of the pool.

4.01.09. *Clotheslines.*

- A. All clotheslines must be located behind the dwelling and shielded as much as practical from view of any street.
- B. Outdoor revolving umbrella style or 'T' posts are acceptable.
- C. Attaching clotheslines to trees is prohibited.

4.01.10 *Playsets and Playhouses.*

A. *General.*

1. Playsets, playhouses, and similar uses shall be permissible as an accessory use in residential zoning districts and shall be located rearward of the rearmost façade of the principal structure.
2. Playsets, playhouses, and similar uses shall not include electrical or plumbing installations.

B. *Setbacks and Height.*

1. Playsets, playhouses, and similar uses 100 square feet or less may be located up to five (5) feet from an abutting interior side or rear property line. Playsets, playhouses, and similar uses exceeding 100 square feet in size shall meet the applicable setback requirements of the district. In all cases playsets, playhouses, and similar uses shall meet the street side setback, if applicable.
2. Playsets, playhouses, and similar uses shall not exceed 12 feet in height from finished grade.
3. In no event shall a playset or playhouse, or any part thereof, be permitted within an easement or buffer.

(Ord. No. 2009-26, §§ 14—25, 12-15-09; [Ord. No. 2015-08](#), § 3, 7-21-15; [Ord. No. 2015-16](#), § 2, 12-1-15)

Sec. 4.02. - Adult Entertainment and Sexually-Oriented Businesses.

4.02.01. *Applicability.* This section applies to businesses that provide entertainment or offer sexually-oriented material or activities as their primary or dominant theme and whose intended market is persons 18 years of age or older. Businesses that market sexually-oriented material include, but are not limited to, the following:

- A. Adult book and video stores.
- B. Adult motels.
- C. Adult performance establishments.
- D. Adult theaters.

4.02.02. *Compliance with City and State Law.* Adult entertainment and sexually-oriented businesses shall comply with Chapter 16, Article III in the City of Palm Coast Code of Ordinances and F.S. [ch. 847](#).

4.02.03. *Adult entertainment and sexually-oriented facility design standards.* Each adult entertainment establishment and sexually-oriented business licensed to operate in the City shall comply with the following standards in addition to the architectural standards set forth in Chapter 13 and all other applicable provisions of the Land Development Code:

- A. *Building design.*

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1. The building shall not exceed 3,000 square feet of gross floor area.
 2. The maximum building height shall be 35 feet.
 3. There shall be separate entrances for employees and customers, which shall be labeled as such. Both entries shall occur at the rear or back of the building rather than in front whenever practicable, as determined by the Land Use Administrator, based upon generally accepted land use principles and the configuration of the particular parcel.
 4. Off street parking shall comply with requirements in Chapter 5.
- B. *Signage.* Signs shall be subject to the requirements of Chapter 12.
- C. *Existing buildings.* Each adult entertainment establishment and sexually-oriented business desiring to locate in an existing building shall comply with all design standards requirements as set forth in this section.

Sec. 4.03. - Agricultural Uses.

4.03.01. *Bona fide agricultural uses.*

- A. *License required.* All bona fide agricultural uses shall obtain a license from the Department of Agriculture if required by law.
- B. *Odor; dust.* All agricultural uses shall be operated so no odor or dust producing substance or use, except in connection with cultivation of permitted uses, is conducted within 100 feet of the property line adjacent to a parcel or lot located within the SFR or MFR Districts.

4.03.02. *Equestrian uses.*

- A. *Number of horses.* A maximum of one mature animal and offspring less than one year of age shall be permitted per acre of property.
- B. *Riding facilities.*
1. No structure housing the animals shall be located any closer than 50 feet of the property line adjacent to any residentially zoned parcel. This perimeter setback shall be increased to 100 feet for riding arena facilities with outdoor lighting and seating.
 2. Riding trails may be permitted within any required buffer.

4.03.03. *Mining and soil extraction.*

A. *General requirements.*

1. Appropriate measures must be utilized to prevent fugitive dust from the excavation and haul truck traffic. All roads shall be maintained and free of sand and other related construction debris.
2. If applicable, St. Johns River Water Management District permits are required for dewatering or surface water discharge activities.
3. Perimeter buffering shall be utilized to limit visibility and noise of operation from adjacent land uses as appropriate, which may include fencing, earthen berms, existing vegetation, installed vegetation, or a combination thereof.
4. The City may set hours of operation to minimize adverse impacts to adjacent land uses so as not to produce a public nuisance. Excavation and haul traffic may only occur during daylight hours.
5. Appropriate fencing or security measures shall be provided to safeguard the site from unauthorized entry.
6. Reclamation of excavation sites shall resemble a natural system to the greatest extent feasible in accordance with federal and state requirements.

B. *Soil extraction.* For purposes of this section, soil extraction shall mean public or private commercial activities specifically undertaken for the primary purpose of excavating clean fill (i.e. clay, sand) from upland sites to be removed for the purpose of being utilized for an offsite project. This excludes installation of utilities, stormwater facilities, wetlands, and excavating, grading, filling, and moving of earth in conjunction with the installation of infrastructure to serve a subdivision or activities undertaken in conjunction with improvements approved as part of a development order. Soil extraction facilities shall demonstrate compliance with the following minimum setbacks measured from the edge of the excavation pit or area:

1. One hundred feet from the project perimeter and increased to 200 feet abutting any property zoned SFR, MFR, or MHD.
2. Minimum excavation setback of 25 feet, with an average setback width of 50 feet, from optimal wetlands; an average setback width of 25 feet, but no less than 15 feet from moderate and minimal wetlands; and a setback of 75 feet from a named wetland system, creek, river, saltwater canal, freshwater canal, or other open drainage feature or other surface water of the City.

C. *Mining.* For purposes of this section, mining operations shall include facilities that require a permit from the Florida Department of Environmental Protection, Bureau of Mining and Reclamation. Mining operations shall demonstrate compliance with the following requirements:

1. *Setback requirements.* Mining facilities shall include the following minimum setbacks measured from the edge of the excavation area:
 - a. Two hundred fifty feet from the project perimeter and increased to 500 feet abutting any property zoned SFR, MFR, or MHD.
 - b. Minimum excavation setback of 25 feet, with an average setback width of 50 feet, from optimal wetlands; an average setback width of 25 feet, but no less than 15 feet from moderate and minimal wetlands; and a setback of 75 feet from a named wetland system, creek, river, saltwater canal, freshwater canal, or other open drainage feature or other surface water of the City.
2. *Blasting.* No blasting shall be conducted within the City unless it can be demonstrated that said activity is being undertaken in a manner that in no way adversely affects the health, safety, and welfare of the residents and businesses within the City.

4.03.04. *Aviaries.* An aviary shall comply with all applicable state regulations. The following general requirements apply:

- A. Minimum setback from any residentially zoned property shall be 100 feet from the property line. Otherwise, the structure shall be located no closer than 50 feet from any property line.
- B. Reasonable precautions shall be taken to prevent an environment suitable for pathogens that cause public health hazards such as psittacosis, cryptococcosis, and histoplasmosis. Occurrence of any of the aforementioned illnesses to the property owner or an occupant of the property shall be reported by the property owner to the Flagler County Health Department.

Sec. 4.04. - Alcoholic Beverage Sales.

Refer to Chapter 7, Article I and Article II in the City of Palm Coast Code of Ordinances.

Sec. 4.05. - Cemeteries.

Within the zoning districts permitting cemeteries, the following regulations shall apply:

- A. No graves or burial lots/sites shall be located closer than 40 feet from all rights-of-way and no closer than ten feet from all other boundary lines of the subject property.
- B. Adequate means of ingress and egress for vehicles shall be provided within the site in order to provide an easy flow of traffic while funeral processions are entering or leaving the site.

Sec. 4.06. - Community Residential Homes and Recovery Residences.

4.06.01. Community residential homes shall meet the requirements of F.S. ch. 419.

4.06.02. Recovery Residences. Additional limitations specific to uses listed. No building or structure or part thereof shall be erected, altered or used, or land or water used, in whole or in part, for other than as a conditional use with approvals subject to the provisions of this ordinance:

Recovery residence.

A. Recovery residence in single-family zoning district, except as required by Chapter 419, Florida Statutes, only with the following characteristics:

1. In accordance with FS.Ch.419, the community residential home that is located less than 1000 linear feet from the closest existing community residential home or recovery residence. Distance is measured from the nearest lot line of the entire parcel of the proposed Recovery Residence to the nearest lot line of the entire parcel of the closest existing recovery residence; and/or
2. Would be occupied by no more than ten residents; and
3. Duplex Properties can only occupy one side of the residence; and
4. The operator or applicant has been granted all available licensing or certification by the State of Florida known as Florida Association of Recovery Residences (FARR) to operate the proposed recovery residence, and
5. A recovery residence that has been denied an license or certification by the State of Florida or had a license or certification suspended, or is denied recertification or renewal of its license is not allowed in the City of Palm Coast and must cease operation and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or its recertification was denied.

B. Recovery residence in multi-family zoning district. Except as required by Chapter 419 Florida Statutes only with the following characteristics:

1. In accordance with FS.Ch.419, the community residential home that is located less than 1200 linear feet from the closest existing community residential home or recovery residence. Distance is measured from the nearest lot line of the entire parcel of the proposed Recovery Residence to the nearest lot line of the entire parcel of the closest existing recovery residence; and
2. Would be occupied by up to 20 residents occupying a maximum of 3 contiguous dwelling units within the same multifamily complex; and
3. The operator or applicant has been granted all available licensing or certification by the State of Florida known as Florida Association of Recovery Residences (FARR) to operate the proposed recovery residence, and
4. The operator or applicant has been granted all available licensing or certifications by the State of Florida to operate the proposed Recovery Residence,
5. A recovery residence that has been denied a license or certification by the State of Florida or had a license or certification suspended, or is denied recertification or renewal of its license is not allowed in the City of Palm Coast and must cease operation and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or its recertification was denied.

C. Recovery Residence Procedure

The purpose of a reasonable accommodation request is to modify a specific City of Palm Coast requirement to ensure an individual with a disability and/or handicap have equal opportunity to use and enjoy a dwelling, building or structure, or to provide accessibility in another manner. This

policy implements the procedure of the City of Palm Coast, Florida ("City") for processing reasonable accommodation requests to its Code of Ordinances, Unified Land Development Regulations, rules, policies, and procedures for persons with disabilities and/or handicaps as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131 et seq.) ("ADA"). For purposes of this procedure, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled or a provider of services to the disabled qualifying for a reasonable accommodation may request a reasonable accommodation with respect to the City's Code of Ordinances, its land use or zoning laws, and/or rules, policies, practices and/or procedures, as provided by the FHA and the ADA pursuant to the procedures set forth herein.

1. Provide a Reasonable Accommodation application (see exhibit "A") including the following:
 - a. Certification from FARR showing the level of care approved.
 - b. Occupancy Permit including following:
 - i. A Dimensioned Life Safety Plan prepared in accordance with the Florida Fire Prevention Code and Life Safety Code.
 - ii. Proof of Insurance
 - iii. As per Section 397.487(6), Florida Statutes, a copy of the level 2 background screenings for all owners
2. Procedures for issuance. No Recovery Residence license shall be issued or granted unless:
 - a. An application is filed with the City of Palm Coast an Occupancy Care Home forms provided for that purpose, and
 - b. There has been a site inspection by the City of the applicant's premises, and
 - c. The planning and zoning division has reviewed and approved the zoning use classification, and
 - d. The City has verified compliance with all applicable laws and regulations, and
 - e. Payment of the recovery residence occupancy license fee, to be established by resolution of the City Council, shall be required prior to the issuance of the license, and
 - f. Obtain a City of Palm Coast Business Tax Receipt.
 - g. Obtain a certificate of occupancy and/or change of use prior to issuance of community residence or recovery community license. Any community residence or recovery community that is required to obtain a certificate of occupancy and/or change of use pursuant to the Code of Ordinances must do so prior to the issuance of a license.
 - h. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, the address of recovery residence. The recovery residence license shall be posted in a conspicuous place at or near the entrance inside the recovery residence so that it may be easily read at any time by an inspector.
3. Grounds for denial. The Director of the Department of Community Development or designee, as appropriate, shall have the authority to deny an application for a community residence or recovery community license on the following grounds:
 - a. That the applicant has failed to disclose or has misrepresented a material fact, or any information required in the application.
 - b. That the applicant is desiring to operate a recovery residence which does not comply with the City's Land Development Code.
 - c. That the applicant has failed to obtain a certificate of occupancy and/or change

of use, if required.

- d. That the certificate of occupancy or change of use for the proposed location has been denied, suspended, or revoked for any reason.
 - e. Applicant's noncompliance with specific provisions of federal, state, city or county ordinances, with respect to the specific use, and the applicant.
 - f. Fails to obtain said approvals prior to issuance of a license; or
 - g. Has violated such specific provisions.
 - h. The applicant has violated any provision of the Code of Ordinances or Land Development Code and has failed or refused to cease or correct the violation within (30) days after notification thereof.
 - i. The applicant failed to permit inspection by the City; or
 - j. Or as otherwise provided in the Code of Ordinances.
 - k. The operator or applicant has not been granted all available licensing or certification by the State of Florida.
4. Any person whose application has been denied as provided herein shall have the right to appeal to the City Manager explaining in detail the nature of the appeal and the grounds on which it is based. This written appeal must be received by the City Manager no later than three business days after the Director Community Development designee, determination.
 5. Any person whose application has been denied as provided herein shall have the right to appeal to the City Council explaining in detail the nature of the appeal and the grounds on which it is based. This written appeal must be received by the City Clerk no later than three business days after the City Managers written response.
 6. Any recovery residence shall permit officers or agents of the City of Palm Coast to inspect, from time to time on an occasional basis, the recovery residence for the purpose of ensuring compliance with all applicable regulations pertaining to recovery residences. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial, suspension, and/or revocation. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article, but not to authorize a harassing or excessive pattern of inspections.
 7. Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application or renewal.
 8. A licensee shall not transfer license to another, nor shall a licensee operate a recovery residence under the authority of a license at any place other than the address designated in the recovery residence license application.

D. Revocation.

1. The city shall revoke a recovery residence license if it determines that:
 - a. The license holder has failed to disclose or has misrepresented a material fact or information required by this article in the application;
 - b. The license holder does not operate in the manner described in the application or has changed the operation without authorization through approval of a new license;
 - c. The certificate of occupancy for the location has been denied, suspended or revoked for any reason;
 - d. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting at the direction or with the knowledge of the owner, operator, manager,

or supervisor, by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the facility operation;

- e. The license holder has violated any provision of or failed to maintain compliances with the City Code and has failed or refused to cease or correct the violation after notification thereof;
 - f. The holder of the license, or the holder's designated manager, operator, or supervisor, refuses to permit an authorized City inspector to inspect the premises during normal business hours for a regular inspection or for the purpose of investigating a complaint which has been filed against the operation.
 - g. The licensee has knowingly engaged in or allowed possession, use, or sale of controlled substances on the premises.
 - h. The operator or facility has been denied license or certification by the State of Florida, or license or certification is suspended, or is denied recertification or renewal of its license is not allowed in the City of Palm Coast and must cease operation and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or its recertification was denied.
2. Suspension and Revocation procedure. The procedure for suspension and revocation of a license shall be as follows:
- a. If at any time the City of Palm Coast determines that the recovery residence is operating in any manner in violation of federal, state, county or city law or harmful to the public health, safety or welfare the city may file a notice of violation, through the special master process in the manner provided for by F.S. Ch. 162, and Chapter 17 of the Code of Ordinances.
 - b. If a license is revoked the applicant(s) may not apply for another license until one (1) year from the date of the effective date of the revocation, unless the basis for the revocation has been corrected or abated.
 - c. If a license is suspended for a specific period of time, the license shall remain suspended until the basis for the suspension has been corrected and the suspension period has expired.

E. Non-conforming Use and Structures.

Any nonconforming use of a building or land may be continued subject to the following conditions and requirements:

Requirements for nonconforming recovery residences. A recovery residences located in the City of Palm Coast as of the date of adoption of this Ordinance that does not currently have all available licenses, certifications or recertification designated from the State of Florida within 9 months after the adoption of this Ordinance shall no longer constitute a legal nonconforming use and must cease operation by the date that is exactly 9 months after the adoption of this Ordinance or within 60 days of the date on which all available certification, recertification, or the required license is denied, whichever date comes first. Such a recovery residences must either return residents to their families or relocate them to safe, secure housing within 60 days of the date on which all available certification, recertification, charter, or license is denied or by the date that is exactly 9 months after the adoption of this Ordinance, whichever date comes first. The number of occupants of a Recovery residence may not exceed the maximum number allowed under this Code of Ordinance or the number authorized under the Recovery residence's state certification or license, whichever is less.

Sec. 4.07. - Convenience Stores with Fueling Stations.

4.07.01. *Special exception required.* In the COM-1 District, a special exception for the use is required in accordance with the procedure as outlined in Chapter 2 if subject property is within 500 feet of any residential property.

4.07.02. *Fueling positions limitations.*

- A. Within the COM-1 District, fueling stations are limited to a maximum of eight fueling positions.
- B. Within the COM-2 District, fueling stations are limited to a maximum of 24 fueling positions.

4.07.03. *Design and installation requirements.*

- A. All pump islands and canopies shall be set back a minimum distance of 20 feet from all perimeter property lines, but increased to 50 feet from property lines abutting areas zoned SFR, EST, MFR, and MHD.
- B. On-site circulation shall be designed to:
 - 1. Minimize conflicts between pedestrians and vehicles and between parked and moving vehicles;
 - 2. Facilitate movement by tanker trucks and the safe unloading of fuels; and
 - 3. When stacking lanes are required for car washes or drive-through facilities, stacking lanes shall be separated from parking areas and drives by using painted lines, pervious islands, landscaped islands, and/or decorative pavement.
- C. All fuel dispensers shall be set back a minimum of 24 feet from any other fuel dispenser located on parallel pump islands, as well as located a minimum of 20 feet from any other fuel dispensers located along the same line of vehicular flow. Such distance shall be measured from center of fuel dispenser to center of fuel dispenser.
- D. At least one-half of the required parking spaces shall be directly adjacent to the principal building.
- E. All gasoline tanks shall be installed underground. Upon the discontinuance of any gasoline pump island, the fuel storage tanks shall be removed.
- F. The maximum canopy clearance shall be 15 feet.
- G. The Land Use Administrator may allow a maximum of 50 percent of the fueling position spaces to count toward the number of required parking spaces.
- H. Lighting standards.
 - 1. Exterior lighting shall be the minimum necessary to provide security and safety as determined by the Land Use Administrator. No more than 2.0 foot-candles of light are permitted at any property line.
 - 2. Direct lighting sources shall be shielded or recessed. Light fixtures under a canopy shall be flush mounted. Lights shall not be mounted on the top or sides of the canopy. Drop type fixtures are prohibited.
 - 3. The sides of the canopies shall not be illuminated, unless the illumination is part of a permitted sign.

4.07.04. *Accessory restaurant.*

- A. A restaurant accessory to a convenience store shall be allowed as long as it does not exceed 30 percent of the gross floor area of the convenience store.
- B. Parking for the restaurant shall be subject to the shared parking facilities requirements contained in Chapter 5.
- C. An accessory restaurant with drive-through shall be subject to the drive-through facilities requirements contained in Section [4-095.04.11](#).

Sec. 4.08. - Development Options.

4.08.01. *Cluster residential developments.*

- A. *Purpose and intent.* The purpose of clustering or grouping residential buildings and associated permitted accessory structures is to encourage the most efficient and cost effective use of land and public facilities. In order for the cluster development option to be approved, the site plan must be shown to:
1. Provide a significant amount of the site for protected open space;
 2. Protect environmentally sensitive areas of a development site and permanently preserve open space, historical, cultural, or other significant buildings, and/or land and natural features;
 3. Encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography;
 4. Decrease or minimize nonpoint pollution impacts by reducing the amount of impervious surfaces in site development;
 5. Promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets, and by utilizing the site's natural drainage patterns; and
 6. Provide opportunities for social interaction and walking and bicycling in contiguous open space areas.
- B. *Applicability and general provisions.*
1. A residential cluster development is optional and shall be permitted as of right in any residential zoning district, except in the Agriculture, Multifamily, and Mobile Home Districts.
 2. All principal and accessory uses authorized in the applicable residential zoning district(s) shall be allowed in a cluster development.
- C. *Specific provisions.* The following provisions shall apply to any residential cluster development, regardless of the general requirements of the applicable residential zoning district:
1. *Dimensional requirements.*
 - a. *Minimum size.* Minimum gross size of a cluster development shall be five acres.
 - b. *Width.* The minimum lot width shall conform to the requirements for the SFR-1 District.
 - c. *Setbacks.* The minimum setbacks shall conform to the requirements of the SFR-1 District.
 - d. *Height.* The height of buildings shall be a maximum 35 feet.
 - e. *Impervious surface ratio.* The maximum impervious surface ratio is 0.75.
 2. *Perimeter buffer.* A minimum 20-foot buffer shall be located between the cluster development and any existing residential zoning district with the exception of an adjacent residential zoning district having the same density and height.
 3. *Open space.*
 - a. At a minimum, 40 percent of gross acreage of the site shall be conveyed as common open space. However, when calculating the open space, the land area devoted to public or private vehicular streets shall not be included.
 - b. Open space areas shall be designated as "cluster open space" and shall indicate whether public or private on the plat.
 - c. The appropriateness of accessory structures will be reviewed by the Land Use Administrator and considered in terms of their enhancement of the cluster open space.

- d. Accessibility to open space. The usability of cluster open space intended for recreation or public use shall be determined by whether it is contiguous and by the size, shape, topographic, and location requirements of the particular purpose proposed for the open space. Cluster open space shall be easily accessible to trail users including, but not limited to, elderly and handicapped persons, be integrated to form unbroken trail linkages between uses within the subdivision, and take advantage of opportunities to establish off-site linkages to nearby land uses, sidewalks, bikeways, and greenways.
- e. Preservation of open space. Open space shall be preserved in perpetuity by use of conservation easements, deed restriction, or other means acceptable to the City.

4.08.02. *Duplex residential developments.* Duplex dwelling units under single ownership may be converted so that each unit can be owned separately utilizing one of the following processes:

- A. Duplex structures may be converted to the condominium form of ownership upon approval by the Land Use Administrator. Condominium association documents shall be provided that include ownership and maintenance of common areas and utility facilities.
- B. Duplex sites may be subdivided into two separate lots in accordance with Chapter 2 review procedures as long as the individual lots meet the dimensional standards of the district.

4.08.03. *Manufactured/mobile home parks.*

A. *General requirements.*

- 1. *Minimum size of park; permitted location.* A manufactured home park shall have a minimum of two and one-half acres. Manufactured home parks will only be permitted in the MHD District.
- 2. *Plans and specifications required.* Complete plans and specifications of all manufactured/mobile home parks shall be submitted to the Land Use Administrator.

B. *Development criteria.*

- 1. *Setbacks.* No manufactured/mobile home or attached structure shall be located closer than 25 feet to the property lines of the manufactured home park or a public right-of-way. Requirements for each manufactured/mobile home space are as follows:
 - a. Front yard required—Minimum of 20 feet.
 - b. Side yard required—Minimum of five feet.
 - c. Rear yard required—Minimum of 15 feet.
- 2. *Private streets.* No manufactured/mobile home in a park shall be allowed direct access to a public street. All lots in a manufactured home park must have access from a private street that shall comply with regulations established in Chapter 5.
- 3. *Buffering.* A manufactured/mobile home park shall comply with Type "A" Buffer Design Standards established in Chapter 11.
- 4. *Recreational area required.* Manufactured home parks with ten or more units shall retain an area of not less than five percent of the gross site area devoted to recreational facilities provided in an area accessible to all property owners.
- 5. *Utilities.* Each manufactured home shall be independently served by separate electric, gas, and other utility services.
- 6. *Off-street parking.* A minimum of one off-street parking space shall be required for each manufactured home.
- 7. *Fences.* If the manufactured/mobile home park management allows fences for individual lots, these fences shall comply with regulations established in Section 4.01.

8. *Storage of recreational vehicles.* Storage of recreational vehicles, boats, and boat trailers shall be allowed only on sites reserved for such storage within the manufactured/mobile home park.

9. Residential Manufactured buildings meeting the requirements of Chapter 553 of Florida Statutes shall be permitted within a manufactured/mobile home park or subdivision.

4.08.04. *Multifamily residential buildings.* The following standards apply to multifamily buildings:

- A. Multifamily buildings shall be setback a minimum distance of five feet from vehicular use area.
- B. There shall be a minimum distance of ten feet between buildings.

4.08.05. *Multiuse buildings.* Multiuse buildings allow residential living quarters within the same buildings as offices or retail establishments, are permitted in the OFC-1, OFC-2, COM-1, COM-2, and MPD Districts, and require special exception approval in the COM-3 District. The following standards apply to multiuse buildings:

- A. Nonresidential uses shall be located on the first floor of the building and residential units shall be located above the nonresidential use.
- B. The mixture of nonresidential and residential uses within the multiuse building shall be designed to minimize, to the greatest extent practicable, the potential detrimental influence of nonresidential uses on the residential uses including, but not limited to, the location of entranceways and the use of soundproofing materials to minimize noise intervention between uses.

4.08.06. *Neotraditional development.*

A. *Purpose and intent.* The purpose of a neotraditional development is to provide areas for detached single-family dwellings, duplexes, townhouses, and accessory uses in medium density neighborhoods featuring traditional design concepts and architectural themes. Features may include front porches, reduced setbacks, detached garages, alleyway access, narrower rights-of-ways, and shared parks and open spaces readily accessible to pedestrians and bicyclists. In order for the neotraditional development option to be approved, the site plan must be shown to:

1. Encourage walking and bicycling to reduce the need for local automobile trips by providing trails, bike paths, and other forms of walkable interconnectivity within and to adjacent uses.
2. Establish a specific neighborhood identity that shall consist of an overall architectural theme. Architectural themes may consist of, but not be limited to, the following:
 - a. Florida vernacular.
 - b. Cape cod.
 - c. Mediterranean.
3. Preserve natural features and scenic areas and provide a range of residential and open space land uses within close proximity to one another within the neighborhood.
4. Promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets.

B. *Applicability and general provisions.* A neotraditional development is optional and shall be permitted as a right in any residential zoning district, except in the Estate, Agriculture, and Mobile Home Districts. All principal and accessory uses authorized in the applicable residential zoning district(s) shall be allowed in a neotraditional development.

C. *Specific provisions.*

1. *Dimensional requirements.*
 - a. *Minimum size.* Minimum gross size of a neotraditional development shall be five acres.

- b. *Width and depth.* No minimum width or depth of a lot shall apply except where abutting a development with lower density, in which case the widths/depths shall conform as closely as possible to the abutting development.
 - c. *Setbacks.* No minimum setbacks shall apply; however, each lot shall conform as closely as possible to the setbacks established for the underlying zoning district and allow for parking and accessory structure requirements.
 - d. *Height.* The height of buildings shall be in accordance with that of the underlying zoning district.
 - e. *Impervious surface ratio.* A higher ISR shall be allowed, if determined appropriate by the Land Use Administrator; however, each lot shall conform as closely as possible to the ISR established for the underlying zoning district.
 - f. *Backyard area.* Each residential dwelling unit shall have a backyard, or courtyard area.
2. *Single-family residential unit requirements.*
- a. Single-family residential units, inclusive of required porches, shall be constructed along the front setback line.
 - b. Single-family units shall have an attached front porch oriented with a minimum width of 12 feet and a minimum depth of six feet.
3. *Garages.*
- a. Garages shall be separated from the main dwelling unit by a minimum distance of 12 feet, with the exception of a connecting breezeway, with a maximum width of four feet. Other than the breezeway, the garage and main dwelling unit shall be detached structures.
 - b. Garages shall have a maximum building footprint of 500 square feet and a maximum height of 24 feet.
 - c. Garage doors shall be oriented for access from a rear alley or a side street may provide an alternative access for corner lots.
4. *Vehicular and pedestrian access.*
- a. Sidewalks or pedestrian paths, bicycle paths, or bicycle lanes and vehicular streets shall connect all uses.
 - b. A minimum of 80 percent of all streets shall connect at both ends to other streets at an intersection.
 - c. All paths or trails including, but not limited to, bicycle paths or lanes, shall interconnect to form a continuous network throughout the site and to paths or trails linked to adjacent neighborhoods.
 - d. Vehicular gates are prohibited on all streets, except alleys serving residential uses.
5. *Neighborhood parks.*
- a. Neighborhood parks shall be located and distributed so that 100 percent of all dwelling units are located within 1,320 linear feet from a park or other recreation area.
 - b. The minimum pervious area of a park shall be 50 percent.
 - c. For pedestrian access, a minimum of 25 percent of an activity-based neighborhood park perimeter shall abut a street, excluding alley.
6. *On-street parking.*
- a. On-street parallel parking shall be required on the local residential streets.

- b. Parallel parking spaces shall have a minimum length of 23 feet and a minimum width of ten feet.
- c. Each parking space shall be clearly delineated by pavement striping per City standards.
- d. Between every five parallel parking spaces, a vehicular use area island shall be required per City standards.
- e. Parallel parking spaces shall be located no closer than 28 feet from the last stall to the intersection.

4.08.07. *Townhouse residential developments.* The following standards apply to townhouse buildings:

- A. A minimum of three attached units and a maximum of eight attached units per building are permissible.
- B. If rear alleyway access is provided, it is permissible to construct attached garages and detached garages that meet the standards of the neotraditional development option (refer to Section 4.08). In these cases, the rear setback may be decreased to five feet.

Sec. 4.09 - Reserved.

Editor's note— Ord. No. 2018-21, § 2, adopted Oct. 2, 2018, repealed § 4.09 which pertained to drive-through facilities, and derived from Ord. No. 2009-26, § 26, adopted Dec. 15, 2009. See § 5.04.11 for similar provisions.

Sec. 4.10. - Educational Facilities, Private.

A. *Setbacks.* The front, rear, and side yard setbacks shall be the same as those required for the specific district, except that when adjacent to a residential land use or zoning district there shall be a 20-foot minimum building setback.

B. *Off-street parking and loading—School bus and vehicular drop-off facilities.* Facilities must be provided for off-street bus and private vehicle loading and unloading of students. Use of the street right-of-way may be allowed if a license agreement is executed with the City.

Sec. 4.11. - Garage and Yard Sales.

Refer to Chapter 16, Article V in the City of Palm Coast Code of Ordinances.

Sec. 4.12. - Home ~~Occupations-based Businesses.~~

~~4.12.01. *Purpose and intent.* The purpose and intent of the home occupation regulations is to reasonably allow for a home to be used as a "doing business address" for low impact business activities from the home while ensuring that they are limited and controlled so they do not negatively impact the residential areas where they are located. Home occupations are limited by performance standards, requirements, and prohibitions. Procedures related to applications, evaluations, approvals, inspections, and revocations provide controls to ensure the home occupations do not adversely impact surrounding properties. The purpose and intent of this section is to provide regulations for home-based businesses that are consistent with all provisions of F.S. § 559.955, as may be amended. The provisions of F.S. § 559.955 are incorporated into this section as if fully laid out herein, may be enforced pursuant to the City's Code of Ordinances: Chapter 2 - Article V and shall prevail in the event of a conflict with this section.~~

~~4.12.02. *Classifications.* Home occupations are categorized into three classes as follows: Home-based Business Criteria. A home-based business must operate, in whole or in part, from a residential property and must meet the below criteria:~~

- A. ~~Employees. The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent~~

contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling. Class 1 Home Occupations are limited, in-home business offices that are indistinguishable from activities associated with any typical office employee bringing home work outside of regular business hours. Class 1 Home Occupations utilize a single room in the residence where information-oriented business activities are limited to paperwork, computer, mail, telephone, and filing. Although home storage of a single vehicle used for business purposes is acceptable, Class 1 Home Occupations do not allow for on-site storage of any inventory, trailers, or mechanical equipment used for home-occupation activities.

- B. *Parking and storage.* Class 2- Class 2 Occupations are in-home business offices that have the potential to create some impacts beyond Class 1 activities due to limited on-site storage of material, inventory, chemicals, work vehicles, trailers, equipment, limited product assembly, or business-related traffic from customers or deliveries. Businesses among those typically classified as Class 2 Home Occupations include offices for subcontractors or lawn services where work vehicles, equipment, and/or trailers are stored at the home. Pool cleaning services are also included if chemicals are stored at the home. Other examples include arts and crafts businesses, such as stained glass or candle making, and other businesses that involve light assembly.

1. Parking and/or storage shall comply with all the residential property requirements of the Land Development Code based on the underlying zoning district; and
2. The need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. No more than two dedicated parking spaces for the home-based business are permitted; and
3. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence; and
4. Not create noise, vibration, glare, fumes, odors, dust, or smoke that is detectable to the normal senses at the lot line or beyond the exterior of any common walls; and
5. No heavy equipment, as defined in F.S. 559.955(3)(b) shall be visibly stored on the property as viewed from either the street or a neighboring property.

- C. *Use of Premises.* Class 3- Class 3 Home Occupations are in-home business offices that have the potential to create some impacts beyond Class 2 activities due to increases of on-site storage of material, inventory, work vehicles, trailers, equipment, or business-related traffic from customers or deliveries. Class 3 Home Occupations are permitted on large, estate-sized residential properties, including farmland, where ample buffering prevents impacts to surrounding properties. Examples of Class 3 Home Occupations are small family businesses, such as horse boarding and riding stable operations. Other examples include plant nurseries or vegetable growing operations with limited sales to the public.

1. As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property; and
2. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood; and
3. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property; and
4. The activities of the home-based business are secondary to the property's use as a residential dwelling.

- D. *Compliance with other laws, rules, and regulations.*

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1. The business activities shall comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted; and
2. All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted; and
3. Use of the residential property for a home-based business must comply with all other applicable regulations for the zoning district.

E. *Exceptions.* This section does not supersede, amend or modify the following:

1. Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720; and
2. Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

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~~4.12.03. Performance standards, requirements, and prohibitions.~~

~~A. Home occupation requirements. All home occupations (Class 1, 2, and 3) shall:~~

- ~~1. Be completely subordinate to the residential nature of the home; and~~
- ~~2. Not change the structural form of the home; and~~
- ~~3. Not create noise, vibration, glare, fumes, odors, dust, or smoke that is detectable to the normal senses at the lot line or beyond the exterior of any common walls; and~~
- ~~4. Not use equipment which creates off-site line voltage fluctuations or visual or audible interference with off-site radio or television receivers; and~~
- ~~5. Not adversely affect public safety through the storage or generation of explosive, flammable, or hazardous materials in quantities which could constitute a neighborhood danger based on the required submittal of MSDS sheets or the determination of the City Fire Marshal; and~~
- ~~6. The applicant shall be the primary resident of the home.~~

~~B. Prohibited home occupations. The following uses are prohibited home occupations; however, this list is not all inclusive and other home occupations may be prohibited by the Land Use Administrator based upon the character and similarity of use, with the determination being subject to appeal as set forth in Chapter 2:~~

- ~~1. Food preparation.~~
- ~~2. Kennels and veterinary clinics.~~
- ~~3. Funeral homes.~~
- ~~4. Dance or exercise studios.~~
- ~~5. Beauty or barbershops.~~
- ~~6. Vehicle repair or sales.~~
- ~~7. Animal raising.~~

8.—Medical/dental offices or clinics.

C.—*Performance Standards.* Class 1, 2, and 3 Home Occupations are limited in accordance with the following performance standards. These limitations apply to business activities at the home related to the home occupation and are not intended to regulate business activities that occur outside of the home. Table 4-4 describes the performance standard limitations.

Table 4-4: Performance Standard Limitations for Home Occupations

Category	Home Component	Class 1	Class 2	Class 3
Traffic Generation	Customers	None permitted.	Maximum of one per week.	Maximum of ten per week.
	Deliveries	Maximum of one per week.	Maximum of two per week.	Maximum of ten per week.
	Employees—Either working out of the home or convening at the home at any time.	Limited to residents of the home. No outside employees are permitted to visit the home for business-related purposes.	Limited to residents of the home. No outside employees are permitted to visit the home for business-related purposes.	Limited to residents of the home plus a maximum of two outside employees who are not residents of the home.
	Other business trips	Maximum of two round trips per day.	Maximum of six round trips per day.	Maximum of the ten round trips per day.
Business Area and Storage	Office space	Maximum of one room.	Maximum of one room in primary residence; or business may be located in separate ancillary on-site building.	Up to 35 percent of gross floor area of primary residence; or business may be located in separate, ancillary on-site building.
	Storage of inventory/equipment	None permitted.	All inventory and equipment must be stored inside. A maximum of one single-car stall of a garage area may be utilized. An on-site storage shed or the office may be used instead of the garage stall.	All inventory and equipment must be stored inside. Full garage area or ancillary on-site building may be utilized.
	Storage of chemicals	Limited to common household items, such as bleach or ammonia-based cleaning products, stored in a single closet. MSDS sheets not warranted.	All chemicals must be stored inside. A maximum of one single-car stall of a garage area may be utilized. An on-site storage shed may be used instead of the garage stall. MSDS sheets required. Fire extinguisher required.	All chemicals must be stored inside. Full garage area or ancillary on-site building may be utilized. MSDS sheets required. A fire extinguisher is required.

Vehicles and Trailers	Vehicle number and type	Maximum of one sedan, SUV, or pickup truck for business	Maximum of one sedan, SUV, or pickup truck for business	Maximum of two vehicles for business.
	Vehicle dimensions	Maximum height—seven ft. Maximum length—20 ft.	Maximum height—seven and one-half ft. Maximum length—22 ft.	Maximum height—eight ft. Maximum length—22 ft.
	Exterior ladders and pipe racks	None permitted.	None permitted if vehicle stored outside of garage.	Permitted.
	Gross vehicle weight	Maximum 8,500 lbs.	Maximum 10,500 lbs.	Maximum 20,000 lbs.
	Trailers	None permitted.	Maximum of one stored in garage.	Maximum of two. May be stored outside if fully screened from public right-of-way and neighboring properties.
Solid Waste Generation	Quantity	Maximum of one 22-gallon residential waste container per week.	Maximum of two 22-gallon residential waste containers per week.	Maximum of four 22-gallon residential waste containers per week.
	Hazardous	None may be disposed of at home.	None may be disposed of at home.	None may be disposed of at home.
Repair and Manufacturing	Repair and manufacturing	None permitted.	Limited minor repair or manufacturing activities are permitted as well as arts and crafts, hobbies, and high tech custom/precision assembly only.	Limited repair or manufacturing activities permitted. Machinery may be operated only in short bursts (defined as no longer than ten minutes per hour with cumulative maximum not to exceed one hour per day).
Signage	On-site	None permitted.	None permitted, although licensee may display license if required by the state.	Maximum of one sign not illuminated, limited to six square feet in size.
	On-vehicle(s)	Any vehicle with signage not removable signage must be parked in the garage at all times.	Any vehicle with signage not removable must be parked in the garage at all times.	Permitted.

Advertising	Advertising (includes, but not limited to, telephone directories, newspapers, print media, logos, stationery, and business cards)	Post office box number only and not a street address (unless otherwise required by state law).	Post office box number only and not a street address (unless otherwise required by state law).	May use home address.
Visibility	Visibility from right-of-way and neighboring properties	The home occupation shall not be visible to neighbors. No products display or any aspect of the operation shall be visible outside the dwelling unit.	The home occupation shall not be visible to neighbors. No products display or any aspect of the operation shall be visible outside the dwelling unit.	Except for the sign permitted above, the home occupation shall not be visible to neighbors. Other outdoor activities or operations shall be fully screened from neighboring properties.

4.12.0403. ~~Home-based Business occupation application, evaluation, and approval procedures.~~

~~A. Application. Applications for home-based businesses shall follow the same procedures for acquiring a business tax receipt as outlined in the City's Code of Ordinances: Chapter 16 – Article II – Local Business Tax Receipts and occupation approvals shall be filed on a form provided by the City. The Land Use Administrator may request additional information to ensure that all application materials are sufficient to review the request.~~

~~B. Evaluation procedures to classify a home occupation.~~

- ~~1. The Land Use Administrator shall determine the classification of the home occupation upon reviewing the application, and determine whether a special exception is required.~~
- ~~2. Depending upon specific impacts and the nature of the operation, the same type of business may be classified differently. For example, a landscape business where all materials, equipment, and trailer are stored offsite may qualify as a Class 1 Home Occupation. A landscape business, where the materials, equipment, and trailer are stored in the home's garage may qualify as a Class 2 Home Occupation. If the landscape business also includes a small plant nursery, it may qualify as a Class 3 Home Occupation.~~

~~C. Approval procedures.~~

- ~~1. Permitted home occupations (not a special exceptions)~~
 - ~~a. A development order for a home occupation shall be granted by the Land Use Administrator for permitted home occupations that meet the requirements of this section and do not require a special exception.~~
 - ~~b. The Land Use Administrator may add special conditions to the development order for a home occupation related to the operation of the business to ensure compliance with this Code.~~
 - ~~c. With regard to Class 2 and Class 3 home occupation development orders, the City shall notify the owners (as listed with the Flagler County Property Appraiser) of the lots immediately abutting the lot and immediately across a road right of way from the licensed lot.~~
- ~~2. Home occupation special exceptions~~

~~a. Home occupation special exceptions shall be noticed and advertised in accordance with Chapter 2 and reviewed by the Planning and Land Development Regulation Board at a public hearing. The Planning and Land Development Regulation Board decision shall be based on the proposed home occupation's adherence to the following standards and criteria:~~

~~(1) A proposed special exception for a Class 3 Home Occupation shall comply with the majority of the Class 2 Home Occupation performance standards. A proposed special exception for a Class 2 Home Occupation shall comply with the majority of the Class 1 Home Occupation performance standards. Further, the application shall be evaluated on the applicant's ability to moderate, lessen, or mitigate for those areas where they cannot meet the Class 1 or Class 2 Home Occupation performance standards to ensure that neighboring properties will not be adversely impacted.~~

~~(2) Additional special exception criteria found in Chapter 2 may be used to evaluate a proposed home occupation, if applicable.~~

~~b. The Planning and Land Development Regulation Board may add conditions related to the unique operational characteristics of the home occupation to ensure compliance with the regulations contained in this Code. The Land Use Administrator shall incorporate these conditions into the development order for the home occupation.~~

~~3. **Development order.** A development order for the home occupation is required for the home-based business. The issuance of a business tax receipt does not imply approval of the home-based business.~~

4.12.0504. *Inspection and revocation.*

A. *Inspections.* A home ~~occupation-based business~~ inspection may be conducted by the City following the issuance of a development order for a home ~~occupation-based business~~ for any home occupation.

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B. *Violations and revocation.*

1. The Code Enforcement Board shall determine violations, fines, or penalties for violations of this Code relating to home ~~occupations-based businesses~~. Such violations shall be treated as an unpermitted use within the zoning classification. The Code Enforcement Board shall have the authority to revoke development orders for home ~~occupations-based businesses~~.

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~~2. The Planning and Land Development Regulation Board shall have the authority to revoke a special exception for a home occupation.~~

Sec. 4.13. - Houses of Worship/Religious Institutions, Civic Clubs/Fraternal Organizations, and Nonprofit Organizations.

Houses of worship/religious institutions civic clubs/fraternal organizations, and nonprofit organizations shall be allowed as specified in Table 3-4. The following conditions shall apply to these uses:

4.13.01. *Master plan for long range development.* When submitting an application to expand an existing or construct a new house of worship/religious institution, a master plan for long-range development shall be submitted, including future plans for accessory uses such as educational facilities, gymnasiums, or similar facilities.

4.13.02. *Size limitations in the COM-1 District.* Within the COM-1 District, new or expanded houses of worship/religious institutions, civic clubs/fraternal organizations, and nonprofit organizations shall not exceed 30,000 square feet of gross floor area.

Sec. 4.14. - Industrial Uses.

4.14.01. *Industrial use classifications.*

A. *Heavy Industrial (IND-2) uses.* Heavy industrial uses shall include any facility that meets at least one of the following criteria:

1. Emits 500 pounds or more per year of lead or lead compounds; or
2. Emits 100 tons per year or more of any one regulated pollutant (PM10; nitrogen oxides; sulfur dioxide; carbon monoxide; volatile organic compounds; and lead) subject to regulation under F.S. [ch. 403](#); or
3. Emits ten tons or more per year of any one hazardous air pollutant (HAP) as defined by Chapter 62-210, Florida Administrative Code; or
4. Emits 25 tons or more per year of any combination of hazardous air pollutants as defined by Chapter 62-210, Florida Administrative Code; or
5. The facility would require a major source Title V air permit as required by the requirements under F.S. [ch. 403](#); or
6. Bulk storage of hazardous or regulated chemicals in ~~access-excess~~ of 25,000 gallons (excluding diesel and unleaded gasoline fueling facilities exclusively utilized for fueling of vehicles, public water/wastewater treatment and emergency generators); or
7. Large quantity generators of hazardous waste as regulated under Chapter 62-730, Florida Administrative Code; or
8. The following industrial uses are presumed to be considered heavy industrial based upon the above criteria: air curtain incinerators; asphalt plants; concrete batch plants; fabrication facilities (involving open air grit blasting or open air painting); phosphate/nitrate fertilizer manufacturing facilities; fiberglass products manufacturing facilities; explosive storage and or manufacturing facilities; biohazardous waste incinerator, pesticide formulation facilities; scrap yard/shredding facilities; soil remediation facilities; bulk solvent chemical storage and or processing facilities; paint/ink manufacturing facilities; secondary metals recovery or manufacturing facilities; chrome plating facilities; asbestos products fabricators; manufacturer, livestock importing/exporting facilities; and those uses listed in the IND-2 District outlined in Chapter 3, Table 3-4.

This list is not all-inclusive and other uses may be considered heavy industrial based upon the above criteria as determined by the Land Use Administrator.

B. *Light Industrial (IND-1) uses.* All other manufacturing, processing, and assembly activities not meeting one of the heavy industrial criteria listed in this Code shall be presumed to be light industrial, including those uses listed in the IND-1 District outlined in Chapter 3, Table 3-4.

C. *Approvals; permitting.* Approvals, permits, or other forms of written assurances from appropriate federal, state, or local agencies that the use is likely to meet or exceed the specified standards for dust emissions, water consumption, air quality, hazardous, and regulated waste management set forth in Chapter 10 shall be considered competent and substantial presumptive evidence that the use complies with these zoning performance standards for permitting.

4.14.02. *Industrial use performance standards.* Manufacturing, processing, and assembly operations shall meet the following performance standards. Proof of compliance shall be provided stating that all required permits for particular discharges can and will be met. All necessary environmental permits shall be obtained. Table 4-5 depicts the required performance standards for heavy industrial and light industrial and warehousing uses:

Table 4-5: Performance Standards for Industrial Uses

	Light Industrial & Warehousing (IND 1)	Heavy Industrial (IND 2)	Application Requirements

Lighting	Lighting shall be in accordance with Chapter 9 of the LDC	Lighting shall be in accordance with Chapter 9 of the LDC	Detail lighting plan
Sound Measured from property line	Residential: 60 dBA (7AM—10PM)	Residential: 60 dBA (7AM—10PM)	Statement of compliance
	Residential: 60 dBA (10PM—7AM)	Residential: 60 dBA (10PM—7AM)	
	Commercial: 65 dBA (7AM—10PM)	Commercial: 65 dBA (7AM—10PM)	
	Commercial: 60 dBA (10PM—7AM)	Commercial: 60 dBA (10PM—7AM)	
	Industrial: 75 dBA (7AM—10PM)	Industrial: 75 dBA (7AM—10PM)	
	Industrial: 75 dBA (10PM—7AM)	Industrial: 75 dBA (10PM—7AM)	
Water Consumption	Consumptive Use Permit specifically approved by SJRWMD	Consumptive Use Permit specifically approved by SJRWMD	SJRWMP CUP permit submittal
Hazardous/Regulated Waste Management	New Large Quantity Generators of hazardous waste as regulated under Chapter 62-730, F.A.C., as amended are prohibited	All hazardous waste generators shall comply with State and Federal regulations	List of potential waste generated and anticipated amounts.
	New chemical containment areas to provide appropriate secondary containment	New chemical containment areas to provide appropriate secondary containment	Statement of compliance
	BMPs developed to prevent potential discharges of regulated substances	BMPs developed to prevent potential discharges of regulated substances	Submittal of BMP plan.
Electrical/Electromagnetic Interference	Use shall not cause, create or contribute Electrical/Electromagnetic Interference to adjacent properties	Use shall not cause, create or contribute Electrical/Electromagnetic Interference to adjacent properties	Statement of compliance

Air Quality	General Title V or non-Title V	Major Source Title V Permit under F.S. ch. 403 as amended	FDEP permit submittal
	Emits < 500 pounds per year of lead or lead compounds	Emits > 500 pounds per year of lead or lead compounds	FDEP Annual Operating Reports/Permits
	Emits < 100 tons per year of any regulated pollutant	Emits > 100 tons per year of any regulated pollutant	FDEP Annual Operating Reports/Permits
	Emits < 10 tons per year of any one HAP	Emits > 10 tons per year of any one HAP	FDEP Annual Operating Reports/Permits
	Emits < 25 tons of any combination of HAPs	Emits > 25 tons of any combination of HAPs	FDEP Annual Operating Reports/Permits
	BMPs to control dust	BMPs to control dust	
	Airborne discharges shall be minimized so as not to cause or contribute to an objectionable odor to adjacent residential areas	Airborne discharges shall be minimized so as not to cause or contribute to an objectionable odor to adjacent residential districts	Statement of compliance
	Regulated Pollutants shall meet federal and State air quality standards	Regulated Pollutants shall meet federal and State air quality standards	FDEP Annual Operating Reports/Permits/Monitoring
Storage of Hazardous or Regulated Chemicals	< 25,000 gallons permissible	Storage of Hazardous or Regulated Chemicals permissible	FDEP Registration/Inventory; Submittal of SPCC Plan
Fire Prevention Standards	Fire suppression devices shall be installed in accordance with City requirements	Fire suppression devices shall be installed in accordance with City requirements	Site plan and description of fire prevention measures with Fire Marshal/City approval
New Septic Systems	Not permissible	Not permissible	NA
Radioactive Materials	Fixed nuclear density gauges with sources exceeding 50 mCi prohibited	Fixed nuclear density gauges permissible	BRC radioactive material license and protection plan submittal
	Source material other than medical applications uses prohibited	Source material with BRC approval	BRC approval and documentation of RSO and authorized user

Note:

Regulated pollutants = shall consist of PM10, nitrogen oxides, sulfur dioxide, carbon monoxide, volatile organic compounds, lead.

HAP (Hazardous air pollutant) = As defined by Chapter 62-210 F.A.C. as amended.

BRC = Bureau of Radiation Control

RSO = Radiation Safety Officer

Sound = The standards set forth shall not apply to emergency warning devices, lawn care equipment, or construction operations.

Storage of Hazardous or Regulated Chemicals = Aboveground and underground storage tanks regulated by FDEP and utilized for vehicular purposes are permitted in IND-1 and IND-2.

Sec. 4.15. - Nonresidential Controlling Master Site Developments.

4.15.01. *Purpose and intent.* The purpose and intent of this section is to provide standards for a nonresidential controlling master site development. The standards will ensure internal consistency and compatibility with the character of the surrounding neighborhood. Elements of compatibility include the fundamental development pattern of the surrounding neighborhood, predominant building type, and features of site design, scale, and dimensions.

4.15.02. *Applicability.* Nonresidential controlling master site developments and large-scale commercial centers shall comply with the requirements of this section. Such developments shall be planned as a unit and at a minimum, include the following:

- A. Shared parking and driveways.
- B. Master stormwater facilities.
- C. Master drainage system.
- D. Pedestrian and vehicular connectivity between sites, structures, and uses.
- E. Owners association.
- F. Applicable to moderate and major development.

4.15.03. *Development standards.* In addition to the development requirements set forth in this Code, the following requirements apply to nonresidential controlling master site developments:

- A. *Building setbacks.*
 - 1. Buildings and ancillary structures within a nonresidential controlling master site development are encouraged to be constructed up to the interior lot line provided a plat has been recorded.
 - 2. Reserved.
 - 3. Setbacks shall be measured from project exterior boundary.
- B. *Parking lot orientation.* No more than 60 percent of the off-street parking area for the entire property shall be located between the principal building(s) and the street unless the principal building(s) and/or parking lots are screened from view by abutting development (within outparcels) and additional tree plantings and/or berms.
- C. *Pedestrian access.*
 - 1. Continuous internal pedestrian walkways, no less than five feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity

such as, but not limited to, taxi stands, street crossings, building, and store entry points and shall feature adjoining landscaped areas that include trees, shrubs, benches, flowerbeds, groundcovers, or other such materials for no less than 50 percent of their length.

2. Sidewalks, no less than five feet in width, shall be provided along the full length of each building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least six feet from the facade of each building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
3. Internal pedestrian walkways shall provide weather protection features such as awnings or porticos within ten feet of all customer entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas.
4. All internal pedestrian walkways shall be distinguished from driving surfaces using durable, low-maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.

D. *Public amenities.* A nonresidential controlling master site development shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:

1. Patio or seating area.
2. Pedestrian plaza with benches.
3. Transportation center.
4. Window shopping walkways.
5. Outdoor play area.
6. Kiosk area.
7. Water feature.
8. Clock tower.
9. Steeple.
10. Other such focal features or amenities that, in the judgment of the Land Use Administrator based on generally accepted planning principles adequately enhance such community and public spaces.

Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

E. *Outdoor storage, trash collection, and loading areas.*

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.
2. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or internal pedestrian way.
3. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping. This is to ensure that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.

4. Areas not enclosed for the storage and sale of seasonal inventory shall be permanently defined and screened with walls or fences. Materials, colors, and designs of screening walls or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.

5. Temporary sales/displays, such as Christmas trees, landscape materials, and fireworks, shall follow all requirements as outlined in this Code.

F. *Architecture.* All nonresidential controlling master site developments shall comply with architectural standards established in Chapter 13. In addition, the applicant shall provide, upon request, alternative designs or prototypes in addition to any typical corporate prototype. Alternative designs shall be provided to reflect the local character of the surrounding areas. Design templates may include, but not be limited to, Art Deco, Mediterranean, Main Street, and Green Design.

4.15.04. *Wall signage.* Signs shall be consistent and complementary in style, color, and materials to the style, color, and materials of the principal structure. Refer to Chapter 12 for sign requirements.

4.15.05. *Maintenance of property; abandonment.* During any period of vacancy following relocation of the business and prior to reuse, the vacant building shall meet the following standards:

- A. All exterior surfaces shall be maintained and in good repair.
- B. The exterior walls shall be maintained free from holes, rotting materials, and graffiti.
- C. Roofs and buildings shall be maintained in structurally sound, safe, and weather tight conditions.
- D. Window glass shall be in place and maintained in a safe and weather tight condition.
- E. The grounds shall be maintained and free of trash, stored materials, inoperative or unlicensed vehicles, and equipment.
- F. Accessory structures, such as fences, walls, signs, accessory buildings, or other physical improvements, shall be maintained in a safe condition and free of graffiti.
- G. Outdoor sales may be permitted on a case-by-case basis in accordance with this chapter.
- H. Outdoor security lighting shall be maintained and operated.
- I. Landscaping shall be watered, pruned, and weeded as necessary.

(Ord. No. 2009-26, §§ 27—30, 12-15-09)

Editor's note— Ord. No. 2009-26, § 27, adopted December 15, 2009, changed the title of Section 4.15 from "Large-scale commercial center" to "Nonresidential controlling master site developments."

Sec. 4.16. - Marinas.

4.16.01. *General.* Except as expressly set forth in this section, no application shall be approved by the Land Use Administrator and a permit issued unless the application conforms to the requirements of this Code, and the application fees have been paid.

4.16.02. *Applicability.* When permitted as an accessory use, the marina shall be accessory to a developed use on any waterway within the district. Marinas shall be allowed as specified in Table 3-2 and Table 3-4 and subject to the following standards:

- A. *Compliance with federal and state laws.* All marina facilities shall comply with all applicable federal and state laws, rules, and regulations including, but not limited to, the requirements and permits of the Florida Department of Environmental Protection, St. Johns River Water Management

District, and the Army Corps of Engineers. Verification that all necessary permits and/or required studies have been obtained shall be submitted to the City prior to commencing construction activities.

- B. *Live aboard watercraft prohibited.* Under no circumstances shall a vessel docked or moored off the pier at a noncommercial marina be used as a live aboard watercraft.

4.16.03. *Permit required.* Any person or entity must be issued a marina facility permit before operating a marina facility within the City.

- A. Marina facility permit applications shall be considered and acted upon by the Land Use Administrator and, if applicable, the Planning and Land Development Regulation Board, subject to the terms and conditions of this Code. Marina facility permits, when approved, shall be approved in the form of a development order which may be subject to such terms and conditions as the Planning and Land Development Regulation Board or Land Use Administrator may deem appropriate consistent with the provisions of this Code. Except as provided in this section, no person may cause, suffer, or allow construction of a marina facility without first obtaining a permit from the City. Except as provided in this Code, and after issuance of a permit or permit amendment to the marina facility, no person may cause, suffer, or allow the operation of a marina facility without first obtaining from City staff a final inspection and authorization to begin operation of the marina facility as described in this Code.
- B. Except as otherwise expressly stated in this Code, any person who is required by this Code to obtain a marina facility permit or permit amendment shall demonstrate compliance with the performance standards set out in this Code.
- C. A person who already has a permit for a marina facility may commence emergency reconstruction of damaged marina facilities without first obtaining a permit amendment from the City, provided that written notice of the commencement of reconstruction activities is provided to the City within 72 hours of commencement of reconstruction. Within 30 working days of commencement of reconstruction, the marina facility owner shall submit an application for a marina facility permit amendment.

4.16.04. *Review authority.*

- A. *Application submittal.* An application for a marina facility permit may be submitted on a form provided by the City and shall include such information as the Land Use Administrator may determine necessary.
- B. *Land use administrator.* The Land Use Administrator shall perform the technical review for all marina facilities and shall have the authority to approve issuance of development orders for all noncommercial marina facilities.
- C. *Planning and land development regulation board.* The Planning and Land Development Regulation Board shall receive recommendations from the Land Use Administrator for commercial marina facilities. The Planning and Land Development Regulation Board shall have the authority to approve issuance of development orders for all commercial marinas.

4.16.05. *Location and configuration.*

A. *General location standards.*

1. No marina facility shall be permitted to be located or configured to extend into navigable waters of the City to such a distance that it would constitute a navigation hazard or a flood control hindrance or would unreasonably infringe upon public legal use of and access to the water surface.
2. Marina facilities shall not be so located or configured in such a way as to potentially displace boating traffic into shallow areas.
3. In accordance with the City's wetland protection regulations and through avoidance and minimization strategies, proposed marina facilities shall demonstrate that impacts to wetlands have been avoided and/or minimized to the maximum extent practicable.

4. A marina facility site may be approved only when the applicant has demonstrated that the location has adequate depths to accommodate the proposed watercraft use. All marina facilities access shall be through existing channels or through areas greater than three feet in water depth at mean low water. If existing channel or through areas contain less than three feet of low mean water depth and dredging is required, the applicant must demonstrate that the initial dredging operations are necessary and measures were taken to avoid and minimize, to the extent practical, negative impacts to environmental resources of the City including, but not limited to, water quality, threatened and endangered species, fish, and wildlife habitat. The issuance of permits to the applicant from the Army Corps of Engineers and the St. Johns River Water Management District or Department of Environmental Protection shall satisfy the requirements of this provision.
- B. *Setback requirements.* Marina facilities shall include the following minimum setbacks for structures located over or on the water surface and related facilities:
1. *Adjoining properties.* A 50-foot setback shall be established from the riparian property line of adjoining waterfront properties for marina facilities located on the Intracoastal Waterway. A 25-foot setback shall be established for other navigable waters of the City.
 2. *Public water supply wells.* No commercial marina facility or marine service station shall be located within 500 feet of an existing public water supply well that is licensed and operated in accordance with all applicable law.
 3. *Designated swim areas.* No marina facility structure shall be located on or over the water surface within 100 feet from any existing City designated swim area.
 4. *Residentially designated property.* No commercial marina building or structures, or marine service station, shall be located within 100 feet of a residential property line, unless otherwise specified within this section of the Code.
- C. *Property ownership.*
1. Marinas shall be located on and over the navigable waters of the City that are owned, leased, or otherwise controlled by the applicant, or marina owner, or operator and shall not materially and significantly interfere with established legal rights and privileges of an adjoining property owner including, but not limited to, those conveyed through covenants, deed restrictions, easements, court judgments, or other legally binding documents.
 2. The applicant or marina facility owner or operator shall provide the name and address of the owner of the lot or parcel including, but not limited to, that portion of the lot or parcel under the water surface. The applicant shall provide, at a minimum, the following documentation:
 - a. An affidavit, in a form prescribed by the City, stating that the applicant owns, leases, or otherwise controls the lot or parcel over which the marina will be located.
 - b. If the applicant, or marina facility owner or operator, and the property owner are different individuals or entities, documentation, such as a lease, easement, or other deed-recorded instrument, supporting applicant's claim that the applicant has the authority from the property owner to locate the marina on or over the lot or parcel.
 - c. Other documentation, if required by the City, to demonstrate ownership or control, which may include a title opinion from an attorney or a title insurance commitment, if such ownership or control is questioned. Any such title opinion shall state that the attorney has reviewed the chain of title or other appropriate documents and finds that, in the attorney's professional opinion, the applicant is the owner or has the legal right to construct a marina facility on or over the lot or parcel in question.
 3. Dock or slips associated with a noncommercial marina facility shall only be sold, leased, used, or otherwise conveyed to residents of the residential development associated with the noncommercial marina. Deed restrictions acceptable to the Land Use Administrator, shall be required to ensure that residents will be subject to restrictions prohibiting residents from improperly using any dock slips or the marina facility and further obligating the residents

observance of all rules and policies established by this Code. Deed restrictions shall require that the marina facility be private and that ownership of the marina facility slips, at a minimum, be restricted to residents. Applicable deed restrictions shall require language that prohibits any rental of dock slips by the residents to the public at large. Unit owners may lease their slip(s) to tenants or other unit owners.

4. Docks or slips as an accessory use in the SFR, DPX, EST, AGR, and MPD zoning districts shall not be sold, leased, used, or otherwise conveyed to anyone other than the owner of the lot, parcel, or tract. If the dwelling unit is leased or rented, the dwelling unit is required to be registered with the City in which the dock or slip is automatically included as part of the registered dwelling unit as the dock or slip is an accessory use to the dwelling. Owners of the dwelling unit shall be held responsible for any vessel moored, docked, and/or stored at the dock or slip.

4.16.06. *Protection of water quality.*

A. *Water exchange and flushing action.* The following requirements apply to all marina facilities:

1. Site and design the marina facility such that wind and currents will aid in flushing of the site or renew its water regularly.
2. Site and design the marina facility such that the bottom of the marina facility and the entrance channel are not deeper than adjacent navigable water unless it can be demonstrated that it will not negatively impact flushing and water quality standards.
3. Design marina facilities with as few segments as possible to promote circulation within the basin.
4. Design and locate entrance channels to promote flushing.
5. Establish two openings, where appropriate, at opposite ends of the marina facility to promote flow through currents; provided, however, that when the establishment of two openings is not practical, as determined by the Land Use Administrator, and adequate flushing action is demonstrated to the Land Use Administrator for the proposed number of slips, two openings shall not be required.
6. Consider other design alternatives in poorly flushed waterbodies (e.g. open marina basin over semi-enclosed design) to enhance flushing.
7. Land surface drainage patterns shall be designed with swales, contours, shallow depressions, or other acceptable water retention and treatment standards, to minimize direct runoff in surface waters.
8. The dredging of new channels to provide marine facility access to a site may be permitted if an applicant can demonstrate to the Land Use Administrator that such activities will improve or maintain surface water quality and flushing and will not cause a safety hindrance to navigation.

B. *Dredging and spoil management.*

1. An applicant must provide a description of the measures taken to avoid and minimize impacts to submerged aquatic vegetation. Submerged aquatic vegetation means shoal grass, paddle grass, star grass, Johnson's seagrass, sago pondweed, clasping-leaved pondweed, widgeon grass, manatee grass, and turtle grass. Appropriate location and complementary design of the dock facility may be necessary to protect shoreline and aquatic vegetation. Mitigation shall be consistent with federal and state regulations.
2. Dredging activities shall be conducted by a qualified contractor familiar with the applicable best management practices concerning dredging operations. All dredging activities shall obtain all necessary permits from the Florida Department of Environmental Protection, the St. Johns River Water Management District, and the Army Corps of Engineers or any other agency with applicable jurisdiction.

3. As part of the application for marina facilities, a dredging maintenance plan shall be submitted to the City. The plan shall describe best management practices, projected amount of dredge materials, and spoil disposal. The plan shall describe anticipated maintenance dredging activities and anticipated maintenance dredging intervals.
4. Dredging shall be prohibited in those special and Outstanding Florida Waters as provided for by the state unless specifically authorized by the Florida Department of Environmental Protection, the St. Johns River Water Management District, or the Army Corps of Engineers.
5. Dredge spoil shall be disposed of in upland areas as approved by applicable federal, state, and local agencies.
6. Designed engineering controls shall be utilized for marina facilities parallel to the Intracoastal Waterway to minimize maintenance dredging unless it can be clearly demonstrated to the Land Use Administrator that the proposed marina facility will not require excessive maintenance dredging. For the purposes of this Code, excessive maintenance dredging means maintaining adequate water depth at the marina facility by the use of maintenance dredging more than one time in a one-year period. In lieu of requiring engineering controls, the owner or applicant may require the utilization of shallow drafting boats. For the purposes of this Code, shallow drafting boats are designed and approved to draft less than two feet of water.

C. *Erosion, shoaling, and shoreline stabilization.*

1. Applicants proposing a marina facility must address existing and future erosion or shoaling in the proposed design. Each development order will have a general condition, which requires the applicant or owner to utilize appropriate erosion control practices and to correct any current or future adverse erosion or shoaling problems.
2. To help prevent shoreline erosion, facilities adjacent to the Intracoastal Waterway shall stabilize the shoreline through the construction of a coquina rock revetment or other suitable material running the length of the shoreline. The revetment work shall occur above the mean high waterline. If necessary, submerged bulkheads shall be installed parallel to the Intracoastal Waterway to alleviate shoreline erosion and prevent excessive shoaling.

4.16.07. *Design of marina facilities.*

A. *Dimensional standards.*

1. The width of a marina facility, inclusive of all structures, shall not exceed 75 percent of the width of the owner's waterfront property line. Newly created shoreline associated with internal basins may be fully developed with marina facilities provided additional marina facilities are not developed in areas along the Intracoastal Waterway abutting a newly created internal basin. Existing vegetative and environmental features of the area immediately abutting the Intracoastal Waterway shall be preserved to the greatest extent feasible in accordance with the City's tree preservation regulations.
2. Total dock surface area shall not exceed ten square feet per linear foot of the applicant's waterfront property line. Calculations for dock surface area shall include gazebos, access walkways, platforms, catwalks, and other associated water-dependant structures. This standard may be increased to 12.5 square feet per linear foot of the owner's waterfront property line if it can be demonstrated to the Land Use Administrator that the additional coverage results in an improved structural or safety design without adverse environmental impacts.
3. Marina facility structures shall not extend further waterward from the edge of the Federal channel of the Intracoastal Waterway than as permitted by the Army Corps of Engineers or other relevant regulatory authority.
4. Walkways shall be constructed above the water level at all times and shall be structurally sound. Main walkway widths shall be a minimum of four feet wide. If significant pedestrian traffic is likely, the width shall be a minimum of six feet. Finger walkways shall be a minimum

of three feet wide. Specific areas shall be designated and constructed to ensure handicap accessibility. Where practicable, dock and decking design and construction shall ensure penetration of light sufficient to support existing shallow water habitats.

5. No marina facility structure shall, at any time, extend to a height of more than 20 feet above the mean high water line. Boathouses within a marina facility shall not exceed 13 feet above the top of adjacent bulkhead or revetment and shall not exceed 18 feet above mean sea level (1929 NGVD).
6. Proposed marina facilities and associated structures shall be constructed in a visually pleasing manner as determined by the Land Use Administrator based upon generally accepted planning principles with the existing terrain and vegetation. Structures shall obstruct as little as reasonably practical scenic views from the shoreline or other navigable waters of the City. Long unbroken extensions of line shall be avoided by alleviating long monotonous structures through architectural design and by separating watercraft slips. A 15-foot no slip buffer shall be required for every 20 watercraft slips.
7. Architectural design shall consider pedestrian access to the shoreline area of the Intracoastal Waterway. Design standards shall include, but are not limited to, step-ways as well as the incorporation of raised spans in the dock design.
8. Boathouses within a marina facility shall utilize "hip" roofs and shall not be enclosed or contain walls. All marina facilities that include slips shall be consistent by either having all slips that contain boathouses or no slips that contain boathouses. Roofs for boathouses shall be of the same material and color. Roofs for any purpose other than for a boathouse or slip, excluding gazebo type structures, may be permitted by the Land Use Administrator using the same criteria as applicable for variances.
9. Fairways shall accommodate a minimum fairway width of one time the length of the longest boat slip.
10. Channel entrances and the channel leading to a marina facility shall provide safety and ease of passage and to promote flushing. Exclusive of any docks or berths, channels and channel entrances shall be at least 40 feet wide or four times the beam of the widest watercraft berthed in the marina facility unless an adequate channel traffic control program is provided.

B. Vehicular watercraft launching ramps.

1. Vehicular launching ramps shall be properly placed and designed to ensure minimal impact on aquatic and terrestrial resources.
2. Vehicular launching ramp slopes shall be designed and constructed between 12 and 16 percent above the waterline and 15 to 20 percent below the waterline at mean high water.
3. If practical, launching ramps shall be paved to approximately five feet below the extreme low tide and contain a gravel shelf at the end of the ramp.
4. For safety purposes, a pier or similar structure shall be provided adjacent to the ramp for boarding and holding a boat while launching. If feasible, piers or similar structure should be provided on both sides of the ramp.
5. To provide adequate traction for vehicles, the surface of the ramp shall be scored or patterned. Deep grooves in concrete should be perpendicular to the slope of the ramp to provide adequate traction for vehicular traction.
6. Ramps shall be adequately maintained and kept free of algae growth and siltration.
7. Adequate safety lighting and appropriate warning signs are required.

C. Safety design standards and certification.

1. All marina facilities shall be designed and maintained in such a manner as to ensure public safety.

2. Fire suppression devices and other associated firefighting facilities shall be installed. Accommodations shall be made and approved by the Land Use Administrator to provide appropriate accessibility for firefighting response teams. Marina facilities shall be constructed in such a manner that would not increase the risk of fire to nearby residential dwellings or that would reasonably be deemed to cause an increase in fire insurance premiums of nearby structures.
3. All permit and permit amendment applications for construction or modification or expansion of a marina facility must contain a signed certification from a professional engineer or architect authorized to do business in the state of Florida. The certification must state that the civil, structural, electrical, mechanical, plumbing, and other associated systems of the marina facility are designed to ensure public safety and comply with the most recent editions of the following codes: Florida Building Code, National Electrical Code, Fire Prevention Code, and National Fire Protection Association.
4. Upon completion of construction, expansion, or modification of a marina facility, the applicant shall submit follow-up certifications (as-builts) signed by the engineer, architect, and/or master electrician stating that the construction, expansion, or modification was completed in accordance with above-referenced publications and plans submitted to and approved by the City.
5. With respect to the electrical requirements only, in lieu of an engineer's certification, a master electrician may design and certify the electrical installations and systems of a marina facility as complying with the most recent editions of the National Electrical Code.

4.16.08. *Performance standards.* All marina facilities shall be designed, constructed, and operated to protect the natural resources of the City and prevent wastewater and other pollutants from entering water. Except as otherwise expressly stated in this Code, any person who is required to obtain a marina facility permit or permit amendment shall demonstrate compliance with the performance standards set out in this section.

A. *Natural resource analysis statement.*

1. *All marina facilities.* An applicant for a marina facility permit shall prepare and submit as part of the application a natural resource analysis statement, which shall describe the following specific impacts listed below and further identify those best management practices that will be implemented by the applicant to minimize potential environmental impacts. The applicant shall use the results of the natural resource analysis statement to design and operate the marina facility with the least amount of environmental impact reasonably achievable. The applicant is encouraged to consider for inclusion those best management practices listed below after each specific impact, but may include alternative best management practices that are comparable to those listed.
 - a. Solid waste collection and disposal.
 - b. Litter and debris collection and disposal.
 - c. Watercraft cleaning.
 - d. Source pollution control.
2. *Noncommercial marinas.* An applicant for a noncommercial marina permit shall prepare and submit as part of the application, a natural resource analysis statement, which shall describe the following specific impacts listed below and further identify those best management practices that will be implemented by the applicant to minimize such impacts:
 - a. Watercraft sewage management.
 - b. Hazardous material storage.
3. *Commercial marinas.* An applicant for a commercial marina permit shall prepare and submit as part of the application, a natural resource analysis statement, which shall describe the following specific impacts listed below and further identify those best management practices

that will be implemented by the applicant to minimize such impacts. Upon two years following application approval and construction, a commercial marina shall pursue a "Clean Marina" designation from the Department of Environmental Protection, Clean Marina Program.

- a. Watercraft sewage management.
 - b. Hazardous material storage and pollution prevention.
- B. *Threatened and endangered species.* All marina facilities shall comply with all applicable laws, rules, regulations, and Ordinances that relate to the protection of endangered or threatened species or species of special concern or which otherwise protect fish and wildlife.
- C. *Dockmaster.* All commercial marina facilities shall provide for a dockmaster. All noncommercial marina facilities that include greater than 40 slips shall provide for a dockmaster. The purpose of the dockmaster is to oversee the proper usage of the facility and to ensure compliance with the applicable provisions and requirements of this section.
- D. *Marine service station.* Marine service stations shall be permissible in commercial marinas in compliance with the following provisions:
1. All construction, components, and operational maintenance standards of marine service station fuel systems shall comply with all federal, state, and local regulations and be constructed in a manner to avoid spills. If a spill occurs, it shall be promptly reported in accordance with all federal, state, and local requirements.
 2. Provide fueling stations with spill containment equipment, adequate supply of absorbent materials, and other necessary equipment to clean up any minor spills that may occur.
 3. Promote the use of oil-absorbing materials in the bilge areas of all watercraft with inboard engines. Encourage the examination of these materials at least once a year and replace as necessary. Provide receptacles to recycle materials, if possible, or dispose of them in accordance with all applicable disposal laws, rules, and ordinances.
- E. *Risk management for marina facilities.*
1. *Fire hazards.* No activity shall be conducted, and no materials will be stored of such a nature, or in such a manner, so as to constitute a fire hazard. When an activity is being conducted which could constitute a fire hazard, it shall be the responsibility of the party involved to have proper fire protection on the site as determined by the City Fire Marshal.
 2. *Hurricane contingency plan.* Marina facilities shall prepare and make available a hurricane contingency plan, which shall include those methods to be taken to secure property and facilities at a marina facility. Commercial marinas shall provide educational materials that include procedures for securing of watercraft for those who own or rent space at the commercial marina.
 3. *Lighting.* Marina facilities shall be continuously lighted from sunset to sunrise and during periods of restricted visibility.
 - a. The minimum safety lighting shall adequately define the presence of all structures located on or over the water surface.
 - b. When possible, lighting shall be so located and configured or shielded so as not to present a hazard to navigation and to minimize ambient light pollution.
 - c. Marina facility lighting shall be wired with a photo-electric cell-operated switch so that the lights will automatically operate.
 - d. All watercraft proceeding within the marina confines shall be at "idle speed - no wake", meaning a very slow speed whereby the wake or wash created by the watercraft would be minimal, and shall adhere to any limits related to manatee protection areas.
 - e. Personal throwable flotation devices shall be readily available on the marina facility at intervals of every 100 feet at the marina facility. Ladders shall be installed in appropriate

locations and intervals to provide emergency access to the surface water within a marina facility.

F. *Prohibited acts.*

1. It is prohibited and unlawful for a watercraft to transmit stray electrical current. Compliance with this requirement will be deemed satisfied when the electrical resistance is more than 1,000 ohms as measured between the water adjacent to the watercraft and all of the three alternating current conductors at the dock end of the shore power cord. This cord, at the time of measurement, must be connected to the watercraft's alternating current terminals. The watercraft's alternating current circuit shall be switched to the "on" position and connected as for normal dockside operation.
2. If a watercraft is found by a certified electrical contractor or a certified marina electrical contractor to be producing stray current, notice shall be given to the owner and a reasonable amount of time provided to correct the problem. Notwithstanding the foregoing, the marina owner or operator or the dockmaster shall have the authority to disconnect the watercraft from shore power immediately if the level of stray current being produced poses a real and immediate threat to personal safety or the rapid corrosion of the watercraft and/or its neighboring watercraft/structures. If the watercraft is unplugged upon discovery of the stray current, every effort will be made to promptly notify the watercraft's owner as to the action taken. The dockmaster, however, shall assume no liability whatsoever for any losses or damage suffered from the denial of shore power to a watercraft producing stray current. If the problem is not corrected in a reasonable amount of time, the dockmaster will have the right to disconnect the watercraft from shore power until corrective action is taken. If the licensee reconnects the watercraft without being fixed, for any other purpose than stray-current testing, the dockmaster may deny use of shore power. Continued reconnection to shore power, if the watercraft's ground fault has not been corrected, may result in the cancellation of the berth license agreement. Shore power cords shall be of the three wire type including a functioning ground wire with insulation types SO, ST or STO and with a wire thickness in accordance with all applicable building and safety codes. Cords that are found to be a significant hazard to personal safety shall be unplugged immediately.
3. It is prohibited and unlawful to carry, store, or transfer either gasoline or diesel onto any dock of any marina facility, except for less than 25 gallons of premixed outboard motor fuel. All other fueling shall be accomplished at a marina service station or other appropriate location.
4. It is prohibited and unlawful for an owner, operator, or person in command of any watercraft to operate or allow such watercraft to be operated within a marina facility at a speed in excess of posted limits, or in any reckless or negligent manner. Watercraft operators and owners shall be responsible for any damage or injury produced by their creation of an excessive wake within a marina facility.
5. It is prohibited and unlawful to tie up, moor, or operate a watercraft in a marina facility area in such a manner as will prevent or obstruct the passage of other watercrafts or voluntarily or carelessly sink any watercraft in any channel, or float loose timbers, logs, or piles in any channel in such a manner as to obstruct, impede, or create a menace to navigation.
6. It is prohibited and unlawful to swim, dive, water-ski, or skin dive within a marina area; provided, however, that a person may dive or skin dive for the purpose of bona fide scientific research, inspection of the marina or a watercraft, maintenance of a watercraft, or making of emergency repairs on any watercraft.
7. Live-aboard watercraft is prohibited and unlawful in a noncommercial marina facility.
8. It is prohibited and unlawful to discharge any human waste whatsoever, or any substance or material deleterious to fish, plant, or bird life from a watercraft except in a lawful manner. Waste of any nature may only be disposed of in accordance with law and it is prohibited and unlawful to dispose of waste in any manner contrary to law or in a manner that could

reasonably result in adverse impact to natural resources or the public health, safety, or welfare.

9. It is prohibited and unlawful to allow a person to perform any work on, or provide any service to any licensee or watercraft within a marina for which such person receives a fee, compensation, or any other thing of value, unless such person has first paid the City's local business tax.
10. It is prohibited and unlawful to conduct any activity that endangers any endangered or threatened species or species of special concern or to threaten, harass, or endanger wildlife in a manner inconsistent with the provisions of federal and state law, regulations, or ordinances.

G. *Abandoned, derelict, and hazardous structures.*

1. No abandoned, derelict, or hazardous marina structures shall be allowed upon navigable waters of the City or shores of the City. Marina facility structures that are likely to damage private or public property or become a hazard to navigation shall not be permissible.
2. The owner, homeowners association, or other legal authority responsible for the marina facility shall be responsible for providing maintenance and repairs of the marina facility and associated structures. Structures that are found to be hazardous to the public health safety, and welfare or damaging to environmental resources, are subject to being removed following written notification by the City.
3. Refer to Palm Coast Code section entitled "Abandoned or Derelict Vessels."

4.16.09. *Inspections.*

- A. *Right of entry.* Authorized agents, firefighting personnel, law enforcement officers, or employees of the City shall have the right to enter at all reasonable times in or upon any property, whether public or private, for the purpose of inspecting and investigating conditions relating to construction, modification, or operation of a marina facility or existing marina facility. The City shall not enter private property having management in residence without first notifying the management, or the person in charge at the time of the inspection, of their presence and exhibiting proper credentials. Authorized City employees shall observe the rules of the establishment being inspected concerning safety and fire protection. Nothing in this section, however, shall preclude a law enforcement officer from entering the property without notice to investigate suspected criminal activity as might otherwise be allowed under the laws of the State of Florida.
- B. *Final inspection.* When a development order for a marina facility is issued in accordance with the requirements of this Code and upon completion of construction activities, the City will complete a final inspection of a marina facility to ensure that it is in compliance with all applicable regulations and construction standards, and is consistent with approved construction plans prior to operation. The following items shall be provided to the City prior to initiating a final inspection:
 1. Four copies of as-builts;
 2. Auto Cad format as-builts provided on a compact disc;
 3. All original testing reports;
 4. All federal, state, and other applicable permits or clearance letters; and
 5. Certificate of completion from the engineer stating that the marina facility has been constructed per his/her signed and sealed construction plans.

4.16.10. *Exemptions.* The following are exempt from the provisions of Section 4.16:

- A. Docks as an accessory use to a single-family home abutting a single-family lot.
- B. Marina facilities existing, or which have not been constructed, but have received local governmental approval prior to August 19, 2008 shall be exempt from the provisions of this Code,

but shall be subject to all other applicable permit requirements of any and all agencies with jurisdiction. Any modification to marina facilities to increase the existing number of slips will be subject to the provisions of this Code.

4.16.11. *Deviations and variances.*

- A. *Deviations.* The Land Use Administrator may issue a deviation of up to five percent of any development standard contained herein if it is determined that the effect of the deviation is minimal or insignificant and meets the variance conditions in Subsection 4.16.11.B below. Any deviation request shall be submitted in writing and approval shall be issued in writing.
- B. *Variance.* The Planning and Land Development Regulation Board shall have the power to grant a variance to the provisions of this Code where strict adherence to one or more of the standards would either: 1) result in an undue hardship demonstrated on the basis of an irregular or unusual shoreline configuration; or 2) result in marina facility design or placement which, for unintended or unanticipated reasons, does not meet the general purposes and intent of this Code. Variance requests shall be in accordance with requirements established in Chapter 2 and shall also be evaluated based upon their effects or impacts on:
1. State surface water quality standards;
 2. Endangered and threatened species;
 3. Navigability within the marina facility or the abutting waterbodies;
 4. Abutting properties including, but not limited to, waterfront usability, views, or riparian rights;
 5. The public health, safety, and welfare including, but not limited to, boater safety, the provision of fire safety mechanisms, and provision of adequate sanitary sewer facilities; and
 6. The variance, if granted, shall not impair the overall purposes and intent of this Code.

(Ord. No. 2009-26, §§ 31—33, 12-15-09)

Sec. 4.17. - Outdoor Oriented Uses and Activities.

4.17.01. *Outdoor storage in SFR, EST, DPX, MHD, and MFR Districts.* Refer to Chapter 44, Article II in the City of Palm Coast Code of Ordinances.

Refer to Section 4.19 for temporary uses, i.e. special events, and seasonal promotions and sales.

4.17.02. *Outdoor storage in COM, OFC, PSP, IND, P&G, and PRS Districts.* Where outdoor storage is a principal permitted use or a regularly recurring accessory use (not including outdoor displays of merchandise) in nonresidential zoning districts the following requirements shall apply:

- A. *Screening.*
1. Screening shall be attained through one of the following options:
 - a. Landscape material in conjunction with a black vinyl chain link fence at least six feet in height, or more than six feet when used to screen shipping containers.
 - b. Opaque fence or wall meeting the requirements outlined in Section 4.01.
 - c. Architectural features consistent with all approved structures on site.
 - d. An administrative waiver may be granted by the Land Use Administrator upon a finding that a natural buffer or wetland area adequately screens the area.
 2. No merchandise, equipment, machinery, materials, motor vehicles, or other items (including shipping container storage areas) shall be stored above the height of the screening.
- B. *Shipping container storage.* Temporary storage of shipping containers is allowed if storage is limited to a 90 calendar day period, with containers not to be replaced within 90 calendar days.

Temporary areas used for shipping container storage shall be depicted on site plans. Containers shall be located a minimum of 20 feet from all building openings on a durable all weather surface and shall not be located where visible from any surrounding rights-of-way, in any driveways, fire lanes, pedestrian ways, or parking spaces required to meet the minimum standards for the site.

4.17.03. *Outdoor display of merchandise.*

- A. *Outside displays.* Outside retail displays (not including seasonal promotions and sales—refer to Subsection 4.19.04) shall be permitted during normal business hours when located on the same lot as an existing retail business that is operating from an approved building provided that:
1. Outside displays are subordinate and accessory to the existing business;
 2. Outside displays are conducted only by the owner or tenant leasing a unit on the site;
 3. Outside displays are limited to the goods and services normally offered by the owner or tenant leasing a unit;
 4. Outside displays are consistent with the zoning of that parcel;
 5. Outside displays do not hinder required access to the site or create safety hazards;
 6. Outside displays are located adjacent to the building and not located within any portion of the vehicular use area; and
 7. The outside display area was depicted on a site plan.
- B. *Vending machines.* A maximum of two vending machines per 100 feet of linear building frontage shall be permitted outside of commercial buildings provided they are located under roof, placed flush against a building wall, and do not obstruct pedestrian accessibility.

Sec. 4.18. - Recreational Vehicle Parks.

4.18.01. *Intent.* It is the intent of the City to provide for areas to be developed for the parking of recreational vehicles, travel trailers, motor homes, camping tents, and trailers occupied as a temporary living quarters in an environment that provides for recreational amenities and on-site conveniences. It is further intended that the individual spaces not be marketed or sold for individual ownership, but that the site be retained in a form of single or common ownership.

4.18.02. *Applicability.* The regulations in this section apply to all developments providing for the accommodation of transient recreational vehicles, camping tents, and trailers in zoning districts that allow such uses as permitted, limited, or special exception.

4.18.03. *Limitations.* Recreational parks are intended for temporary accommodations and shall not be developed for permanent residential use or for homesteading purposes. An occupant shall not remain in the same recreational park for a period exceeding six months in any 12-month period. Spaces shall be rented by the day, week, or month only.

4.18.04. *Permitted uses, facilities, and structures.*

- A. Parking of recreational vehicles, travel trailers, motor homes, camping tents, cabins, and trailers, and residential manufactured buildings pursuant to Florida Statute 553.382.
- B. Recreational facilities including, but not limited to, community room or center, fields and courts, playgrounds, docks, swimming pools, boat-launching areas, picnic areas, beaches, amphitheaters, outdoor pavilions, and similar facilities.
- C. Shower, restroom, laundry, and maintenance facilities.
- D. A central clubhouse, which may include an office, restaurant, fitness center, general store, meeting/event space, and similar uses. These types of uses shall be available to guests but may be opened to the public. Sale of groceries, sundries, (liquefied petroleum gas, bait, tackle, and supplies).
- E. Management office and manager or caretaker residence.

- F. The only permitted enclosed storage structure and garage facilities are those associated with the park manager or caretaker residence.
- G. Free standing screen rooms and/or cabanas may be permitted if such structures are totally independent from the recreational vehicle and shall be constructed in such a manner as not to impede the immediate removal of any recreational vehicle from its designated site.
- H. Concrete slabs, decks, and patios may be permitted provided such facilities are detached and structurally independent from the accompanying recreational vehicles and in no way impede the immediate removal of recreational vehicles from the site.
- I. An accessory storage area for registered recreational vehicles, boats on trailers, and utility trailers belonging exclusively to park guests, provided this area does not exceed 10 percent of the overall property area. Any such area is subject to screening from public rights-of-way as required by Section 5.04.10.
- J. Pet-friendly amenities, including, but not limited to, dog parks, pet wash stations, and pet-friendly designated accommodation areas.

4.18.05. *Development standards.*

- A. *Size.*
 - 1. The minimum area for a recreational park shall be three acres.
 - 2. The minimum recreational vehicle space size shall be 30 feet by 60 feet.
 - 3. The minimum tent or camping site size shall be 500 square feet.
 - 4. The minimum cabin or residential manufactured building site size shall be 1,500 square feet.
- B. *Setbacks.*
 - 1. All structures shall comply with the minimum building setback requirements of the zoning district upon which the subject property is located, except that no RV, cabin, residential manufactured building, or tent space site shall be located within 30 feet of the project's perimeter.
 - 2. All commercial structures that are accessory to the principal use shall be oriented to the interior of the recreational park.
 - 3. When a recreational vehicle park is adjacent to an existing platted single-family residential subdivision, a minimum perimeter buffer of fifty (50) feet shall be provided between the recreational vehicle park and the adjacent residential subdivision.
- C. *Building height.* The maximum building height shall be 35 feet.
- D. *Utilities.*
 - 1. Central water and sewer facilities and electricity shall be provided except for primitive campgrounds designed for tents only.
 - 2. Dumpsters for trash and recyclables shall be located no farther than three 300 [feet] from any individual site.
 - 3. Unless every recreational vehicle site has a sanitary waste outlet, a central pump-out station shall be provided.
- E. *Landscaping and buffers.* Landscaping and buffers shall be required as outlined in Chapter 11.
- F. *Recreation areas.* There shall be at least one active recreational area comprising at least five percent of the total land area of the project. The recreation area shall be easily accessible to all occupants of the project. Such areas shall be easily accessible to all guests and shall

not include RVs, cabins, residential manufactured buildings, tent sites, street rights-of-way, buffer strips, or storage areas.

G. *Parking.*

1. Parking for individual sites is not required to be paved. However, sufficient space shall be provided at each site to accommodate at least one vehicle.
2. Off-street parking spaces meeting the parking requirements outlined in Chapter 5 shall be provided for all other uses within the recreational vehicle park.

H. *Access.*

1. The recreational vehicle park shall be located near-on an arterial or collector road. No entrance or exit to a recreational vehicle park shall be allowed through a residential district. Recreational vehicle parks with a combination of 100 or more recreational vehicle spaces, cabin spaces, or residential manufactured buildings shall provide a secondary access.
2. All accessory structures shall only be accessible from a street within the recreational park.

Sec. 4.19. - Temporary Uses.

The temporary uses included in this section are not meant to be all-inclusive or to address every type of use or special event that may occur from time-to-time. Uses and events not specifically included in this section shall be reviewed by the Land Use Administrator to determine if the proposed use or event is temporary and how it should be regulated. Determinations and requirements established by the Land Use Administrator may be appealed to the Planning and Land Development Regulation Board and the City Council in accordance with the appeal procedures established in Chapter 2.

4.19.01. *Construction trailers.* Construction trailers are permitted to provide contractors with a temporary shelter for office use, project management, and on-site storage of equipment in conformity with the following standards:

- A. Only one temporary construction trailer per contractor for office use within the construction site is permitted. Additional trailers may be approved on a case-by-case basis as determined by the Land Use Administrator based upon clear evidence of necessity.
- B. The placement of the trailer(s) on the site is subject to review and approval by the Land Use Administrator.
- C. The trailer(s) shall be removed within three working days following the Land Use Administrator's acceptance of the construction completion.
- D. Approved water and wastewater facilities shall be provided.
- E. Pedestrian access shall be provided from the parking area to the office.
- F. A fence or similar barrier shall be provided to prevent visitors and customers from entering the construction area.
- G. Only one identification sign per trailer is permitted. The sign area shall not exceed six square feet.

4.19.02. *Model homes.*

- A. *Intent and applicability.* This section is intended to ensure that impacts associated with model homes in residential zoning districts are temporary in nature and reasonably controlled. This section is applicable to model homes located in residential zoning districts and does not apply to model home centers located in commercially zoned areas.
- B. *General.* The following are required prior to the issuance of a certificate of occupancy for a residential dwelling to be used as a model home:

1. City water and wastewater facilities shall be operating and accessible to the public.
2. Adequate fire protection shall be in place.
3. A stabilized access road shall be in place.

C. *Duration of use.* A residential dwelling unit may be used as a model for a maximum period of five years from the date the certificate of occupancy is issued. Any residential dwelling unit legally permitted as a model as of the effective date of this ordinance shall be permitted to remain as a model home until January 1, 2016.

Permitted and prohibited activities.

1. A model home may be used for activities typical to an "open house" for sale, including tours by a real estate agent and negotiation or execution of sales contracts for the sale of that builder's homes or products.
2. A model home shall not:
 - a. Be used as a primary or secondary office for a homebuilder or real estate agent with regard to conducting business activities outside of those permitted above.
 - b. Be used for storage of building materials.
3. The garage of the model home may be used as an office for sales staff if separate off-street parking is provided.
4. The garage must be equipped with a standard garage door, unless dedicated off-site parking is provided, excluding rights-of-ways.
5. If the space for the required garage has been converted to space for purposes other than a garage, the space must be converted back to a residential garage and equipped with a standard garage door prior to the sale and use as a dwelling unit.

D. *Hours of operation.* A model home may be open to the public during the following time periods:

1. *Monday through Saturday:* Between the hours of 9:00 a.m. and 6:00 p.m.
2. *Sunday:* Between the hours of 12:00 noon and 5:00 p.m.
3. *Holidays:* Between the hours of 10:00 a.m. and 5:00 p.m.

E. *Signage.* Refer to Chapter 12 in this Code.

F. *Lighting.* Lighting at the sites of model homes shall be limited to interior and exterior lighting normally associated with single-family residences. Exterior flood lights may not be used.

4.19.03. *Sales trailers and leasing offices.* Temporary sales and leasing offices for residential development are allowed in any residential zoning district. In addition to applicable zoning district regulations, a temporary sales and leasing offices must comply with the following standards:

- A. The development plan for the residential development shall indicate the location of the temporary sales and leasing offices.
- B. Only one sales trailer shall be allowed for every 200 lots or units.
- C. Temporary sales and leasing offices proposing to operate for a period of six months or less shall be skirted and landscaped. In addition, temporary sales and leasing offices remaining for a period greater than six months shall be located on a concrete slab or stem wall and shall be skirted and landscaped. Temporary sales and leasing offices may be used for a maximum period of two years from the date the certificate of occupancy is issued. The Land Use Administrator may grant a one-year extension.
- D. Pedestrian access shall be provided from the parking area to the office.

- E. Parking shall be provided on a paved surface and shall be designed to prevent the need to back onto a street right-of-way or pedestrian-way.
- F. A fence or similar barrier shall be provided to prevent visitors and customers from entering the construction area.
- G. Only one identification sign per office is permitted. The sign area shall not exceed six square feet.
- H. Water and wastewater facilities shall be provided.

4.19.04. *Seasonal promotions and sales.*

- A. *General requirements.* Seasonal and holiday related promotions and sales including, but not limited to, Christmas tree sales, pumpkin sales, fireworks, etc., may be permitted subject to the following:
 1. The use is consistent with the zoning, development, and dimensional standards of that parcel;
 2. If a tent, electric, or water is used, a building permit is required;
 3. All local business license taxes shall be paid;
 4. The use may be permitted for a maximum period of 45 consecutive days;
 5. Written, notarized permission from all owners of record of the property, or authorized agent of the owner (must provide proof of being an authorized agent), shall be submitted to the City.
 6. A plan shall be submitted illustrating the location of the space for the seasonal sale and depicting, at a minimum, the following:
 - a. Adequate and safe ingress and egress;
 - b. On-site parking availability; and
 - c. Sanitary facilities.
 7. The use does not result in the reduction of any existing parking spaces to less than the minimum number of spaces required for the primary use.
- B. *Determination of additional seasonal events.* The Land Use Administrator shall determine the types of event, other than those listed herein, that constitute a seasonal holiday related promotion or sale.

4.19.05. *Special events.* Refer to the City of Palm Coast Code of Ordinances.

(Ord. No. 2009-26, § 34, 12-15-09; Ord. No. 2010-13, § 2, 10-5-10)

Sec. 4.20. - Wireless Telecommunications.

4.20.01. *Legislative purposes.*

- A. The legislative purposes of this section are to:
 1. Promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities.
 2. Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and land use compatibility.
 3. Establish standards for preferred siting, design and screening by requiring consistency with the City's Wireless Master Plan, consistent with the Telecommunications Act of

1996, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act").

4. Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure thereby establishing more ability to manage selected sites identified in the City's Wireless Master Plan.
 5. Encourage coordination and collocation of antennas on existing structures to meet coverage needs and promote the efficient use of existing infrastructure.
 6. Accommodate the growing need and demand for wireless communications services in a manner that ensures the placement, construction or modification of wireless communication facilities complies with all applicable state and federal laws.
 7. Ensure there is sufficient wireless infrastructure to support public safety communication services throughout the City, including times of evacuation and disaster response.
 8. Encourage providers of wireless communication facilities to locate wireless communication facilities in areas where the need is demonstrated and planned for and adverse impacts on the community is minimal.
 9. Respond to the rational policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.
 10. Ensure that land use decisions are made in consideration of, and in compatibility with, the goals, objectives and policies of the City of Palm Coast Comprehensive Plan and its land development regulations as set forth in the Land Development Code (LDC).
- B. It is the intent of this section that all actions of the City be consistent with controlling federal and state law.
- C. The City Council of the City of Palm Coast hereby finds and determines that this section is consistent with the goals, objectives and policies of the City of Palm Coast Comprehensive Plan and other controlling law.

4.20.02. Definitions.

Ancillary structure means, for the purposes of this section, any form of development associated with a WCF including, but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; provided, however, specifically excluding equipment cabinets.

Antenna means any apparatus designed for the transmitting and/or receiving of electromagnetic waves including, but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omni-directional (whip) antennas, sectionerized (panel) antennas, multi or single bay (FM and TV), yagi, or parabolic (dish) antennas.

Antenna array means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna element means any antenna or antenna array.

Anti-climbing device means a piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include, but are not limited to, fine mesh wrap around structure legs, "squirrel-cones," or other approved devices, but excluding the use of barbed or razor wire.

Attached WCF means an antenna or antenna array that is secured to an existing base station with any accompanying pole or device which attaches it to the building or structure, together with

transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached WCF is considered to be an accessory use to the existing principal use on a site.

Base Station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein, or any equipment associated with a tower. "Base station" includes, without limitation:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small-cell networks).
3. Any structure other than a tower that, at the time the relevant application is filed with the City under this subsection, supports or houses equipment described in subsections (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City under this subsection, does not support or house equipment described in subsections (1) and (2) of this definition.

Breakpoint technology means the engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Collocation means to install, mount, maintain, modify, operate, or replace one or more wireless communication facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way. (F.S. § [337.401](#)(7)(b)7).

Combined antenna means an antenna or an antenna array designed and utilized to provide services for more than one wireless provider for the same or similar type of services.

Concealed means a tower, base station, ancillary structure, or equipment compound that is not readily identifiable as a wireless communication facility, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site or in the neighborhood or area. There are two types of concealed facilities:

1. Concealed base stations may include painted antenna and feed lines to match the color of a building or structure, faux parapets, windows, dormers, or other architectural features that blend with an existing or proposed [building] or structure.
2. Concealed freestanding towers which look like something else that is common in the region such as a church steeple, bell tower, clock tower, light standard, flagpole with a flag that is proportional in size to the height and girth of the tower, or tree that grows naturally or is commonly found in the area.

Development area means the area occupied by a WCF including, but not limited to, areas inside or under the following: an antenna-support structure's framework, equipment cabinets, ancillary structures and accessways.

Eligible Facilities Request means any request for modification of an existing tower or base station that, in accordance with the definitions contained in FCC regulations codified at 47 C.F.R. §

1.40001, does not substantially change the physical dimensions of the existing support structure and is requesting:

1. Collocation of new transmission equipment;
2. Removal of existing transmission equipment; or
3. Replacement of existing transmission equipment.

Eligible support structure means any tower or base station that is existing at the time the relevant application is filed with the City under this subsection.

Environmentally Sensitive Lands are as provided in Chapter 10 of the Unified Land Development Code - Environmental and Cultural Resource Protection.

Equipment cabinet means any structure above the base flood elevation including, but not limited to, cabinets, shelters, pedestals, and other similar structures. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Equipment compound means the fenced area surrounding the ground-based wireless communication facility including, but not limited to, the areas inside or under the following: the tower's framework and ancillary structures such as equipment necessary to operate the antenna on the WCF that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

Equipment facility means a room, cabinet, shelter, pedestal, build-out of an existing structure, building, or similar structure used to house ancillary equipment for a communication tower or antenna. Each such cabinet, shelter, or building shall be considered a separate equipment facility.

Existing means a constructed tower or base station existing for purposes of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this subsection.

Expedited collocation application means collocation applications, or portions thereof, on towers or base stations, excluding collocations on a historic building, structure, site, object, or district, that meet the criteria set forth in F.S. § [365.172](#)(13)(a), as amended.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Feed lines means cables used as the interconnecting media between the transmission/receiving base station and the antenna.

Flush-mounted means any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Freestanding WCF or collocations means those where the antenna or antenna array is located on towers, concealed or nonconcealed, together with the ancillary structures, feed lines, equipment shelters, and other necessary facilities, which may be located either on or in the tower.

Geographic search ring means an area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Guyed structure (see tower). Guyed structures for new WCFs are prohibited within the City.

Handoff candidate means a wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

Lattice structure (see Tower). Lattice structures for new WCFs are prohibited within the City.

Least visually obtrusive profile means the design of a wireless communication facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

Level I refers to a wireless communication facility permit subject to administrative review and approval by the Land Use Administrator or designee, with no public hearing requirement.

Level II refers to wireless communication facility permit subject to the special exception approval process set forth in Section 2.07 of the Land Development Code, except that the application review and approval timeframes set forth in Section 4.20.10 shall apply. New towers proposed in non-Wireless Master Plan Sites shall require Level II permits. All other installations only require Level I permits.

Micro Wireless Facility (see Section 42-103).

Modification means a modification of an existing tower or base station to increase the height, or to improve its integrity, by replacing or removing one or several tower(s) located in proximity to a proposed new tower in order to encourage compliance with this section or improve aesthetics or functionality of the overall wireless network.

Monopole structure (see Tower).

Non-concealed WCF means a wireless communication facility that is readily identifiable as such and can be either freestanding or attached.

Personal wireless service means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Public safety communications equipment means all communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the City and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Public View means a non-amplified visual range of site from rights-of-way, sidewalks, adjacent properties, or other publically accessible vantage points.

Radio frequency (RF) emissions means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

Radio frequency (RF) propagation means wireless telecommunications signal service area as shown on maps.

Satellite Earth Station means a single or group of parabolic (or dish) antennas are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include, but is not limited to, the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Site means for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower, and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Small wireless facility (See Section 42-103).

Substantial Change means a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in subsections (1) through (4) of this definition.

Tower means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Towers do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than 20 feet. A tower may be concealed or non-concealed. Non-concealed towers include:

1. *Guyed structure* means a style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building. Guyed structures for new WCFs are prohibited within the City.
2. *Lattice structure* means a self-supporting tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross-bracing, and metal crossed strips or bars to support antennas. Lattice structures for new WCFs are prohibited within the City.
3. *Monopole structure* means a style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

Transmission Equipment means equipment that facilitates transmission for any FCC- licensed or authorized wireless communication service, including, but not limited to, radio transceivers,

antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

WCF (see Wireless Communication Facility).

Wireless communication facility (WCF) means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other personal wireless communications, as defined in the Telecommunications Act of 1996, and usually consisting of an antenna or antenna array, transmission cables, feed lines, equipment cabinets, towers, cabling, antenna brackets, and other such equipment. The following shall be deemed a wireless communication facility: new, replacement, or existing towers, government-owned towers, modified towers, collocation on existing towers or base stations, attached concealed and non-concealed antenna, dual purpose facilities, DAS, small cell, concealed towers, and non-concealed towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

Wireless communications means any personal wireless service, which includes but is not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing devices described in Part 15 of the FCC's regulations (e.g., wireless internet services and paging).

Wireless Master Plan means the Wireless Telecommunications Master Plan developed and adopted by the City, as amended from time to time, to enforce applicable development standards, land development regulations, state law and federal law related to the deployment of wireless telecommunications infrastructure.

4.20.03. *Applicability.*

- A. Except as provided in Section 4.20.04, the following shall apply to the development activities including, but not limited to, installation, construction or modification of the following wireless communications facilities:
 - 1. Existing towers.
 - 2. Proposed towers.
 - 3. Public towers.
 - 4. Replacement of existing towers.
 - 5. Collocation on towers and base stations.
 - 6. Attached WCF.
 - 7. Concealed WCF.
- B. These regulations are subject to state and federal law limitations.

4.20.04. *Exempt installations.* The following uses are exempt from the provisions of this section notwithstanding any other provision of the City's land development regulations, but are subject to all applicable building code compliance and building permit reviews:

- 1. Non-commercial, amateur radio antennas as provided for in F.S. § [125.561](#).
- 2. Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential districts and two meters or less in all other zoning districts and which are not greater than 20 feet above grade in residential districts and 35 feet above grade in all other zoning districts.
- 3. A government-owned WCF, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the City; except that such WCF must comply with all federal and state requirements. This exemption shall terminate upon the state of emergency ending.

4. A government-owned WCF erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
5. A temporary, commercial WCF, upon the declaration of a state of emergency by federal, state or local government, or determination of public necessity by the City, and approval by the City; except that such WCF must comply with all federal and state requirements. The exemption may be permitted by the City to continue to three months after the duration of the state of emergency.
6. A temporary, commercial WCF for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approved by the City, except that such WCF must comply with all federal and state requirements. Said WCF may be exempt for a period of up to one week after the duration of the special event.
7. Antenna support structures, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the FCC shall be regulated in accordance with federal, state and other applicable regulations.

4.20.05. *Wireless Master Plan.*

- A. The City has adopted a Wireless Master Plan by Resolution of the City Council. The Wireless Master Plan identifies existing or proposed City or publicly owned sites for wireless communication infrastructure and service.
- B. Design standards for proposed towers in the Wireless Master Plan shall be consistent with this Ordinance and the Wireless Master Plan but may be further detailed and addressed through the required lease terms for use of any public property.
- C. The Wireless Master Plan was adopted by the City Council by Resolution No. [2018-], as may be amended by City Council resolution hereafter. And, by this reference, the Wireless Master Plan is incorporated herein.
- D. The Land Use Administrator or designee may waive application requirements in Section 4.20.09 for sites within the Wireless Master Plan. The applicable requirements are listed in Section 4.20.09.
- E. If an applicant receives a permit to develop a site on City-owned property, the permit shall not become effective until the applicant and the City have executed a written agreement or lease setting forth the applicable terms and provisions.
- F. No permit granted under this section shall convey an exclusive right, privilege, permit, or franchise to occupy or use the publicly owned sites of the jurisdiction for delivery of wireless communications services or any other purpose.
- G. No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the agreement between the lessor and lessee.
- H. Sites located within the Wireless Master Plan may utilize a standard landscape plan, approved by the Land Use Administrator or designee.
- I. Sites within the Wireless Master Plan may utilize alternative compliance standards to access a WCF site, if approved by the Land Use Administrator or designee.

4.20.06. *Preferred siting locations.*

- A. All new WCFs and any supporting structures, except for those proposed within the public rights-of-way, shall generally adhere to the following siting preferences, in order of preference:
 1. City-owned property identified in the Wireless Master Plan;
 2. Other public property identified in the Wireless Master Plan;

3. Other City-owned or public property not identified in the Wireless Master Plan;
 4. Privately owned property not identified in the Wireless Master Plan.
- B. If the proposed location for the new WCF is not consistent with the preferred hierarchy and the Wireless Master Plan, the applicant must file relevant information as indicated in Section 4.20.09 with the siting application including, at minimum, the following:
1. An affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the geographic preferences established in the wireless master plan, wireless master plan options are not technically infeasible, practical or justified given the location of the proposed WCF;
 2. An affidavit demonstrating that the proposed site will not adversely affect existing or future single-family uses or environmentally sensitive areas and is not contrary to the City's Comprehensive Plan and Unified Land Development Code; and
 3. The existing land uses of the subject and surrounding properties within 300 feet of the proposed site.
- C. This section shall not be interpreted to require applicants to locate on publicly-owned sites when lease negotiation processes are prohibitively lengthy or expensive relative to those of the private sector as determined by the Land Use Administrator or designee, based upon competent substantial evidence. The applicant is considered justified in selecting a lower-ranked privately-owned property option if the government entity fails to approve a memorandum of agreement or letter of intent to lease a specified publicly-owned site within 90 days of the application date or if it is demonstrated that the proposed lease rate for the specified public-owned site significantly exceeds the market rate for comparable privately-owned sites.

4.20.07. Permitted uses.

- A. The placement, maintenance or modification of WCFs shall be permitted only in accordance with the wireless communication permit, and the land development requirements of this Code. The placement or maintenance of wireless communication facilities in the public rights-of-way shall comply with the regulations of Chapter 42 of the Code of Ordinances:
- B. Applicable permits. All applications shall meet the review timeframes as shown in Section 4.20.10.
1. Level I wireless communication facility permit. All applicable non-exempt applications to place, maintain, modify, or collocate wireless communications facilities, not subject to special exception use approval, shall be subject to administrative review and approval by the Land Use Administrator or designee, with no public hearing requirement.
 2. Level II wireless communication facility permit. All applicable non-exempt applications to place, maintain, or substantially change wireless communications facilities that do not qualify for an administrative permit shall be subject to the special exception approval process set forth in Section 2.07 of the Land Development Code, except that the application review and approval timeframes set forth in Section 4.20.10 shall apply. New towers proposed in non-master planned sites shall require Level II permits. All other installations only require Level I permits.
 3. Communications Rights-of-Way Permit. All non-exempt applications to place, maintain, modify, or collocate wireless communications facilities within the public rights-of-way shall be subject to the review and approval requirements set forth in Chapter 42, Code of Ordinances, and the applicable land development regulations set forth herein. Wireless communication facilities, other than small wireless facilities and micro wireless facilities, are prohibited within the public rights-of-way.

4. Eligible facilities requests. Any request for modification of an existing tower or base station involving collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment that does not substantially change the physical dimensions of such tower or base station shall be reviewed and processed in accordance with the provisions set forth in Section 4.20.12.

C. Expedited collocation applications.

1. Expedited collocation applications for antenna on towers. In accordance with F.S. § [365.172](#), collocation of antenna on towers, including nonconforming towers, are subject only to building-permit review, which may include a review for compliance with this section, if the applicants meet the following requirements:
 - a. The collocation does not increase the height of the tower to which the antennae are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower; and
 - b. The collocation does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment facilities and ancillary facilities, except as allowed under this section; and
 - c. The collocation consists of antennas, equipment facilities, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennas placed on the tower and to its accompanying equipment facilities and ancillary facilities and, if applicable, applied to the tower supporting the antennas. Such regulations may include the design and aesthetic requirements but not procedural requirements, other than those authorized by this subsection, of the applicable land development code in effect at the time the initial antenna's placement was approved.

Such collocations shall not be subject to the design or placement requirements of the land development code in effect at the time of the collocation that are more restrictive than those in effect at the time of the initial antenna placement approval, to any other portion of the land development code, or to public hearing review. Such collocation applications shall be decided by the Land Use Administrator or designee.

2. Expedited collocation applications for antenna on base stations. In accordance with F.S. § [365.172](#), except for an historic building, structure, site, object, or district, the following collocation applications on all other existing base stations shall be subject to no more than administrative review for compliance with this section and building permit standards if they meet the following requirements:
 - a. The collocation does not increase the height;
 - b. The collocation does not increase the existing ground space area, otherwise known as the compound, if any, approved in the site plan for the equipment facility and ancillary facilities.
 - c. The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure in effect at the time of approval of the structure, but not prohibitions or restrictions on the placement of additional collocations on the existing structure or procedural requirements, other than those authorized by this subsection at the time of the collocation application; and
 - d. The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with subsection (c), and were applied to the initial antennas placed on the structure and to its accompanying equipment facility

and ancillary facilities and, if applicable, applied to the structure supporting the antennas.

3. If only a portion of the collocation does not meet the requirements of any of the above subsections, such as an increase in the height or a proposal to expand the ground space approved in the site plan for the equipment facility by more than 400 square feet or 50 percent, where all other portions of the collocation meet the requirements of this subsection, that portion of the collocation only may be reviewed as set forth in subsection (6) below. A collocation proposal under this subsection that increases the ground space area approved in the original site plan, for equipment facilities and ancillary facilities, by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall require no more than administrative review for compliance with the City's regulations; including, but not limited to, land development code and building permit review; provided, however, that any collocation proposal that increases the original compound size more than such greater cumulative amount shall be reviewed as if it were a new communications facility.
4. Any existing tower, including a nonconforming tower, may be structurally modified to permit collocation, or may be replaced through no more than administrative review and building permit review, and is not subject to public hearing review, if the overall height of the tower is not increased and, if the replacement tower is a monopole tower, or if the pre-existing tower is a stealth tower, the replacement tower is a similar stealth tower.
5. The owner of the existing tower on which the proposed antennas are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development code to which the pre-existing tower must comply, including any aesthetic requirements, provided the condition or requirement is consistent with this subsection.
6. Collocations or portions of collocations that are not exempt from this section and do not fall under the provisions of subsections 4.20.07.C(1) through (4), shall be reviewed through a full permitted use review. Those located on historic structures or in historic districts, shall be reviewed through the review processes for historic structures or districts indicated in the LDC.

4.20.08. *Development standards.*

A. *General:*

1. All development standards and land development code regulations relating to the property upon which the WCF is located shall apply. Additionally, where permitted as provided in Section 4.20.07, the following development standards apply to all attached collocations and all new, modified, or combined WCF installations. Where any environmentally sensitive lands, historic or scenic overlay districts or corridor plans also apply, the most restrictive standards shall govern.
2. Cabinets shall be provided within the principal building, behind a screen on a rooftop or on the ground within the fenced-in and screened equipment compound. This is not required if out of the public view.
3. All equipment compounds shall be enclosed with a wood/brick/masonry fence or otherwise secured and screened with opaque landscaping. Fencing shall be subject to the requirements as outlined in the LDC.
4. WCF equipment compounds shall be landscaped as required in Chapter 11 of the LDC. Wireless Master Plan sites may utilize a standard alternative landscape plan approved by the Land Use Administrator or designee.
5. Attaching commercial messages for off-site and on-site advertising to a WCF is prohibited and unlawful. The placement of a religious symbol as part of the concealment of a WCF shall not be considered prohibited commercial messages or signage. The

only signage that is permitted upon a tower, equipment cabinet, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). On permitted signs which are not located on a tower, cabinet or fence, a WCF may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed WCF are met.

6. Lighting on WCFs, if required by the FAA, shall not exceed the FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA to minimize the potential attraction to migratory birds. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Any security lighting for on-ground facilities and equipment shall be in compliance with the LDC.
 7. Each WCF and its equipment compounds shall be constructed and maintained in conformance with all applicable building code requirements.
 8. Equipment compounds shall not be used for the storage of any excess equipment or hazardous waste (e.g., discarded batteries). It is prohibited and unlawful to allow an outdoor storage yard in a WCF equipment compound or to use the equipment compound as habitable space.
 9. The WCF shall comply with all applicable federal, state and local regulations.
 10. The WCF applicant shall comply with all applicable American National Standards Institute (ANSI) standards as adopted by the FCC.
 11. Each WCF shall be designed to ensure that no sound emissions from machinery, alarms, bells, buzzers, or similar noise making devices are audible beyond the perimeter of the equipment compound and shall comply with the City of Palm Coast Code of Ordinances. Emergency backup power generators are allowed to operate in short term maintenance durations, and during power outages.
 12. Building permits. A building permit shall be required for the construction, modification, and collocation of all WCFs, including any accessory structures or equipment, as provided in Section 4.20.07 above. A compliance letter from the State Historic Preservation Office of Cultural and Historic Programs of the Florida Department of State is a condition of receiving a building permit.
 13. The WCF and its equipment compound shall be subject to the setbacks of the underlying zoning district. Antennas may extend a maximum of 30 inches into the setback. However, no antenna or portion of any structure shall extend into any easement.
- B. *Attached WCFs:*
1. Attached WCFs may be permitted in all zoning districts. The top of the attached WCF shall not be more than 20 feet above the existing or proposed building or structure.
 2. Feed lines and antennas shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed in order to blend with the existing structural design, color, and texture and in order to provide the least visually obtrusive profile.
- C. *Freestanding WCFs:*
1. All new freestanding WCFs shall meet minimum lot size standards of the underlying zoning district and are subject to the LDC.
 2. New freestanding towers shall be configured and located in a manner that shall minimize adverse effects including, but not limited to, visual impacts on the landscape

and adjacent properties. New freestanding WCFs shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural design, height, scale, color and texture, and shall have the least visually obtrusive profile.

3. Grading shall be minimized and limited only to the area necessary for the new WCF as approved by the Land Use Administrator or designee.
4. All support structures shall be certified to comply with the safety standards contained in the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) Document 222-F, Structural Standards For Steel Antenna Towers and Supporting Structures, as amended, by a Florida professional engineer.
5. Freestanding towers may only be permitted as monopole towers. Guyed and lattice structures are prohibited, unless the applicant demonstrates to the City by clear and convincing evidence that monopole towers are not feasible to accommodate the intended uses. Freestanding monopoles are prohibited from single-family or multi-family residential districts unless the applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district. The City shall cooperate to determine an appropriate location for the freestanding tower of an appropriate design within the residential district. The applicant shall reimburse the City for all reasonable costs incurred by the City for this cooperative determination.
6. The height of a new monopole tower shall not exceed the heights provided in the table below:

Freestanding Non-Wireless Master Plan Sites	
Zone	Maximum Height WCF
Single family Residential	Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district.
Multifamily Residential	Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district.
MPD	As determined by the MPD ordinance, unless within a Wireless Master Plan
All other districts	Up to 150 feet.
Wireless Master Plan Sites	
All districts	Up to 150 feet.

7. In calculating the height limit, above ground foundation shall be included, but lightning rods or lights required by the FAA that do not provide any support for antennas shall be excluded. If the freestanding WCF is located within the Wireless Master Plan, the maximum height may be up to 150 feet.
8. A freestanding monopole and its equipment compound shall be subject to the land development code regulations applicable to the underlying zoning district. The minimum setback distance for a freestanding tower shall be 150 feet from any residentially zoned or platted property. Freestanding monopoles are not allowed in residentially zoned or platted property. In the event of any conflict between this section and the Land Development Code, this section shall control.
9. New towers shall maintain a galvanized gray finish or other approved contextual or compatible color and provide the least visually obtrusive profile, except as required by Federal regulations. The level of required concealment for antenna placement shall be determined based upon the visibility and location of the proposed tower and the network objectives of the desired coverage area.
10. All new or modified freestanding WCFs shall be engineered to maximize collocation.

D. *Attached Collocation or Combined WCFs:*

1. An attached collocation or combined WCF shall not increase the height of an existing tower or base station by more than 20 feet, unless required by Federal law. The maximum total height shall be 150 feet.
2. The City may require new antenna to be flush-mounted or concealed on a case by case basis, if it is determined that a practical visual and aesthetic benefit can be achieved if in the public view. If the applicant demonstrates through RF propagation analysis that flush-mounted or concealed antennas will not meet the network objectives of the desired coverage area, this requirement shall not apply. This provision does not apply to Wireless Master Plan Sites.

4.20.09. *Submittal requirements for Level I and Level II permits.*

- A. *Application form.* Requests for Level I and Level II wireless communication permits shall be made only on application forms approved by the City. Applications shall contain all information required by this land development code and other City regulations, and shall be reviewed for completeness.
- B. *Application materials.* In addition to the application materials specified in this code for the appropriate type of review, all applications shall provide sufficient materials (plans, graphics, narratives, or expert statements) to demonstrate compliance with all applicable requirements of this section.
 1. Level I and Level II applications shall contain the following:
 - a. Application.
 - b. A site plan addressing the development standards of the LDC. If applicable, an application meeting the special exception requirements of Section 2.07 of the LDC shall be submitted.
 - c. An affidavit by a RF engineer demonstrating compliance with Section 4.20.05. If a non-master plan site is proposed, the affidavit must address why master plan sites are not technically feasible, practical or justified given the location of the proposed WCF communications facility.
 - d. FCC documentation including a copy of FCC license submittal or registration, and FCC license or registration.
 - e. Proposed maximum height of the WCF including, but not limited to, individual measurement of the base, the tower or base station, and lightning rod.

- f. Photo-simulated post-construction renderings of the completed proposed tower, base station, equipment cabinets, and ancillary structures from locations to be determined during a mandatory pre-application conference. The renderings shall include proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from a maximum of four vantage points chosen by the City with consultation with the applicant.
- g. If the proposed WCF is subject to FAA regulation, then, prior to issuance of a building permit, evidence of compliance with applicable FAA requirements under 14 C.F.R. § 77 et seq., as amended, together with any FAA "no hazard" determinations concerning the WCF (if applicable) shall be timely provided by the applicant to the City.
- h. In order to facilitate the regulation, placement, and construction of WCFs and to ensure that all parties comply with the rules, regulations and applicable guidelines of the FCC, each owner of a WCF or applicant for a WCF shall provide an affirmative statement that it will comply with all applicable federal, state and local statutory and regulatory requirements.
- i. For applications for new towers or other freestanding WCFs, as necessary to determine if there is no other existing structure that could reasonably be used for the placement of the proposed antennas, or for applications for new WCFs or attached collocations that increase the height of an existing structure, as needed to determine if the proposed height is necessary to provide the carrier's designed service, materials detailing the locations of existing WCFs to which the proposed antenna will be candidate for placement, including, but not limited to, latitude and longitude of the proposed and existing antenna. This material is not required for Wireless Master Plan sites.
- j. For applications for new towers or other freestanding WCFs, as necessary to determine that there is no other existing structure that could reasonably be used for the placement of the proposed antennas, a map showing the designated search ring. This map is not required for Wireless Master Plan sites.
- k. With regard to attached collocations, attached and combined WCFs, the applicant shall also submit:
 - i. Certification furnished by a Florida registered professional engineer that the WCF has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.
- l. With regard to freestanding concealed or non-concealed WCFs, and modification of WCFs, for non-Wireless Master Plan sites only, the applicant shall also submit:
 - i. A report and supporting technical data demonstrating that all antenna attachments and collocations, including all potentially useable utility distribution poles or transmission towers and other elevated structures within the proposed geographic search ring, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons that existing facilities such as utility distribution poles and transmission towers and other elevated structures are not acceptable alternatives to a new freestanding WCF. The report regarding the adequacy of alternative existing WCFs or the mitigation of existing WCFs to meet the applicant's need or the needs of service providers indicating that no existing WCF could accommodate the applicant's proposed WCF shall demonstrate any of the following:

- a. No existing WCFs located within the geographic search ring meet the applicant's engineering requirements, and why.
 - b. Existing WCFs are not of sufficient height to reasonably meet the applicant's engineering requirements, and cannot be increased in height.
 - c. Existing WCFs do not have sufficient structural integrity to support the applicant's proposed WCFs and related equipment, and the existing WCF cannot be sufficiently improved.
 - d. Other limiting factors that render existing WCFs unsuitable.
- ii. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from four vantage points chosen by the City with consultation with the applicant, including the facility types the applicant has considered and the impact on adjacent properties including, but not limited to:
- a. Overall height.
 - b. Configuration.
 - c. Physical location.
 - d. Mass and scale.
 - e. Materials and color.
 - f. Illumination.
 - g. Architectural design.
- This does not apply to Wireless Master Plan sites.
- iii. If applicable, the applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed WCF on all adjacent properties assigned a residential land use designation or zoning district. This does not apply to Wireless Master Plan sites.
- iv. A certification by a Florida professional engineer that the WCF has sufficient structural integrity to accommodate the required and a proposed number of collocations.
- v. A certification by a Florida professional engineer specifying the design structural failure modes of the proposed WCF, if applicable.
- vi. Identification of the proposed intended service providers of the WCF.
- m. With regard to antenna element replacements.
- i. Any repair or replacement of an existing antenna or antenna array with another of equal number that does not increase the number and/or size of transmission lines, and that is not readily discernibly different in size, type and appearance when viewed from ground level from surrounding properties, as reasonably determined by the City, and which will not alter the structural integrity of the support structure, is exempt from further review, provided that a notarized certification is submitted by a qualified technician stating that the replacement will not alter the structural integrity of the support structure and that any changes will not affect electrical specifications.
 - ii. For any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical, structural or electrical specifications of the WCF, but does not increase the number and/or size of feed lines and does not increase the number and/or size of antenna elements to the existing WCF, the applicant must, prior to making such modifications, apply for a new building permit review for such requested changes, and, for structural

changes to freestanding WCFs, shall provide, in addition to any other documentation necessary for building permit review, a stamped or sealed structural analysis of the existing freestanding WCF prepared by a Florida professional engineer indicating that the existing tower or base station as well as all existing and proposed appurtenances meets the City and Florida Building Code requirements (including, but not limited to, wind loading) for the tower or base station.

- n. With regard to the replacement of or modification to an existing WCF, except a tower. The replacement of or modification to a WCF, except a tower, that results in a WCF facility not readily discernibly different in size, type and appearance, when viewed from ground level from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties, all as reasonably determined by the Land Use Administrator, are subject only to building permit review.

2. Level II applications.

- a. A completed special exception approval application, and all items required pursuant to Section 2.07, including compliance with all applicable special exception requirements.
- C. *Disclosure of ownership.* A notarized affidavit from all owners having a legal, equitable, or beneficial ownership interest in the tower or base station, or privately owned real property upon which a facility is or will be located or collocated, granting permission to the applicant to locate upon such real property, or attach to the tower or base station being collocated upon or attached to.
- D. *Submission of fee.* All applications must be accompanied by the permit fee as established by resolution of the City Council.

4.20.10. *Application Review Process.*

- A. *A pre-application conference is required.* To minimize issues related to permit application, prior to submitting materials for a permit application, an applicant must request a pre-submittal meeting with the Land Use Administrator or designee. The City shall undertake efforts to accommodate an applicant's request for a pre-application conference within ten business days of a request.
- B. *Expert review.* The City may require that all wireless communications permit applications be reviewed by a third-party consultant or expert at the expense of the applicant for compliance with the requirements set forth herein. No permit shall be issued to any applicant that has not fully reimbursed the City for the third-party review fees, which shall be limited to the specifically identified reasonable expenses incurred in the review.
- C. *Application Review Timeframes: "shot clock".* The City's action on proposals to place, maintain, modify, or collocate wireless communications facilities shall be subject to the applicable standards and timeframes set out in F.S. § [365.172](#), 47 U.S.C. § 1455 (a) and Orders issued by the FCC, as same may be amended from time to time. All Federal and State "shot clock" timeframe guidelines that apply to any particular permit are hereby recognized by the City, and the City will make all reasonable efforts to comply. Except for eligible facilities request applications reviewed in accordance with Section 4.20.12, the following procedures apply to installation of a new WCF or modification:
 - 1. *Notification of completeness.* The Land Use Administrator or designee shall notify the applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed.

2. Expedited collocation applications. The City shall grant or deny each properly completed expedited collocation application for collocation based on the application's compliance with this section, applicable provisions of the City Code and any other applicable regulations, and within the normal timeframe for a similar building permit review, but in no case later than 45 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for collocation on City-owned property.
3. All other applications. The City shall grant or deny each properly completed application for any other non-exempt WCF, including special exception approvals and collocations that do not qualify for an expedited collocation, based on the application's compliance with this section and any other applicable law, including but not limited to the City Code, and within the normal timeframe for a similar type of review, but in no case later than 90 business days after the date the City determines the application is completed. This timeframe shall not apply to lease negotiations for wireless communications facilities on City-owned property. Collocations located on historic base stations, or within a historic district, shall be reviewed through the review processes for historic structures or districts indicated in the LDC.
4. An application is deemed submitted or resubmitted on the date the application is received by the City. If the City does not notify the applicant in writing that the application is not completed in compliance with the City's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the City's regulations, the City shall so notify the applicant in writing indicating with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the City shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. However, if applicant does not cure the application deficiencies within 20 business days after receiving the notice of deficiencies, the application shall be considered withdrawn or closed unless an extension, due to reasonable circumstances, of the time to cure is requested by the applicant prior to the expiration of the 20-day period, and such extension is granted by the Land Use Administrator or designee.
5. The timeframes specified above may be extended, but in no case longer than 90 calendar days for collocations, and 150 calendar days for new installations, and only to the extent that the application has not been granted or denied because the City's procedures generally applicable to all other similar types of applications require action by the City Council or Planning and Land Development Regulation Board, and such action has not taken place within the specified timeframes. Under such circumstances, the City Council or Planning and Land Development Regulation Board, as applicable, shall either grant or deny the application at its next regularly scheduled meeting, or, otherwise, the application shall be deemed automatically approved; accordingly, the Land Use Administrator or designee may by letter to the applicant extend the timeframe for a decision until the next available scheduled meeting date of the City Council or Planning and Land Development Regulation Board as to whether to grant or deny an application for a permit. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the City. The City may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, the City may require a one-time waiver in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting

activities of the City. Notwithstanding the foregoing, the City and an applicant may voluntarily agree to waive the timeframes set forth above.

- D. *Appeals.* Any person aggrieved by an administrative decision rendered by the Land Use Administrator regarding the provisions of this Section 4.20 may appeal such decision to the Planning and Land Development Regulation Board in accordance Section 2.16.01 of the LDC.

4.20.11. *Interference with public safety communications.*

- A. The City adopts a policy of requesting prior notification of activation or modification of WCF facilities as provided for in 47 C.F.R. § 22.973 and 47 C.F.R. § 90.675 and in accordance with those provisions, WCF providers shall notify the Land Use Administrator or designee prior to a new site activation or existing site modification and provide the information required by the federal regulations.
- B. Whenever the City has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCFs, the following steps shall be taken:
 - 1. The City shall provide notification to all WCF service providers operating within 5,000 feet of the public safety communications equipment at issue, in accordance with the procedures indicated in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674, using the website www.PublicSafety800mhzinterference.com. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the City and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674 and following the applicable FCC adopted Best Practices Guide, as may be amended or revised by the FCC from time-to-time.
 - 2. If any WCF owner fails to cooperate with the City in complying with the owner's obligations under this section and if the FCC makes a determination of radio frequency interference with the City public safety communications equipment, an owner who fails to cooperate and/or the owner of the WCF which caused the interference, shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the City for all reasonable costs associated with ascertaining and resolving the interference including, but not limited to, any engineering studies obtained by the City to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674.

4.20.12. *Eligible Facilities Requests.*

- A. *Applicability and Intent.* This section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") as interpreted by the Federal Communications Commission's ("FCC") Acceleration of Broadband Deployment Report and Order dated October 21, 2014, which requires local governments to approve any eligible facilities request for modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. This section shall apply only to eligible facilities requests for an eligible support structure that is a legal conforming or legal nonconforming structure at the time a completed eligible facilities request is submitted to the City. To the extent that the nonconforming structures and use provisions of the City of Palm Coast LDCs would operate to prohibit or condition approval of an eligible facilities request otherwise allowed under this section, such provisions are superseded by this section. This subsection shall not apply to an eligible facilities request replacement of the existing tower or base station. This subsection shall also not apply where the WCF requested to be modified is located upon a City-owned structure, or upon non-right-of-way property which is either City-owned or City-leased.
- B. *Sole and Exclusive Procedure.* Except as may otherwise be provided in this section, and notwithstanding any other provisions in the City Code, the provisions of this section shall be

the sole and exclusive procedure for review and approval of an eligible facilities request which the applicant asserts is subject to review under the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project application for a proposed eligible facilities request, the provisions of this section shall control. In the event that an application for a project approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be entitled to review under this section and may be subject to review under other applicable provisions of the City Code.

- C. *Application Requirements.* No eligible facilities request shall be deemed complete unless it is in writing, accompanied by the application fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant. The application shall be submitted on a form prepared by the City. The applicant shall be obligated to demonstrate conclusively that the proposed modification satisfies the standards set forth herein and that the modification shall meet all applicable building codes.
- D. *Review of Application.* The City shall review an eligible facilities request application to determine if the proposed modification is subject to this section, and if so, if the proposed modification will result in a substantial change to the physical dimensions of an eligible support structure.
- E. *Timeframe for Review.* Within 45 calendar days of the date on which an applicant submits a request seeking approval under this subsection, the City shall approve, and may not deny, an eligible facilities request, unless it determines that the application is not covered by this section or proposes a substantial change to the physical dimensions of the eligible support structure.
- F. *Tolling of Timeframe for Review.* The 45-day period begins to run when the application is filed with the Land Use Administrator or designee in person during the City's regular business hours, and may be tolled only by mutual agreement, or in cases where the City determines that the application is incomplete.
 - 1. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 calendar days of receipt of the application, clearly and specifically delineating all missing documents or information.
 - 2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.
 - 3. Following a supplemental submission, the City shall have ten calendar days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the same procedure used for the first notice of incompleteness. Except as may be otherwise agreed to by the applicant and the City, second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
 - 4. Notices of incompleteness from the City shall be deemed received by the applicant upon the earlier of personal service upon the applicant, three days from deposit of the notice in the U.S. Mail, postage prepaid, to the applicant, or by electronic mail if the applicant has agreed to receive notices in such a manner.
 - 5. If after submittal of the application the applicant modifies the eligible facilities request, the modified application shall be considered a new application subject to commencement of a new application review period.
- G. *Approval or Denial.* An eligible facilities request shall be approved, and an eligible facilities permit issued, upon determination by the City that the proposed modification is subject to this section and that it does not substantially change the physical dimensions of an eligible

support structure. An eligible facilities request shall be denied upon determination by the City that the proposed modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure.

- H. *Denial.* A denial of an eligible facilities request shall be in writing and shall set forth the reasons for the denial.
- I. *Remedies.* Applicant and City retain any and all remedies that are available at law or in equity and any action challenging a denial of an application or notice of a deemed approved remedy, may be brought in a court of competent jurisdiction within 30 days following the date of the denial or following the date of notification of the deemed approved remedy.
- J. *Applicable Code Requirements.* Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety. Any approved eligible facilities request may be conditioned upon compliance with such codes and other laws.
- K. *Expiration of Approval.* An approved eligible facilities request shall be valid for a term of 180 days from the date of approval or the date the application is deemed approved.
- L. *Not Covered as an Eligible Facilities Request.* Should the City determine that an applicant's request is not covered by Section 6409(a) of the Spectrum Act, the presumptively reasonable timeframe under 47 U.S.C. § 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the applicant to evaluate the application under 47 U.S.C. § 332(c)(7), pursuant to the limitations applicable to other reviews under that statute.
- M. *Failure to Act.* In the event the City fails to approve or deny a request under this section within the timeframe for review, accounting for any tolling, the request shall be deemed granted. The application deemed granted does not become effective until the applicant notifies the City in writing after the review period has expired, accounting for any tolling, that the application has been deemed granted.

4.20.13. *Abandonment.* WCFs and equipment compounds shall be removed, at the owner's expense, within 180 days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided in Section 4.20.09, in which case the removal shall occur within 180 days of cessation of use. An owner may apply to extend the time for removal or reactivation by submitting an application stating the reason for such extension. The City may extend the time for removal or reactivation up to 90 days upon a showing of good cause. If the WCF or antenna is not removed in accordance with the requirements of this section, the City may give notice that it will contract for removal within 60 days following written notice to the owner. Thereafter, the City may cause removal of the WCF and equipment compound with all costs being borne by the owner. The City may record a lien against the property in the amount of all costs and expenses of the City. Upon removal of the WCF, the equipment compound and the foundations, including two feet below ground level, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the owner. Except as provided herein, the abandonment of WCFs within public rights-of-way shall be managed in accordance with the procedures set forth in Section 42-123, City Code of Ordinances. Any special exception approval for a WCF shall automatically expire 180 days from the date of abandonment without reactivation, or upon completion of dismantling and removal, whichever is first, or pursuant to the notice required by Section 42-123 of the City Code of Ordinances.

4.20.14. *Code enforcement.*

- A. The City may enforce the provisions of this section in accordance with the provisions of applicable state law and pursue any and all available legal remedies.
- B. The City shall engage in a program of periodic inspections to ensure continuing adherence to the standards of this section and to ensure that WCFs are being appropriately maintained.

4.20.15. *Compliance with state and federal regulations; preemption.* In implementing this section and the provisions set forth herein, the City shall comply with applicable state and federal regulations, and the provisions of this section shall be given force to the maximum amount and greatest extent permissible under state and federal law. Except as authorized pursuant to state and federal law, in the event of any conflict between the terms of this section and state or federal law, state and federal law shall control. In the event any provision of this section is specifically preempted, or judicially determined to be preempted by state or federal law, then the preempted provision shall automatically be deemed null and void and the superseding provision of state or federal law shall prevail.

([Ord. No. 2018-02](#), § 5(Att. A), 2-6-18; [Ord. No. 2020-11](#), §§ 2, 3, 10-6-20)

Editor's note— [Ord. No. 2018-02](#), § 5(Att. A), adopted Feb. 6, 2018, changed the title of § 4.20 from "Wireless Communications Facilities" to read as herein set out.

Sec. 4.21. - Electronic Game Promotions.

4.21.01. *Purpose and intent.* In the interest of the public health, peace, safety, and general welfare of the citizens and inhabitants of the City of Palm Coast, this section is established to regulate the use of electronic means to effect giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, and game promotions.

4.21.02. *Separation requirements.* Establishments conducting electronic game promotions with electronic equipment on site shall not operate within 1,000 feet of a church, public park, or school, unless such establishment was in operation prior to the church, park, or school locating nearby. Distances shall be measured from property line to property line without regard to the route of travel. This subsection does not apply to de minimis activity establishments.

4.21.03. *Compliance with city and state law.* Electronic game promotions and de minimis activity establishments shall comply with Chapter 16, Article IX, in the City of Palm Coast Code of Ordinances and F.S. [166](#).

(Ord. No. 2012-3, § 3, 5-1-12)

Sec. 4.22. – Mobile Food Dispensing Vehicles and Temporary Commercial Kitchens.

4.22.01. *Purpose and Intent.* The purpose of this section is to establish operational and zoning standards for Mobile Food Dispensing Vehicles and Temporary Commercial Kitchens (MFDV) in the City in effort to be compliant with Section 509.102, Florida Statutes. The standards within this section shall apply to MFDVs in the City of Palm Coast, with the following exceptions:

- A. MFDVs associated with a special event in accordance with Chapter 28, Article II - Special Events of the City's Code of Ordinances.
- B. MFDVs associated with catered private events on private land where no food product, sale, or service is made available to the general public.

4.22.02. *Zoning Applicability.* MFDVs shall be permissible as depicted under LDC Section 3.03 Table 3-4. MFDVs shall be prohibited in any other zoning district. MFDV parks as a principal use shall be permitted in COM-2, COM-3, IND-1, and MPDs as determined by their Development Agreements. MFDVs as an accessory use to sites with an existing principal use shall be permitted in COM-1, COM-2, COM-3, IND-1, PSP, P&G, and MPDs as determined by their Development Agreements. The utilization of an MFDV shall be considered a customary ancillary use of sites developed as a park, performing arts center, or athletic complex within the City.

4.22.03. *Site Plan Approval.* Proposed MFDV sites developed as a principal use shall require the approval of a Technical Site Plan in accordance with LDC Section 2.11. Sites developing as an accessory use, as allowed under Sec. 4.22.02, shall not require technical site plan approval. Rather, sites developing as an accessory use shall submit an application by the Property Owner or authorized agent on a form prescribed by the City. This application shall require a concept plan showing the location of MFDV operational area along with a statement that identifies the intended number of MFDV spaces, hours of operation, and frequency of operations.

4.22.04. *Indemnity.* MFDV sites that operate as a principal or accessory use shall submit an application by either the property owner(s) or their authorized agent. In the event that an agent other than the property owner submits the application, a notarized authorization of owner(s) shall also be submitted. The applicant by means of the application shall indemnify, defend, and hold the City harmless against all liability, claims for damages, and suits for or by reason of any injury to any person, including death, and damage to any property, arising out of or in connection with the operation of a MFDV site.

4.22.05. *Development Standards.* Proposed MFDV sites shall be subject to these supplemental development standards in addition to meeting any other applicable sections of the LDC:

- A. *Principal Use.* MFDV sites developed as a principal use shall provide permanent common facilities for the use of all mobile food vendors (MFV) and/or customers. These facilities shall be permanent to the site and include accessible restrooms, dining areas, and common private refuse collection on site. Common dining areas may be either indoors or outdoors, and if developed outdoors, outdoor lighting shall be provided pursuant to LDC Section 9.08. The site may develop small outdoor recreation areas (i.e. playgrounds, splash pads, etc.) as an ancillary use to a MFDV site subject to any applicable development regulations. The site shall provide a common parking area that is separated from the vending areas, dining areas, and any provided outdoor recreation.
- B. *Accessory Use.* MFDV sites developed as an accessory use shall be limited to the zoning districts identified in Sec. 4.22.02 on property that is developed with an existing conforming principal use. MFDVs shall not operate on nonconforming lots. MFDVs operating as an accessory use shall not require additional parking areas, dining areas, or restroom areas outside of those required for the principal use. In no circumstances shall their usage reduce the available parking area for the principal use below the site's required parking.
- C. *Operating Hours.*
 - 1. *As a Principal Use.* MFVs shall not offer food product, sale, or service to the general public between the hours of 2:00 a.m. and 6:00 a.m. MFDVs are not required to be removed from the parcel during this time.
 - 2. *As an Accessory Use.* MFDVs shall not operate between the hours of 2:00 a.m. and 6:00 a.m. MFDVs shall vacate an MFDV site outside of the principal use's operating hours. The provisions of this subsection shall have the following exemptions:
 - i. Any MFDV that is operated on the same premises as and by a separately licensed public food service establishment may operate during the same hours of operation as the separately licensed public food service establishment that operates such mobile food dispensing vehicle or temporary commercial kitchen.
 - ii. Nightly removal of a MFDV is not necessary if the mobile food dispensing vehicle or temporary commercial kitchen that is operated on the same premises as and by a separately licensed public food service establishment in conjunction with Subsection 509.102(3) Florida Statutes.
- D. *On-site Locational Requirements.*
 - 1. *General.* MFDV sites shall not impact easements, wetlands, required landscape or wetland buffers, threatened or protected species, drive aisles, pedestrian sidewalks/cross walks, emergency access, fire lanes, loading zones, public rights-of-

way, or otherwise impede traffic patterns or ingress and egress to buildings and businesses. MFDVs shall be located on an impervious surface

2. *As a Principal Use.* Any ancillary recreational areas provided for MFDV sites developed as a principal use may be located on either a pervious or impervious surface and shall be enclosed by a perimeter fence in accordance with LDC Section 4.01.02 and buffered a minimum five (5) feet from any parking area or drive aisle.
3. *As an Accessory Use.* Operations of such an accessory use within a vehicular use area (such as a parking lot or internal drive aisle) shall provide on-site marking of the MFDV area with traffic cones a minimum of at least three (3) feet high every six (6) feet surrounding the area of operations. Traffic cones markings are not required in the event that the MFDV area is not in a vehicular use area on the site.

E. *Minimum Dimensional Requirements.*

1. *As a Principal Use.* MFDV sites developed as a principal use shall be limited as depicted in Table 4-7. Each MFDV operated as a principal use shall require its own space as provided in Table 4-7. Restrooms for MFDV sites developed as a principal use are required regardless of Florida Administrative Code 61C-4.010(8)(a), as that exemption is limited in scope for individual MFDVs operating in a temporary capacity and does not extend to a permanent MFDV site.

Table 4-7: Dimensional Requirements for MFDV sites developed as Principal Use.

Standard	Dimension
Minimum Lot Size	20,000 sq. ft.
Minimum Space per MFDV	500 sq. ft.
Minimum Space length per MFDV	25'
Minimum Space width per MFDV	20'
Maximum Number of MFDV Spaces	15
Minimum MFDV Space Setbacks from Property Boundaries	As required by the underlying zoning district or MPD Development Agreement.
Minimum Separation Between MFDV Spaces	10 feet
Minimum Parking	2 parking spaces per MFDV + 1 space per 75 sq ft of dining areas.
Minimum Seating Area	10 seats per MFDV
Maximum Seating Area	30 seats per MFDV

Minimum Restroom Requirements	Refer to Florida Building Code Assembly Occupancy group for minimum restroom requirements.
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2. *As an Accessory Use.* MFDV sites developed as an accessory use shall be limited to sites developed with an existing conforming permitted principal use. Additionally, MFDV sites developed as an accessory use shall meet the minimum dimensional requirements as depicted in Table 4-8. Each MFDV operated as an accessory use shall require its own space as provided in Table 4-8.

Table 4-8: Dimensional Requirements for MFDV sites developed as an Accessory Use.

Standard	Dimension
Minimum Lot Size	20,000 sq. ft.
Minimum Space per MFDV	500 sq. ft.
Minimum Space length per MFDV	25'
Minimum Space width per MFDV	20'
Maximum Number of MFDV Spaces	3
Minimum Setbacks from Property Boundaries	As required by the underlying zoning district or MPD Development Agreement.
Minimum Separation Between MFDV Space	10 feet

3. *Administrative Deviations.* Administrative deviations of these standards shall be subject to the approval of the Land Use Administrator pursuant to the following limitations and LDC Section 2.13. Deviations to the minimum width of an MFDV space shall be conditioned upon the space providing a minimum of a two foot increase to the minimum length of the MFDV space for every foot reduced as the minimum width is intended to provide an adequate safe space for customers to queue. Deviations increasing the maximum number of spaces shall require an increase of 10,000 sq. ft. to the minimum lot size for every additional space provided, not to exceed a maximum of five additional spaces. The minimum separation distance between MFDVs shall not be reduced, as that space is intended for fire separation purposes.

F. *Outdoor Dining and Signage.*

1. *As a Principal Use.* MFDV sites that are permitted as a principal use shall provide permanent dining areas as required in Table 4-7 above.

2. *As an Accessory Use.* An MFDV that operates as an accessory use within a vehicular use area shall not provide any outdoor dining areas, tents, or canopies. MFDVs that operate as an accessory use outside of a vehicular use area may provide temporary seating, tents, or canopies, that are removed when the MFDV ceases daily operations, subject to the approval of the property owner. Each MFDV shall be required to provide its own waste receptacle for customer use during its hours of operation. A MFDV shall be able to provide a temporary A-fame sign to be located no further than five feet from the MFDV for purposes of providing a menu board, pursuant to LDC Section 12.06.03. Any provided seating, tents, or canopies shall be fully enclosed within the approved MFDV space and setback at least five (5) feet from any adjacent vehicular use area.
- G. *Fire Safety.* Obstructions shall not be placed or kept near fire hydrants, fire department inlet connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately visible and accessible. A clear and unobstructed path of a width at least eight (8) feet shall be provided and maintained for access to the fire department inlet connections. All MFDVs shall have a fully charged fire extinguisher located on the premises at all times during operations.
- H. *Illicit Discharge.* MFDVs shall be prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer system. Spills of oil, fuel, coolant, or similar hazardous liquids shall be immediately contained and cleaned up to minimize potential environmental impacts. Such liquids shall be prohibited from being discharged into the sanitary sewer system. Any illicit discharge shall be reported to the City of Palm Coast.
- I. *Limitations and Code Enforcement.* MFDVs authorized by this section shall meet the definition of “mobile food dispensing vehicle” or “temporary commercial kitchen” as defined by Section 509.102, Florida Statutes. Further, MFDVs authorized by this section shall meet the definition of a “public food service establishment” as defined in Section 509.013, Florida Statutes. This section shall not authorize mobile vendors that provide other non-food related services. Operating a MFDV site or MFDV within the City of Palm Coast without complying with the provisions established within this section or as exempted, in subsection 4.22.01 above, shall be subject to code enforcement action pursuant to Chapter 2 Article V Division 1 – Code Enforcement Board of the City’s Code of Ordinances.

4.22.06 *Utilization MFDVs on City-Owned or Leased Land.* The City may permit the development of a MFDV site to allow for the limited operations of MFDVs on City-owned or leased land pursuant to the above regulations outside of an approved special event permit in accordance with Chapter 28, Article II – Special Events of the City’s Code of Ordinances. The operations of such a site shall be established by City operating policies which may be amended from time to time.

Sec. 4.23. - Affordable Housing Mixed-Use Residential Development Standards.

4.23.01. Zoning applicability. Applications for the development of property pursuant to the Live Local Act shall require the site to be zoned for commercial, industrial, mixed use, or portions of Master Planned Developments that allow for commercial, industrial, or mixed uses pursuant to Florida Statutes Section 166.04151(7) as amended. Additional properties eligible for live local developments regardless of the underlying zoning district shall include properties that are owned by either the City, County, school district, or a religious institution which has been developed with a house of worship for at least 10 years prior to the proposed development. For properties not owned by the City, County, school district, or a religious institution which has been developed with a house of worship for at least 10 years prior to the proposed development shall require the site to be zoned as permitted under Table 3-4 found under Section 3.03.02. Properties developed as a house of worship seeking to apply for a live local development shall be at least three (3) acres in size. If the City designates less than 20 percent of the land area within its jurisdiction as commercial or industrial, it must authorize a proposed development pursuant to the Live Local Act only if the proposed development is a live local mixed-used residential development (see glossary).

4.23.02. Use of property. Live local developments shall maintain the project as a live local mixed-use residential development and shall rent and hold available for rent no fewer than 40 percent of the dwelling units as affordable as defined in § 420.0004, Florida Statutes for rent exclusively to eligible households for the affordability period. The project shall have at least 65 percent, but no more than 70 percent of the buildable area of the property must be for residential purposes and at least 10 percent of the buildable area of the property must be for commercial or industrial use reflective of the underlying zoning district's permitted uses. In the event that the project is for a vertically mixed-use development, then the non-residential component of the project may be 33 percent of the buildable area to facilitate vertically stacking non-residential and residential uses.

4.23.03. Development standards. Live local mixed-use residential developments shall be subject to the requirements of the Land Development Code unless otherwise modified below:

A. Developments may utilize up to the maximum density allowed by any zoning district within the city.

B. Developments may utilize up to 150 percent of the maximum allowed floor area ratio of any zoning district within the city.

C. Developments may utilize the city's maximum allowed building height within one mile of the development. The additional setbacks for multistory buildings requirement found under Section 3.05.02(C) does not apply to developments made pursuant to the Live Local Act.

1. If the development is adjacent to a single-family residential development on two or more sides with at least 25 contiguous single-family homes, the maximum height for the development is restricted to 150 percent of the highest adjacent building, the zoning district's defined maximum height, or three stories, whichever is higher, not to exceed 10 stories.

D. Developments shall submit the residential and non-residential portions of the project concurrently within the same application to ensure the mixed-use nature of the project. If the development is phased, the non-residential portion of the project shall be constructed prior to the residential portion.

E. Developments may use vertical or horizontal mixed-used developments; however, vertically mixed-used developments are not permitted in IND-1 or IND-2 zoning districts due to potential life-safety issues that may be present when having permitted industrial uses and residential uses in the same building.

F. The development shall provide a perimeter landscape buffer as required in Section 11.03 based on its zoning district. Horizontally mixed-use developments shall provide a minimum of an internal D, E, or F landscape buffer in-between residential and nonresidential uses.

G. The non-residential component of a development shall be a principal use of the underlying zoning district and shall be designed so that it could be developed without a live local residential portion. The nonresidential component shall not be an accessory use to the residential use (such as a leasing office, but not limited to other accessory uses related to the management of a multifamily residential development).

H. A mixed-use development that includes an adult-oriented business or miniwarehouses, office warehouses and/or a self-storage facility as its nonresidential component shall be prohibited.

I. The non-residential portion of a mixed-use development shall be integrated with the residential component of the project through use of sidewalks and internal roads. The non-residential and residential components of the project shall share the same access as for the project, provided the project may require more than one point of access in accordance with Section 5.02.04.

J. Loading and unloading and refuse collection areas servicing the non-residential uses of a mixed-use development shall be located to provide the least impact to any adjacent residential community.

K. Developments that are within a one-quarter mile of a transit stop or within 600 feet of an area with available surplus parking consisting of on-street, parking lots, or parking garages that can be utilized to meet the needs of the development the minimum parking requirements are eligible for a 20

percent reduction to its parking requirements. Provided that any available surplus parking utilized is memorialized by a shared parking agreement.

L. Proposed developments on property owned by the City, County, or school district must be party to the application. If the City, County, or school district do not authorize the application then the proposed development shall not be processed.

M. Proposed developments on property that is owned by a religious institution shall be required that the religious institution is party to the application and that the house of worship on site has existed for a minimum of 10 years. Any house of worship must continue to operate on the property after the proposed development is constructed.

4.23.04. Exemptions.

A. The Live Local Act does not apply to properties within one-quarter mile of a runway or its extension for 10,000 feet.

B. Areas subject to land development regulations, which existed prior to July 1, 2026, that are intended to retain the open character of land, including, but not limited to, areas required for a development to meet open space or recreational level of service requirements, or park land.

C. Any portion of a property encumbered by a recorded conservation easement.

4.23.05. Affordability period. The affordable residential portion of the development shall be subject to a minimum affordability period of 30 years from the date of its issuance of a certificate of occupancy.

4.23.06. Land use restriction. Prior to the issuance of a building permit for a live local project, the property owner shall execute and deliver to the City, a land use restriction agreement (LURA) provided by the City that details the affordable housing conditions, restrictions and compliance for the development including the City's monitoring requirements. Furthermore, as a prerequisite to the issuance of a certificate of occupancy, the LURA shall confirm the affordability period, any conditions, and restrictions of the development, and shall be recorded in the public records of Flagler County, Florida at the sole expense of the property owner.

4.23.07. Owner responsible for income verification. For each affordable unit, the property owner shall be responsible for accepting rental applications and determining and verifying the adjusted gross income of prospective tenants to ensure such tenants qualify as an eligible household. Adjusted gross income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received by the household during the 12 months following the effective date of determination. The property owner shall submit an annual report to the City as provided in the LURA.

4.23.08. Affordable units must be comparable in quality to the market-rate units. The affordable units shall be intermixed with, and not segregated from any market rate units within the live local project. At all times, the affordable units must be at least reasonably comparable in terms of size, features, and number of bedrooms to the market rate units. Eligible households shall not be excluded from using common area amenities within the project.

4.23.09. Required recordkeeping. The property owner of a live local development shall maintain complete and accurate income records pertaining to each eligible household occupying an affordable unit. These records must be updated annually and shall be maintained for at least ten years following the date of each such record. At a minimum, property owner shall maintain the following records for each occupied affordable unit:

A. An eligible household's complete application for tenancy and related information including the name of each household member, proof of identity, and employment, income, and asset information for each household member;

B. A copy of the lease agreement listing the term of tenancy, the rent, and identifying each tenant residing in the affordable unit;

C. Verification that the household is an eligible household as defined herein; and

D. Verification that the eligible household's rent is affordable as defined herein.

4.23.10. Annual reporting requirements. The property owner of a live local development shall provide an annual report to the City by September 30 of each year. The annual report shall provide the following information regarding each affordable unit:

A. Unit address;

B. Number of persons residing in each affordable unit;

C. The adjusted gross income of the persons residing in the affordable unit;

D. The monthly rent charged;

E. Any other information reasonably required to ensure compliance with the Live Local Act and requested by the City.

4.23.11. Monitoring and inspection. The property owner of a live local development shall permit the City to inspect all records, including but not limited to financial statements and rental records, pertaining to the affordable units within the development upon reasonable notice and shall submit to the City such documentation as required by the City to document compliance with the Live Local Act. The City may, from time to time, make or cause to be made inspections of the affordable units and development rental records to determine compliance with the Live Local Act. The City shall notify the owner prior to scheduled inspections, and the owner shall make any and all necessary arrangements to facilitate the City's inspection.

(Ord. No. 2024-17, § 5, 11-12-24)

Chapter 5 - TRANSPORTATION, CONNECTIVITY, ACCESS, AND PARKING