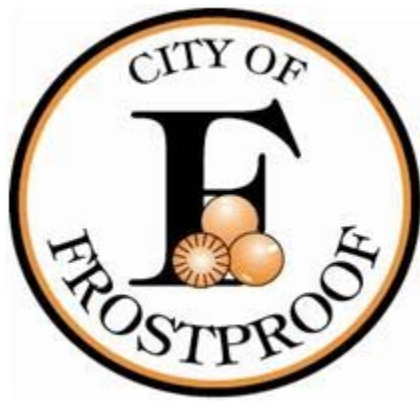


# *City of Frostproof*



## Unified Land Development Code

Updated through September 24, 2018

And Ordinance No. 2018-07

# *City of Frostproof*



Unified Land Development Code

## Article 1

## ARTICLE 1.

### PREAMBLE

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## **ARTICLE 1.**

### **PREAMBLE**

#### **Section 1.01.00. Title.**

This document shall be referred to as the "Unified Land Development Code of the City of Frostproof" and may be referred to herein as the "Code", the "Land Development Code" and the "LDC".

#### **Section 1.02.00. Authority and Purpose.**

This Land Development Code is enacted pursuant to the requirements and authority of 163.3202, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), the City Charter, and the general powers enumerated in Chapter 166, Florida Statutes (City Government) for the purpose of promoting the general health, safety, and welfare of present and future inhabitants of the City of Frostproof.

#### **Section 1.03.00. Consistency with Comprehensive Plan.**

The Unified Land Development Code is and shall remain consistent with the Comprehensive Plan as mandated by the State's Local Government Comprehensive Planning Act. The Unified Land Development Code shall be amended as necessary, by ordinance, to assure consistency with the City of Frostproof Comprehensive Plan.

#### **Section 1.04.00. Applicability.**

##### **Section 1.04.01. General Applicability.**

With the exceptions listed below, all development in Frostproof shall be subject to the provisions of this Code, and no development shall be undertaken without prior authorization pursuant to this Code.

##### **Section 1.04.02. Exceptions.**

A. Previously Issued Development Orders. A development project with an approved site development plan or subdivision plat may proceed under the regulations in effect at the time of approval provided that:

1. The development order has not expired at the time of adoption of this Code or amendment thereto; and
2. Development activity has begun or will begin according to the time limits under which the development was originally approved.

If the development order expires or is otherwise invalidated, any further development activity on the development site shall conform to the requirements of this Code or amendment thereto.

B. Previously Issued Development Permits. The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit provided that:

1. The development permit was issued prior to adoption of this Code and development activity has begun or will begin within six months of the date of issuance of the development permit; and
2. Development activity continues without interruption until the development is complete. If the development permit expires, any further development shall conform to the requirements of this Code or any amendments thereto.

**Section 1.05.00. Repeal of Conflicting Local Laws.**

Any and all other City ordinances, resolutions, or general laws, or any part thereof, which conflict with any provision or provisions of this Code are hereby repealed.

**Section 1.06.00. Interpretation.**

The provisions of this Code will be held to the minimum requirements adopted for the promotion of the public health, safety and welfare and to implement the Comprehensive Plan of the City of Frostproof.

**Section 1.07.00. References Throughout this Code.**

References throughout this Code to the Florida Statutes, Florida Administrative Code, and any standards established by specific organizations identified in this Code, shall include any amendments and amendments hereafter, including Chapter, Code, and Rule renumbering. References to specific regulating agencies, and organizations which establish standards, shall include any changes in the identifying name of said agencies or organizations.

**Section 1.08.00. Penalties for Violation.**

Any person, firm, partnership or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine up to the maximum permitted by state law, as exists or as may hereinafter be amended. Each day any violation of any provision of this Code shall continue to exist shall constitute a separate offense. Violations of this Code may also be enforced by the Code Enforcement Board or by Special Magistrate.

**Section 1.09.00. Severability.**

If any Section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

**Section 1.10.00. Enactment and Effective Date.**

The City Council has adopted these regulations by Ordinance No. 2010-14, and the regulations shall take effect immediately upon the Ordinance adoption date.

# *City of Frostproof*



Unified Land Development Code

## Article 2

## ARTICLE 2.

### DEFINITIONS

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## ARTICLE 2.

### DEFINITIONS

#### Section 2.01.00. Interpretation of Certain Terms and Words.

For the purpose of enforcing and administering this Code, these words shall have the following definitions and meanings:

- A. Words used in the present tense include the future tense. Words used in the singular number include the plural and words used in the plural include the singular.
- B. The word "person" includes a firm, co-partnership, corporation, association, organization, trust, company or individual.
- C. The word "lot" includes "plot" or "parcel".
- D. The word "shall" is always mandatory and not merely directory.
- E. The word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- G. References throughout this Code to the Florida Statutes and Florida Administrative Code shall include any amendments and amendments hereafter.

#### Section 2.02.00. List of Definitions.

#### Definitions, "A."

**ABANDON:** To discontinue a use for more than one hundred eighty (180) consecutive days.

**ABUT:** To physically touch or border upon, or to share a common property line (also referred to as adjoining or contiguous).

**ACCESSORY BUILDING:** A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building that is permitted in each particular zoning district.

**ACCESSORY DWELLING UNIT:** A dwelling unit, located on the same lot as the principal dwelling unit, which is detached, incidental, and subordinate to the principal dwelling unit.

**ACCESSORY RETAIL USES:** The retail sales of various products (including food) and/or the provision of personal services (e.g., hair cutting, etc.) within a health care, hotel, office, or industrial complex for the purpose of serving employees or customers, and is not visible from public streets. These uses include pharmacies, gift shops, and food service establishments within hospitals and convenience stores and food service establishments within hotels and office and industrial complexes.



**ACCESSORY USE (OR STRUCTURE):** A use or a structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building, provided that any such structure is built with or after the construction of the principal building.

**ACRES, GROSS:** The entire acreage of a site; includes the entire land and water area within the property boundaries.

**ACRES, NET:** The portion of a site that can actually be built upon. The following generally are not included in the net acreage of a site: public or private road rights-of-way, public open space, lakes and flood ways.

**ADULT DAY CARE CENTER:** Any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, therapeutic programs of social and health services as well as activities for adults in a non-institutional setting. Participants may utilize a variety of services offered during any part of a day, but less than a 24-hour period. These services are provided to three (3) or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services (Section 429.901, F.S.).

**ADULT FAMILY CARE HOME:** (Pursuant to Section 429.65, F.S.); A full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five (5) disabled adults or frail elders who are not relatives. The following family-type living arrangements are not required to be licensed as an adult family-care home:

- (a) An arrangement whereby the person who owns or rents the home provides room, board, and personal services for not more than two adults who do not receive optional state supplementation under Section 409.212, F.S. The person who provides the housing, meals, and personal care must own or rent the home and reside therein.
- (b) An arrangement whereby the person who owns or rents the home provides room, board, and personal services only to his or her relatives
- (c) An establishment that is licensed under Florida Statutes as an assisted living facility.

**AGENCY:** The governmental entity, department, office, or administrative unit responsible for carrying out regulations.

**AGRICULTURAL LIMITED USES:** Land uses in residential areas that are characterized as agricultural in nature and limited to orchards; vineyards; nurseries; ornamental horticulture areas; groves; noncommercial greenhouses; and livestock (with the exception of pigs) raised for 4-H and FFA (Future Farmers of America) projects. (*Ord. 2011-05*).

**AGRICULTURAL TAX EXEMPT USES:** Agricultural uses that have been previously qualified for the agricultural tax exemption as defined by Section 193.461, F.S., "which includes, but is not limited to, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture (breeding, hatching, and rearing of fish), when the land is used principally for the production of tropical fish, aquaculture, sod farming, and all forms of farm products and farm production."

**AGRICULTURE:** The use of land for the purpose of growing crops, plants, trees, or other agricultural or forestry products, and other agricultural activities including, aquaculture, horticulture, floriculture, viticulture, forestry, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, seafood shall also be included in this definition. (Section 570.02, F.S.). (*Amended Ord. 2011-05*).

**AGRICULTURE/TRANSITIONAL:** A Future Land Use category allowing a mixture of uses including agriculture; residences; civic or public uses, such as parks; small-scale commercial development, to support the daily/convenience needs of the nearby residents; and churches, upon Conditional Use approval. Impacts within agricultural/transitional areas, to existing roadways, are minimal. Commercial development is designed to conform to the rural nature of the area, consistent with existing rural development patterns, and to be as unobtrusive as possible, and sensitive to environmental constraints. The use of lighting, if any, is designed to limit any impacts. The purpose and intent of agricultural/transitional areas is to provide a transition between urban and agricultural and conservation designated lands, to preserve existing natural resources, including habitat for listed species, and to retain the rural nature and pastoral appearance and function of the area.

**ALCOHOL PACKAGE SALES:** The retail sale of alcohol beverages not consumed on-site.

**ALL TERRAIN VEHICLES (ATV):** Any motorized off-highway vehicle fifty (50) inches or less in width, having a dry weight of nine hundred (900) pounds or less, designed to travel on three (3) or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. However, "all-terrain vehicle" shall also include any "two-rider ATV" (Section 317.0003, F.S.).

**ALLEY:** A public right-of-way that is less than the minimum required street width and which provides only a secondary access to abutting property and is not intended for general traffic circulation.

**ALTER OR ALTERATION:** Any change in, addition to, deletion from, or rearrangement of structures, walls, roofs, floors, wiring, pipes, or other structural parts of a building, except customary maintenance, repair or replacement.

**ALTERNATIVE ENERGY:** Refers to renewable energy; derived from natural resources providing virtually pollution-free power sources in place of fossil fuels and uranium. *See also Renewable Energy.*

**ALTERNATIVE ENERGY DEVICES:** Include alternative energy collectors or alternative energy storage mechanisms that collect, store, or distribute alternative energy.

**AMENDMENT:** Any action of a local government which has the effect of amending, adding to, deleting from or changing an adopted Comprehensive Plan Element text, map or map series.

**ANIMAL SHELTER:** A facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**ANNEXATION:** The incorporation of a land area into an existing district or municipality, with a resulting change in the boundaries of the annexing jurisdiction.

**ANSI:** American National Standards Institute.

**ANTENNA:** An external device for sending or receiving electromagnetic signals for radios, televisions or similar devices and which is accessory to the principal use or structure on or about which it is located. This shall include parabolic or dish-shaped antennas but shall not include antennas which are part of Personal Wireless Service Facilities or antennas mounted on communication towers.

**ANTENNA MOUNT (MOUNT):** Any supporting structure used to hold a PWS antenna at a desired height.

**ANTENNA, PERSONAL WIRELESS SERVICE (PWS ANTENNA):** A device for sending or receiving radio signals used by Personal Wireless Services (PWS). This shall include multiple antennas arranged in a set or array that function as a single unit.

**APARTMENT BUILDING:** A building or portion thereof designed for occupancy by three (3) or more families living independently of each other in three (3) or more dwelling units, and the units are separated by party walls with varying arrangements of entrances.

**APPLIANCE REPAIR:** A facility for the repair of household appliances and home equipment, including, but not limited to, washers, dryers, refrigerators, ovens/ranges and dishwashers.

**AQUACULTURE:** The cultivation of products associated with, or grown in, water, such as fish farms and fish hatcheries.

**AQUIFER:** Geologic formation that is water bearing and permeable and yields economically significant amounts of water to wells or springs.

**AQUIFER SYSTEM:** Regional set of inter-bedded geologic formations within a groundwater basin.

**ARTERIAL ROAD:** A road typically having facing commercial development. Residential property generally does not have direct access but is served from side streets. Arterial roadways provide service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. Every United States numbered highway (US Highway) is an arterial road (Section 334.03, F.S.); S.R. 17 is also an arterial road.

**AS-BUILT PLANS:** Revised construction plans reflecting the public improvements as they were actually constructed and as they actually exist in the subdivision.

**ASSISTED LIVING FACILITY:** A facility designed to provide personal care services in the least restrictive and most home-like environment. This includes any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator (Section 429.02, F.S.).

**AUTO PARTS SALES:** Stores that sell new automobile parts, tires, and accessories and may also include minor parts installation (e.g., mufflers and radiators, quick-lube, etc.). This does not include tire recapping or businesses dealing exclusively in used parts.

**AUTO SALVAGE YARD:** A commercial business which disassembles inoperable vehicles for the purpose of resale of automobile parts. Not more than three (3) inoperable vehicles may be stored at any one time. See "*Junkyard*" for a business which stores more than three inoperable vehicles.

**AUTOMOBILE, TRUCK AND BOAT SALES AND/OR RENTAL/LEASING ESTABLISHMENTS:** An establishment engaged in the sale, renting or leasing of new or used passenger automobiles, trucks and boats and related new parts and accessories. Such establishments may include repair departments provided they are clearly incidental and accessory to the principal use of selling and/or leasing automobiles, trucks and boats.

**AUTOMOBILE, TRUCK AND BOAT REPAIR:** An establishment engaged in the fixing and repair of automobiles, trucks and boats including the repair of automobile and truck tops, bodies, battery and ignition systems and radiators; automobile and truck painting and refinishing and repair and replacement of glass; and, general and specialized automobile and truck repairs including motorcycle, farm tractors and farm equipment repairs.

**AUTOMOTIVE EQUIPMENT RENTAL ESTABLISHMENTS:** An establishment engaged in renting or leasing large equipment and machinery.

**AUTOMOTIVE REPAIR AND MAINTENANCE:** The repair, alteration, restoration, towing, painting, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles, as a primary use, and includes the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes the following categories:

1. **MAJOR REPAIR/BODY WORK:** Repair facilities dealing with entire vehicles. Includes activities listed under Service Station, as well as removal and major overhaul of engines, transmissions and drive systems, and all types of paint and body work, including welding. These establishments provide towing, collision repair, other body work, and tire recapping.
2. **MINOR MAINTENANCE/REPAIR:** Minor facilities specialize in limited aspects of repair and maintenance (e.g., muffler and radiator shops, quick-lube, etc.). See *Service Station*.

**AWNING:** Any structure made of cloth or metal, which is supported by an open metal framework, and which is temporarily or permanently attached to, and extends from, an exterior wall or any other exterior portion of a building.

## Definitions, "B."

**BAKERY, INDUSTRIAL:** Establishments engaged in manufacturing fresh and frozen bread and other bakery products not for immediate consumption, but for retail to distributors and stores.

**BAKERY, RETAIL:** A place where products such as bread, cake, and pastries are baked, sold and may be consumed on the premises. Also called "bakeshop".

**BANKS AND FINANCIAL INSTITUTIONS:** Includes banks and trust companies; credit agencies; credit unions; lending and thrift institutions; investment companies; securities/commodity contract brokers and dealers; security and commodity exchanges; vehicle finance (equity) leasing agencies.

**BARS, LOUNGES AND TAVERNS:** An establishment designed to serve beverages for consumption on the premises; any food service is subordinate to the sale of alcoholic beverages.

**BASE FLOOD ELEVATION (BFE):** The elevation shown on the Flood Insurance Rate Map which indicates the water surface elevation resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.

**BED AND BREAKFAST:** A residential structure containing guest rooms where lodging with breakfast included is provided for compensation, and generally for a stay of a week or less. Bed and Breakfast structures are normally found in established neighborhoods and may be the primary residence of the owner and innkeeper. Residential structures rented out for a season or for longer than a week or two are considered boarding houses.

**BERM:** An earthen embankment erected to provide or act as a landscaping screen.

**BEST MANAGEMENT PRACTICE (BMP):** A practice or combination of practices that are determined to be the most effective and efficient way of accomplishing a task, based on repeatable procedures that have proven themselves over time.

**BICYCLE AND PEDESTRIAN WAYS:** Any road, path or way that is open to bicycle travel and traffic afoot and from which motor vehicles are excluded. (Rule 9J-5.003, FAC).

**BIG BOX RETAIL:** Retail sales establishments in free-standing buildings, typically with floor areas of approximately 80,000 to 200,000 square feet.

**BIOMASS:** A power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, algae, waste, byproducts, or products from agricultural and orchard crops, waste or co-products from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas. (Section 366.91, F.S.).

**BLIGHTED AREAS:** Developed areas that have deteriorated through neglect or abandonment and which could benefit the community if redeveloped.

**BLOCK:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shore lines of waterways, boundary of a city, town, or village, or other definite barriers and having an assigned number, letter or other name through which it may be identified.

**BOARDING HOUSE:** A building other than a hotel or motel where lodging, with or without meals, for three (3) or more persons not of the immediate family, is provided for compensation.

**BONA FIDE AGRICULTURAL PURPOSES:** (Section 193.461, F.S.). Good faith commercial agricultural use of the land, which includes but is not limited to horticulture, livestock, dairy, tropical fish, sod farming and all forms of farm products and farm production. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- (1) The length of time the land has been so used.
- (2) Whether the use has been continuous.

- (3) The purchase price paid.
- (4) Size, as it relates to specific agricultural use, but in no event shall a minimum acreage be required for agricultural assessment.
- (5) Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- (6) Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease.
- (7) Such other factors as may from time to time become applicable.

**BOTTLE CLUB:** An establishment providing facilities for the consumption of alcoholic beverages by its patrons on the premises (drinking establishment), but not licensed to sell alcoholic beverages, without regard to whether the patrons are required to be members of the club or establishment.

**BUFFER YARD:** An area or strip of land established to separate and protect one type of land use from another with which it is incompatible. A buffer area typically is landscaped and contains vegetative plantings, berms, and/or walls or fences to create a visual and/or sound barrier between the two incompatible uses.

**BUILDING:** A structure having a roof supported by columns or walls designed or built for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind.

**BUILDING COVERAGE:** The number, expressed as a percentage, which is determined by dividing the area or square footage of the lot which is, or will be, occupied or covered by all buildings (including covered porches and accessory buildings) by the total area or square footage of the property. Pools, pool cages, uncovered patios, walkways and surface parking areas are not included in lot coverage calculations.

**BUILDING HEIGHT:** The vertical distance from the average finished grade elevation of all exterior corners to the highest point of the building, not including those structures specifically permitted to extend beyond the height of the building. On any site where construction is required to adhere to the base flood elevation, as established by the Federal Emergency Management Agency, the building height is the vertical distance from the first living level or the tidal floodplain, whichever is lower, to the highest point of the building, not including those structures specifically permitted to extend beyond the height of the building.

**BUILDING PERMIT:** A permit that may be required relating to the location, construction, alteration, demolition, or relocation of structures.

**BUILDING REQUIREMENTS:** Lot and building requirements, as used in this Code, do not imply reference to building requirements as set forth in the Building Code of the City of Frostproof.

**BUILDING RESTRICTION LINES:** The line established by setback requirements outside of which no principal building may be erected.

**BUILDING SETBACK:** *See Setback.*

**BUILDING SITE:** That part of a parcel of land designed to be occupied by the principal building and such accessory buildings or uses customarily incidental to it.

**BUILDING SUPPLY SALES:** Establishments that sell primarily lumber, electrical supplies, heating and plumbing equipment, or a general line of building materials, to the general public; includes home improvement stores.

**BULK:** The height and size restrictions on buildings including the number of stories in a building, and the square feet of space which a building provides and the percentage of the lot covered by the building in relation to lot size requirements.

**BULK STORAGE OF EXPLOSIVE GASES:** The sale or on-site use of fuel related gases exceeding five hundred (500) gallons.

**BUSINESS OFFICE:** Offices of individuals, associations or groups that provide business services to individuals, clients, businesses and corporations. Such offices include those in the business of real estate and insurance services; banking, financial, tax, investment and brokerage services; title and abstract companies; advertising, employment, travel, protective and collection agencies; business machine sales; pest control companies, telemarketing offices; customer service centers for corporations such as phone service, utility service, cable television service, credit card customer services; business and management consulting services; and other business, political, labor and union, administrative and business office operations.

## Definitions, "C."

**CANOPY, STRUCTURAL:** Any structure, supported by the ground, which is attached to a building, extends from an exterior wall, or any other exterior portion of a building, and projects over entrances and walkways; utilized as protection from the rain or sun and either of a rigid or non-rigid material, collapsible, removable or of permanent rigid construction.

**CANOPY, TREE:** The area shaded by the crown of mature trees.

**CAR WASHING AND DETAILING:** Permanent, drive-through, self-service and/or attended car washing establishments, including fully mechanized facilities and detailing services.

**CARPORT:** An accessory structure of a principal structure, consisting of a roof and support members such as columns or beams open from the ground to the roof on at least two sides, and designed or used for the storage of motor driven vehicles or boats owned and used by the occupants of a building to which it is accessory.

**CEMETERY:** Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums and mausoleums, when operated in conjunction with and within the boundaries of such cemetery.

**CENTER:** Two or more businesses, located separately but within the same building.

**CENTRAL BUSINESS DISTRICT:** The compact urban core area of the City which serves as the primary center for economic activity.

**CENTER LINE OF STREET:** That line surveyed and monumented by the governing body shall be the center line of the street, or if such a centerline has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

**CERTIFICATE OF OCCUPANCY:** The certificate issued by the Chief Building Official which permits the use of a building in accordance with approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building.

**CERTIFIED SURVEY:** A survey, sketch, plan, map or other exhibit containing a written statement regarding its accuracy or conformity to specified standards, which is certified and signed by the registered surveyor under whose supervision the survey was prepared.

**CHILD CARE:** The care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care. (Section 402.302, F.S.).

**CHILD CARE, DROP-IN:** Child care provided occasionally in a child care facility in a shopping mall or business establishment where a child is in care for no more than a 4-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in child care arrangements shall meet all requirements for a child care facility unless specifically exempted. (Section 402.302, F.S.).

**CHILD CARE FACILITY:** (Pursuant to Section 402.302, F.S.) Any child care center or child care arrangement which provides child care for more than five (5) children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The term "child care facility" shall include child day nurseries, child day care services and child day care agency. The term does not include foster homes and the following are also not included:

- (a) Public schools and nonpublic schools and their integral programs, except as provided in Section 402.3025, F.S.;
- (b) Summer camps having children in full-time residence;
- (c) Summer day camps;
- (d) Bible schools normally conducted during vacation periods; and
- (e) Operators of transient establishments, as defined in Chapter 509, F.S., which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of Chapter 435, F.S.

**CITY:** The City of Frostproof, located within Polk County, Florida.

**CITY COUNCIL:** The governing body of the City of Frostproof, Florida.

**CLINIC, MEDICAL:** An establishment operated by one (1) or more persons for the purpose of rendering human health care or services by any lawful practitioner of medical arts as defined under Section 456.001, F.S.; includes medical doctors, osteopaths, chiropractors, optometrists, dentists, etc. Does not provide for overnight accommodations.



**CLUBS, COMMUNITY/FRATERNAL:** Buildings, facilities and property owned and operated by a corporation or association of persons for social or recreational purposes, including those organized chiefly to promote friendship and welfare among its members, to include facilities and service for providing entertainment, in addition to food and drink for consumption by individual members and their invited guests; but not operated primarily for profit or to render a service that is customarily carried on as a business. The term when used herein shall also mean lodge, fraternal order, or society.

**CLUSTER:** A development design technique that concentrates structures and infrastructure in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

**CLUSTER DEVELOPMENT:** Generally refers to a development pattern for residential, commercial, industrial, institutional, or combinations of such uses, in which the uses are grouped or "clustered" rather than spread evenly throughout a parcel as a conventional lot-by-lot development. A zoning ordinance may authorize such development by permitting smaller lot sizes if a specified portion of the land is kept in permanent open space either through public dedication or through creation of a homeowner's association.

**CLUSTER HOME:** A building designed and used exclusively for occupancy by one family (single family dwelling), grouped with other dwellings on a site and separated from other dwelling units by open space.

**CLUSTER SUBDIVISION:** A form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

**CO-LOCATION:** The use of a single structure or mount to support the antennas of more than one PWS (Personal Wireless Service) provider.

**COLLECTOR ROAD:** A roadway providing service which is of relatively moderate traffic volume, moderate trip length, and moderate operating speed. Collector roads collect and distribute traffic between local roads or arterial roads. (Rule 9J-5.003, FAC).

**COMMERCIAL:** Relating to or is connected with any aspect of buying or selling any goods, products, or services.

**COMMERCIAL USES:** Activities within land areas which are predominantly connected with the sale, rental and distribution of products, or performance of services. (Rule 9J-5.003, FAC).

**COMMUNICATION TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more communication antenna for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers (anchored with guy wires or cables), or monopole towers (free-standing). The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and any support structures thereto.

**COMMUNITY CENTERS:** Structures or buildings used by residents of a community for social, cultural or recreational purposes (the term also includes senior centers). Community centers are typically utilized by civic or non-profit groups, clubs, homeowners' associations or other such community group. This provision excludes dining facilities, clubhouses and recreation facilities in residential developments.

**COMMUNITY RESIDENTIAL HOME:** A dwelling unit licensed to serve frail elders as defined in Section 429.65, F.S.; physically disabled or handicapped persons as defined in Section 760.22(7)(a), F.S.; developmentally disabled persons as defined in Section 393.063, F.S.; non-dangerous mentally ill persons as defined in Section 394.455(18), F.S.; or a child who is found to be dependent as defined in Sections 39.01 or 984.03, F.S.; or a child in need of services as defined in Sections 984.03 or 985.03, F.S. These residents are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or a dwelling unit licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents (Section 419.001, F.S.).

Homes of six (6) or fewer residents, which otherwise meet the definition of a community residential home, shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six (6) or fewer residents, which otherwise meet the definition of a community residential home, shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes shall not be located within a radius of one thousand (1,000) feet of another existing such home with six (6) or fewer residents. (Section 419.001, F.S.).

**COMPATIBILITY:** A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time with no negative impacts directly or indirectly by another use or condition. (Rule 9J-5.003, FAC).

**COMPREHENSIVE PLAN:** The City of Frostproof Comprehensive Plan, as adopted and amended by the City Council pursuant to the requirements of Chapter 163, Part II, F.S. The Comprehensive Plan is the official guide for physical, social, and economic growth of the City and contains maps, data and other descriptive matter for the physical development of the City indicating the general location for major streets, parks, public utilities, land use and other similar information.

**CONCURRENCY:** The necessary public facilities and services are available to maintain the adopted level of service standards when the impacts of development occur. (Rule 9J-5.003, FAC).

**CONCURRENCY MANAGEMENT SYSTEM:** The procedures and/or process that the local government utilizes to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development. (Rule 9J-5.003, FAC).

**CONCURRENT WITH THE IMPACTS OF DEVELOPMENT:** Pursuant to Rule 9J-5.0055(3), FAC, concurrent with the impacts of development are satisfied when: the necessary facilities and services are in place at the time a development permit is issued; or a development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or that the necessary facilities are under construction at the time a permit is issued; or that the necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of concurrency as defined. For recreation facilities, concurrency may be met by adherence to Rule 9J-5.0055(3)(b), FAC. For roads, concurrency may be met by adherence to Rule 9J-5.0055(3)(c), FAC.

**CONDITIONAL USE:** A use that would not be appropriate generally throughout the zoning district or without restriction, but which, if controlled as to number, area, location, and relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity, and is permissible. Such uses may be in accordance with procedures as set forth in this Code. A Conditional Use requires approval by the Planning and Zoning Commission and the City Council.

**CONDOMINIUM:** A form of ownership of real property which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements (Section 718.103, F.S.).

**CONSUMPTIVE USE PERMIT:** A permit issued by the Water Management District that allows the production (or pumping) of groundwater up to a specified amount, usually expressed in gallons per day.

**CONSTRUCTION AND DEMOLITION DEBRIS:** (Section 403.703, F.S.). Discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes:

- (a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;
- (b) Except as provided in Section 403.707(9)(j), F.S., yard trash and unpainted, non-treated wood scraps and wood pallets from sources other than construction or demolition projects;
- (c) Scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities; and
- (d) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

**CONTRACTOR:** Any Florida licensed person, firm, association, or corporation that for a fixed price, commission, fee or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled or leased by another person, or any other improvements to such real property including but not limited to clearing, grading or excavation.

**CONTRACTOR'S SHOPS AND STORAGE YARDS:** Facilities and areas which are customarily used by contractors for storage of supplies, materials or equipment, fabrication, assembly or repair of materials or equipment, or places for vehicular and equipment storage.

**CONVALESCENT HOME:** *See Nursing Home.*

**CONVENIENCE STORE:** A retail establishment which sells a general line of goods and products intended for the convenience of surrounding residents.

**CONVENIENCE STORE WITH GAS:** A convenience goods store in conjunction with the sale and dispensing of motor fuels, oils, or automotive accessories; but where no major automotive repair, body rebuilding, welding, tire capping, or painting is or is intended to be performed.

**CORRECTIONAL FACILITIES:** A facility for the housing of persons convicted of, or being held for, a crime. Typical uses include prisons (a facility regulated by the State of Florida Department of Corrections which is designed for maximum security to house persons convicted of a crime), community correctional centers, probation and restitution centers, vocational training centers, and forestry camps (all as defined by the State of Florida Department of Corrections), or local government jails or detention centers.

**COUNTY:** Polk County, Florida.

**CRITICAL FACILITY:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, water treatment plants, pump stations and wells, wastewater treatment plants and pump stations, installations which produce, use or store hazardous materials or hazardous waste. Community emergency plans should address the continuation of services of critical facilities during a flood.

**CROSSWALK:** A right-of-way within a block, dedicated to public use and intended primarily for pedestrians, but which may include utilities where necessary and from which motor propelled vehicles are excluded.

**CROWN:** Refers to that part of the tree consisting of limbs, branches, twigs and leaves; the top of the tree.

**CUL-DE-SAC:** A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**CULTURAL FACILITIES:** A building or complex of buildings that houses public or private not-for-profit facilities to provide educational and informational services to the general public including, but not limited to, auditoriums, civic centers or theaters predominantly used for live performances, libraries, historical landmarks, museums, art galleries, arboretum, planetariums, and botanical and zoological gardens.

## Definitions, "D."

**DCA (FDCA):** The Florida Department of Community Affairs.

**DIAMETER BREAST HEIGHT (D.B.H.):** Always taken as four and one half (4½) feet above the ground, that being a convenient height at which to measure a tree's diameter. When a tree has grown with more than one stem at four and one half (4½) feet above grade, DBH shall be equal to the sum of the diameters of the individual stems measured at four and one half (4½) feet above grade.

**DECIBEL (dB):** A unit of intensity of sound pressure.

**DEMOLITION:** The complete or constructive removal of any or part or whole of a building or structure upon any site when same will not be relocated intact to a new site.

**DENSITY, GROSS:** A measurement of the number of residential units allowed per acre of land. To meet Comprehensive Plan and zoning density requirements gross density shall be calculated as follows: 1) the density allowed per acre, as established by the property's Future Land Use classification, multiplied by the total property acreage and 2) the total property area divided by the minimum lot size for one dwelling unit, as required by the applicable zoning district for the property. In no case shall the gross density permitted for new developments exceed that specified by the Comprehensive Plan. To calculate the gross density for existing/developed properties the number of dwelling units is divided by the total area of a parcel or project. Gross density is inclusive of all easements, rights-of-way, and waterbodies and is always expressed in terms of dwelling units per acre (du/ac).

**DENSITY, NET:** The method of calculation is the same as for gross density except the site area used in the calculation does not include access easements, rights-of-way, land dedicated to and accepted by a public agency, or the surface area of any waterbody.

**DENSITY BONUS:** An additional number of dwelling units above what would otherwise be permissible within a particular zoning classification or future land use classification.

**DEP (FDEP):** The Florida Department of Environmental Protection.

**DETENTION WITH FILTRATION:** The collection and temporary storage of stormwater in such a manner as to provide for the selective removal of suspended matter from stormwater by passing the water through suitable, fine textured, granular media such as porous soil, sand and gravel, or other natural or artificial aggregate, which may be used in conjunction with filter fabric and/or underdrain pipe with subsequent gradual release of the stormwater.

**DEVELOPER:** Any person, including a governmental agency, who engages in any development, including plat or subdivision approval, either on his or her own behalf or as the agent of an owner of property.

**DEVELOPMENT OR DEVELOPMENT ACTIVITY:** The construction, installation, demolition or removal of a structure, impervious surface, or drainage facility; the clearing, scraping, grubbing, killing or otherwise removing of the vegetation from a site, or the adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise significantly disturbing the soil, mud, sand or rock of a site. The term shall also include redevelopment of a site or of a portion thereof.

**DEVELOPMENT OF REGIONAL IMPACT (DRI):** Any development that, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

**DEVELOPMENT ORDER:** Any order granting, denying, or granting with conditions an application for a development permit.

**DEVELOPMENT PERMIT:** Includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development (Section 380.031, F.S.).

**DEVELOPMENT RIGHTS:** A legal entitlement to improve a piece of land consistent with the development requirements of that local authority having jurisdiction and power to regulate land use and property development.

**DISCHARGE, DISCHARGE POINT:** The outflow of water from a project, site, aquifer, drainage basin or facility.

**DISTRICT:** Any certain described area to which these regulations apply and within which the zoning regulations are uniform.

**DOCK:** A structure built on pilings, flotation devices, or projected over the water which is designed or used to provide anchorage for and access to one or more boats at anchorage.

**DOT (FDOT):** The Florida Department of Transportation.

**DRAINAGE FACILITY:** Any component of the drainage system.

**DRAINAGE PLAN:** The detailed analysis and drawings of the drainage system.

**DRAINAGE SYSTEM:** All facilities used for the movement of stormwater through and from a drainage area and consists of any and all of the following: conduits and appurtenant features, canals, channels, ditches, streams, flumes, culverts, streets, etc.

**DRIP LINE:** An imaginary circle that could be drawn on the soil around a tree directly under the tips of its outermost branches. The feeder roots of a tree usually extend to or beyond this line and receive water that drips off the canopy above.

**DUPLEX:** See Dwelling, Two-Family.

**DWELLING:** A building used or intended for use primarily for human habitation. The word shall not include hotels, motels, tourist courts, fraternity or sorority houses, rooming or boarding houses, nor other structures primarily for transient uses.

**DWELLING, SINGLE FAMILY:** A building used or designed to be used as a single housekeeping unit.

**DWELLING, MULTIPLE FAMILY:** A building used or designed to be used for three (3) or more dwellings/housekeeping units.

**DWELLING, TWO-FAMILY:** A building designed and used exclusively by two families living independently of each other in two (2) separate housekeeping units. The dwelling units may be attached side by side or one above the other.

**DWELLING UNIT:** A building or portion thereof designed exclusively for residential occupancy by one family and having the essential elements of a single housekeeping unit, including cooking facilities and a separate outside entrance. The Florida Building Code regulates minimum square footage and other dwelling unit construction standards.

**DWELLING, ZERO LOT LINE:** A building located on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

## Definitions, "E."

**EASEMENT:** A grant by a property owner, in the form of a dedication, of the use of his or her land to another party for a specific purpose. The title of the land remains in the name of the property owner, subject to the right of use designated in the reservation of the servitude. The easement may serve public or private utilities. "Public Utility" includes any public or private utility such as, but not limited to, storm drainage, sanitary sewers, electric power, water service, gas service, telephone lines, whether underground or overhead.

**EDUCATIONAL USES:** Activities and facilities of public or private primary or secondary schools, vocational and technical schools, and colleges and universities licensed by the Florida Department of Education, including the areas of buildings, campus open space, dormitories, recreational facilities or parking. (Rule 9J-5.003, FAC).

**ELECTRICAL POWER PLANT:** A power plant that converts a form of raw energy into electricity; for example, a hydro, steam, diesel, or nuclear generating station for stationary or transportation service.

**ELECTRIC POWER SUBSTATION:** An assembly of equipment in an electric power system through which electric energy is passed for transmission, transformation, distribution, or switching. Also known as substation.

**ENVIRONMENTALLY SENSITIVE LAND:** Areas of land or water which are determined necessary by the local government, based on locally determined criteria, to conserve or protect, including natural habitats and ecological systems. Nothing in this definition shall be construed to prohibit silvicultural operations which employ State Agricultural Best Management Practices.

**EQUESTRIAN FACILITY, COMMERCIAL:** Commercial horse, donkey, and mule facilities including horse ranches, boarding stables, riding schools and academies, horse exhibition facilities (for shows or other competitive events), pack stations, and barns, stables, corrals and paddocks accessory and incidental to these uses.

**EQUESTRIAN FACILITY, PRIVATE STABLE:** Stables, corrals, paddocks used by the individual homeowners of corresponding property and their animals.

**EQUIPMENT AND MATERIAL STORAGE YARDS:** All uses related to outdoor storage of large construction equipment or machinery, company vehicles, or large quantities of other materials. Excludes storage associated with vehicle service and equipment.

**EQUIPMENT, LIGHT DUTY:** Motorized equipment weighing six tons or less.

**EQUIPMENT, HEAVY DUTY:** Motorized equipment having a gross weight of more than six tons.

**EQUIPMENT SALES AND RENTAL:** Service establishments with outdoor storage/rental yards, which may offer a wide variety of materials and equipment for rental, including construction equipment and lawn and garden equipment, etc.

**EROSION:** The wearing or washing away of soil by the action of wind or water.

**EXCAVATION:** Removal of one hundred (100) cubic yards or more of earth material for a purpose other than that incidental to and on the site of authorized construction.

**EXISTING:** The condition immediately prior to the commencement of development or redevelopment.

## Definitions, "F."

**FAA:** Federal Aviation Administration.

**FAC or F.A.C.:** Florida Administrative Code.

**FACTORY-BUILT HOUSING:** Any residential building, building component or building system, which is made or assembled in manufacturing facilities for installation, or assembly and installation, on the building site.

**FAMILY:** One (1) or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit.

**FAMILY DAY CARE HOME:** (Pursuant to Section 402.302, F.S.); The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Family Services shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of \$50, to operate in an area zoned for residential use (Section 166.0445, F.S.).

An occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

- (a) A maximum of four (4) children from birth to 12 months of age.
- (b) A maximum of three (3) children from birth to 12 months of age, and other children, for a maximum total of six (6) children.
- (c) A maximum of six (6) preschool children if all are older than 12 months of age.
- (d) A maximum of ten (10) children if no more than five (5) are preschool age and, of those five (5), no more than two (2) are under 12 months of age.

**FAMILY FOSTER HOME:** A private residence in which children who are unattended by a parent or legal guardian are provided twenty-four (24) hour care. Such homes include emergency shelter family homes, family foster group homes, and specialized foster homes for children with special needs. The following are not considered a family foster home: a person who cares for a child of a friend for a period not to exceed ninety (90) days; a relative who cares for a child and does not receive reimbursement for such care from the state or federal government; or an adoptive home which has been approved by the state or by a licensed child-placing agency for children placed for adoption. (Section 409.175, F.S.).



**FARM EQUIPMENT AND SUPPLY ESTABLISHMENTS:** An establishment engaged in the selling of farm equipment, machinery, hardware, production supplies and other miscellaneous farm and garden supplies. Farm equipment and supply establishments may include farm equipment repair departments provided such repair departments are incidental and accessory to the principal selling of farm equipment and supplies.

**FARMERS MARKET:** The sale of organic, non-organic, or otherwise locally grown fruits, vegetables, and other agricultural products directly to the consumer by the farmer, typically in an outdoor setting.

**FARMING:** An establishment whose principal purpose is the production and sale of field crops, fruit, tree nuts, vegetables, livestock, livestock products, poultry hatcheries and animal husbandry activities.

**FARMING SERVICE ESTABLISHMENTS:** An establishment in which a person performs a type of labor, act or work off the premises that results in a variety of farming services such as crop dusting, vegetable and fruit picking, grain cleaning, harvesting, plowing and similar operations.

**FBC:** Florida Building Code.

**FCC:** The Federal Communications Commission.

**FDCA (DCA):** The Florida Department of Community Affairs.

**FDEP (DEP):** The Florida Department of Environmental Protection.

**FDOT (DOT):** The Florida Department of Transportation.

**FEMA:** Federal Emergency Management Agency.

**FENCE:** Any structure composed of wood, iron, steel, masonry, stone or other material and erected in such a manner and in such location as to enclose, secure, partially enclose or secure, provide privacy, decorate, define or enhance all or any part of any premises. Trellises or other structures supporting, or for the purpose of supporting, vines, flowers and other vegetation, when erected in such a position as to enclose all or any part of the premises or otherwise satisfy the intent of this definition shall be considered a fence.

**FINISHED GROUND LEVEL:** The final elevation of the ground following the completion of any site work.

**FLEA MARKET:** An assembly of vendors, whether professional or nonprofessional, that offers for sale, trade or barter any goods, regardless whether they are new, used, antique or handmade; and where offered for sale in open air areas, buildings or temporary structures.

**FLOOD OR FLOODING:** The temporary rise in the level of any waterbody, water course or wetland which results in the inundation of areas not ordinarily covered by water.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD, 100-YEAR (OR BASE FLOOD):** A flood event that statistically has a one (1) out of one hundred (100), or one percent (1%), chance of being equaled or exceeded on a specific watercourse in any given year. A flood event of this magnitude is often used to determine if flood insurance is either advisable or required on a property.

**FLOOD, 100-YEAR FREQUENCY STORM:** The storm event which has a one percent (1%) chance of being equaled or exceeded during any one twenty-four (24) hour, one hundred (100) year frequency.

**FLOODPLAIN, 100-YEAR:** Land that will be inundated by floods associated with the one hundred (100) year flood and as shown on the most recent Flood Insurance Rate Maps (FIRM).

**FLOODPRONE AREAS:** Areas inundated during a one hundred (100) year flood event or areas identified by the National Flood Insurance Program as an "A" Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps, produced by FEMA. (Rule 9J-5.003, FAC).

**FLOODWAY:** The channel of a river or other watercourse plus any adjacent flood plain areas that must be kept free of encroachment in order that the one hundred (100) year flood may be carried without cumulatively increasing the water surface elevation more than one (1) foot.

**FLOOR AREA:** The total square footage of all stories as measured to outside faces of exterior walls.

**FLOOR AREA RATIO (FAR):** The sum of the floor area, expressed in square footage, of each floor of the building or buildings on a lot, divided by the area (square footage) of that lot, excluding basements and areas devoted to off-street parking or loading.

**FLOOR SPACE:** That portion of the total area, or square footage, of a building which is suitable for year-round use, including fully enclosed porches and breezeways, but excluding enclosed garages, carports, and screened porches.

**FOOD AND BEVERAGE MANUFACTURING, PROCESSING AND PACKAGING, HEAVY INDUSTRIAL (I-2):** Meets the definition of "Food and Beverage Manufacturing, Processing and Packaging, Light Industrial" and allows the uses listed within that definition. In addition, the following uses are also allowed: citrus processing; fats and oil product manufacturing; grain mill products and by-products; meat and poultry canning, curing, and byproduct processing; animal food production.

**FOOD AND BEVERAGE MANUFACTURING, PROCESSING AND PACKAGING, LIGHT INDUSTRIAL (I-1):** Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Includes bakeries; bottling plants; breweries; candy, sugar and confectionery products manufacturing; catering services separate from stores or restaurants; coffee roasting; dairy products manufacturing; fruit and vegetable canning, preserving, related processing; seafood processing and canning; soft drink production; miscellaneous food item preparation from raw products. This definition does not include bakeries (retail) which sell all products on-site.

**FOSTER CARE FACILITY:** A residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall not be more than three (3) residents (Section 393.063, F.S.).

**FRONTAGE:** The distance measured along a public street right-of-way.

**FRONT YARD:** A space, extending along the full width of the lot or parcel measured from the nearest wall or other vertical portion of the structure, or building setback line, whichever is closest, to the front line of the lot or parcel. For corner lots, the front yard shall be that yard area that is parallel to the street frontage upon which the traditional front entrance for persons is located, e.g., the front door.

**F.S. or FS:** Florida Statutes.

**FUNERAL HOMES, MORTUARIES, AND CREMATORIES:** An establishment engaged in preparing the dead for burial, conducting funerals and cremating the dead and includes funeral chapels.

## Definitions, "G."

**GARAGE APARTMENTS:** A dwelling unit above a garage accessory to a principal residential dwelling unit.

**GARAGE, PRIVATE:** An accessory structure designed or used for inside parking of private passenger vehicles, recreational vehicles, or boats, owned by the occupants of the main building. A residential garage attached to or part of the main structure is to be considered part of the principal building. An unattached garage is to be considered as an accessory structure.

**GARAGE, PUBLIC:** A building or structure used for the storage of automobiles or other wheeled property primarily for non-occupants of the premises, whether or not remuneration is paid or received for such storage.

**GARDEN APARTMENT:** A garden apartment or atrium house is similar to, though distinct from, the patio home. It differs from the patio home in three respects: it has a smaller lot and yard, it is an attached unit, and it is usually a single-story unit. A small private yard is surrounded by the house and its walls; privacy is guaranteed.

**GOVERNING BODY:** The City Council of the City of Frostproof as legally constituted.

**GOVERNMENT FACILITIES AND STRUCTURES:** Any land, building, structure, use or activity that is owned and operated by the city, county, state or federal government or legally empowered special governmental district and is necessary to the conduct of government, the furnishing of public services or of an institutional character and over which such governments exercise direct and complete control. Typical uses include government-administration buildings such as auto license tag agencies and offices of state and federal agencies.

**GRADE, ESTABLISHED:** The elevation of the center line of the street, as fixed by the City.

**GRADE, FINISHED:** The average elevation of the finished ground level at the center of all outside walls of a building.

**GRADE, NATURAL:** The elevation of the undisturbed natural surface of the ground adjoining the building.

**GRADIENT:** The slope of a road, street or other public right-of-way, specified in percent.

**GROSS FLOOR AREA (GFA):** The square footage sum of all floors of a building as measured from the exterior faces of the exterior walls.

**GROSS LEASABLE AREA (GLA):** The total floor area designed for the tenant's occupancy and exclusive use including basements, mezzanines, or upper floors expressed in square feet and measured from the centerline of joint partitions and from outside wall faces. It is the space for which tenants pay rent, including sales areas and integral stock areas. GLA does not include gas pump islands or areas.

**GROUNDWATER:** Water beneath the ground surface contained within the soil or other aquifer formation.

**GROUP DEVELOPMENT PROJECT:** Two (2) or more principal buildings devoted to a common or similar use constructed on a lot in one (1) ownership and which are made a part of an integrated industrial, commercial, or dwelling unit project: provided, however, that such project shall not include any use which is prohibited in the district in which such project is located.

**GROUP HOME FACILITY:** A residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least four (4) residents but not more than fifteen (15) residents. For the purposes of this Code, group home facilities shall not be considered commercial enterprises (Section 393.063, F.S.).

## Definitions, "H."

**HABITABLE SPACE:** A space in a building for living, sleeping, eating or cooking. Bathrooms, lavatories, toilet rooms, closets, halls, screen enclosures, sunroom Categories I, II and III as defined in the AAMA/NPEA/NSA 2100, storage or utility spaces, garages, carports and similar areas are not considered habitable spaces.

**HEIGHT:** As applied to a building, means the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of roofs having a pitch of more than one (1) foot in four and one half (4 ½) feet; HEIGHT of a building in stories does not include basements and cellars, stairwells or elevator towers, except as specifically provided otherwise.

**HELIPORT:** A place for helicopters to land and take off. Also called "helipad" and "helistop".

**HOME OCCUPATION:** An accessory use in a residential area consisting of an occupation carried on entirely within a dwelling and only by members of the immediate family; where no evidence of the home occupation is noticeable from outside the property lines; where no pedestrian or vehicular traffic in excess of that which is customary in residential areas is generated; and where no commercial vehicles are kept on the property or parked overnight on the property, unless otherwise permitted by this Code. Usual home occupations include, but are not limited to, personal services such as are furnished by a music teacher, artist, seamstress, notary public; home party sales venue such as makeup, home accessories, clothing, cleaning products and catalogue sales; telephone sales; computer work; piece work;

work conducted by a professional such as an architect, attorney, certified public accountant, consultant, financial advisor, insurance broker/salesman, mapper or planner; artists and crafters who produce inventory for sale in commercial shops or settings.

**HOSPICE:** A centrally administered corporation providing a continuum of palliative and supportive care for the terminally ill patient and his or her family (Section 400.601, F.S.).

**HOSPICE RESIDENTIAL UNIT:** A homelike living facility, other than a facility licensed under other parts of Chapter 400, F.S. (Nursing Homes and Related Health Care Facilities) or Chapter 395, F.S. (Hospitals), or under Chapter 429, F.S. (Assisted Care Communities), that is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his or her primary residence (Section 400.601, F.S.).

**HOSPICE SERVICES:** Items and services furnished to a patient and family by a hospice, or by others under arrangements with such a program, in a place of temporary or permanent residence used as the patient's home for the purpose of maintaining the patient at home; or, if the patient needs short-term institutionalization, the services shall be furnished in cooperation with those contracted institutions or in the hospice inpatient facility. (Section 400.601, F.S.).

**HOSPITALS:** An establishment engaged in providing health in-patient facilities, in which medical or surgical services are a main function.

**HOTELS AND MOTELS:** A building or group of buildings under common ownership, interest and single management, as licensed by the State, containing lodging units intended primarily for rental or lease to short-term visitors by the day or week, and which may provide additional services such as restaurants, meeting rooms and recreation facilities.

**HOUSEHOLD:** Those who dwell under the same roof and compose a family.

**HOUSEKEEPING UNIT:** A household of individuals who live together in the same dwelling, prepare and have meals together, and who share the housekeeping.

**HURRICANE SHELTER:** A structure designated by local officials as a place of safe refuge during a storm or hurricane. (Rule 9J-5.003, FAC).

**HYBRID POWER SYSTEM:** Combines two or more energy conversion devices or two or more energy sources or fuels for the same device, that when integrated, overcome limitations inherent in either. Hybrid systems can address limitations in terms of fuel flexibility, efficiency, reliability, emissions and/or economics.

## Definitions, "I."

**IMPERVIOUS SURFACE:** Those surfaces which have been compacted or covered with a layer of material so that they are highly resistant to infiltration by water and includes all structures, roofs, parking areas, driveways, streets, sidewalks, and other areas of concrete, asphalt, compacted clay or other similar surfaces.

**IMPERVIOUS SURFACE RATIO (ISR):** Percentage of impervious surface of a subject site in relation to the total area of the site.

**IMPROVEMENT, PUBLIC:** Includes, but not limited to, any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway, sidewalk, pedestrian way, planting strip, off-

street parking area, or any other improvements required by the City, or other facility for which the City may ultimately assume the responsibility for maintenance and operation.

**INCOMPATIBLE LAND USES:** Land uses that, if occurring adjacent to one another, have a detrimental effect on one or both of the uses.

**INDOOR:** Refers to that which is within a building.

**INDUSTRIAL USES:** The activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products. (Rule 9J-5.003, FAC).

**INDUSTRY, HEAVY:** A use engaged in the basic processing and manufacturing of materials or products, predominately from extracted or raw materials; a use engaged in storage or manufacturing processes using flammable or explosive materials; storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions; a use engaged in the recycling of recoverable resource materials, such as paper products, glassware, steel, or metal cans reprocessed into new products.

**INDUSTRY, LIGHT:** A use engaged in the manufacture, processing, fabrication, assembly, treatment, and/or packaging of finished products or parts, predominantly from previously prepared materials.

**INFRASTRUCTURE:** Those man-made structures that serve the common needs of the population, such as: sewage disposal systems; potable water systems; potable water wells serving a system; solid waste disposal sites or retention areas; stormwater systems; bulkheads; seawalls; and roadways, etc. (Rule 9J-5.003, FAC).

**INFILL DEVELOPMENT:** The development of vacant land (usually individual lots or left-over properties) within areas that are already largely developed.

**INOPERABLE VEHICLE:** A motor vehicle that does not have a current state license plate, or a vehicle that is licensed, but is disassembled or wrecked in part or in whole, and is unable to move under its own power.

**INTENSITY:** A measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services. (Rule 9J-5.003, FAC).

## Definitions, "J."

**JUNK:** Inoperative, dilapidated, abandoned, or wrecked materials, including but not limited to automobiles, trucks, tractors, wagons, boats, and other kinds of vehicles and parts thereof, scrap materials, scrap building material, scrap contractors' equipment, tanks, casks, cans, barrels, boxed, drums, piping, bottles, glass, old iron, machinery and the like.

**JUNKYARD:** A place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards/graveyards, house wrecking and structural steel materials and equipment, but not including the purchase or closed storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations.

This definition shall not be deemed to include uses conducted entirely within an enclosed building or the outdoor display and sale of used automobiles in operable condition.

### Definitions, "K."

**KENNEL, COMMERCIAL:** A building or premises where animals are boarded for compensation, or are bred or raised on a commercial scale; does not include a veterinary facility, pet shop, humane society shelter, or animal shelter.

### Definitions, "L."

**LABORATORY, MEDICAL/DENTAL:** Establishment providing medical (testing and analysis information for patient diagnosis and treatment) or dental laboratory services.

**LAND:** The earth, water, air above, below or on the surface, and includes any vegetation, improvements or structures customarily regarded as land.

**LAND AREA:** The total land within the property lines.

**LAND DEVELOPMENT REGULATIONS:** Includes local zoning, subdivision, building, and other regulations controlling the development of land.

**LAND USE:** The development that has occurred on land.

**LANDFILL:** Any solid waste land disposal area for which a permit, other than a general permit, is required by Section 403.707, F.S., and which receives solid waste for disposal in or upon land. The term does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris. (Section 403.703, F.S.)

**LANDFILL (EARTH, SOIL, AND HARD MATERIAL):** Addition of one hundred (100) yards or more of earth, topsoil, sand, gravel, rock, concrete products, or bricks to any lot or parcel other than that incidental to and on the site of authorized construction.

**LANDSCAPE AREA OR GREEN SPACE:** An area or areas, including beautification strips, consisting of materials such as, but not limited to, hedges, trees, planted ground cover, sodded and grassed areas, planted floral installations, all of which must be composed of natural plantings only, as distinguished from artificially manufactured plant reproductions.

**LAUNDROMATS, SELF-SERVICE OR COIN-OPERATED:** An establishment designed to provide limited laundry and dry-cleaning facilities which are used and operated by ultimate consumers on the premises on a self-service basis and not by employees of the establishment itself.

**LAUNDRY AND DRY CLEANING DROP OFF AND PICK-UP ESTABLISHMENTS:** An establishment designed for the convenient and efficient drop off and pick up of laundry or dry cleaning on the premises. No actual laundry or dry-cleaning service or work is performed on the premises except for the collecting and distributing activities stated above.

**LAUNDRY AND DRY-CLEANING PLANTS:** An establishment engaged in the commercial operation of mechanical laundries with steam or other power, and including rug cleaning; dry

cleaning or dyeing apparel and household fabrics; sanitized uniforms and towels; laundered linens; work clothing; diapers and baby linens; uniforms; and shop towels. A laundry plant is an industrial operation, not open to serve the general public, and is regulated by environmental laws that require the safe disposal of contaminated solvents and wash water used in the cleaning process.

**LAVATORY:** A room or compartment fitted with a washbasin and flush toilet facilities.

**LEVEL OF SERVICE (LOS):** An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility. (Rule 9J-5.003, FAC).

**LIVING SPACE:** That area within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes, also including interior halls, closets, utility and storage areas, but excluding garages, carports, screened porches, unenclosed and unheated areas.

**LOADING SPACE (BERTH):** A space which provides for the loading or unloading of service vehicles and has a minimum size of twelve (12) feet in width, forty (40) feet in length, and fourteen (14) feet in height.

**LOCAL NEIGHBORHOOD DISTRIBUTOR ROAD:** A minor road which crosses adjacent major roads or highways, which provides access to abutting properties and provides for some through traffic.

**LOCAL ROAD:** A roadway providing service that is of relatively low traffic volume and of short average trip length with minimal through traffic movements (Rule 9J-5.003, FAC). Local roads usually carry no bus routes and are used primarily for access to abutting properties and the local needs of a neighborhood.

**LODGES AND RETREATS, PRIVATE:** Non-commercial facilities, such as a company retreat or a fraternal lodge, which are not open to the general public and whose use is limited to the membership, and their guests, of the owning organization. These sites are intended to provide a meeting place and resource-based recreational site for the organization, and typically provide lodging and kitchen facilities, as well as meeting rooms. These facilities may be rented to other similar private organizations.

**LOT:** A parcel of land of sufficient size to be occupied or intended for occupancy by a use permitted in this Code, including all structures, required yards, parking spaces, and open space and having frontage upon a public or private right-of-way or easement for ingress and egress purposes. *See Parcel of Land.*

**LOT, AREA:** The horizontal plane area contained within the lot lines expressed in square feet or acres exclusive of public or private dedications. No area within the street right-of-way lines shall be considered in determining the lot area. For flag lots, no area of the lot between the front yard setback and the street right-of-way shall be considered in determining the lot area.

**LOT, COMMON LINE:** A line dividing one lot or parcel from another.

**LOT, CORNER:** Any lot situated at the intersection of two (2) or more streets.



**LOT, COVERAGE:** The area of the lot expressed as a percentage of the total lot area covered by the ground floor of all principal and accessory uses and structures, including all areas covered by the roof of such uses and structures measured along the exterior faces of the walls or along the foundation wall line or between the exterior faces of supporting columns or from the centerline of walls separating two (2) buildings or as a combination of the foregoing whichever produces the greatest total ground coverage for such uses and structures.

**LOT DEPTH:** The horizontal distance between the front lot line and the rear lot line measured in the mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.

**LOT, FLAG:** A parcel of land shaped like a flag, where the lot width is less than the minimum frontage requirement stipulated by the zoning district in which the parcel is located and there is a narrow strip extending from the street to the much wider "flag" portion of the lot which lies immediately behind a lot or lots having the required street frontage or lot width.

**LOT, FRONT LINE:** The lot line abutting a street right-of-way line. *See also Front Yard.*

**LOT, INTERIOR:** A lot other than a corner lot with frontage on one street only.

**LOT, REAR LINE:** The lot line opposite the front lot line.

**LOT, SIDE LINE:** Lot lines other than the front or rear lot lines.

**LOT, THROUGH (DOUBLE FRONTAGE):** An interior lot which has street frontages at opposite boundaries of the lot, excluding alleys. Both street lines shall be deemed front lot lines.

**LOT LINE:** The boundary, established by ownership, dividing a lot from a right-of-way, adjoining lot, or other adjoining tract of land. Where a lot line lies within a private street or waterway, the edge of the private street right-of-way or waterway shall be considered to be the lot line for the purposes of calculating density, lot, yard, and bulk requirements.

**LOT OF RECORD:** A lot which is part of a subdivision or a parcel recorded by metes and bounds, which is recorded in the office of the Clerk of the Circuit Court of Polk County.

**LOT WIDTH:** The horizontal distance between the side lot lines measured along the front building setback line of the lot as determined by the prescribed front yard requirements of the zoning district.

## Definitions, "M."

**MAINTENANCE AND REPAIR, SMALL EQUIPMENT:** Establishments providing on-site repair and accessory sales of supplies for appliances, office machines, home electronic/mechanical equipment, bicycles, tools, or garden equipment, conducted entirely within an enclosed building. This classification does not include maintenance and repair of vehicles.

**MANUFACTURED BUILDING:** Also referred to as “modular” building or “factory-built” building. A closed structure, building assembly or system of sub-assemblies, which may include electrical, plumbing, heating, ventilating and other service systems, manufactured as a finished building or part of a finished building. Manufactured buildings include, but are not limited to, residential, commercial, institutional, storage, and industrial structures. The term also includes buildings not intended for human habitation such as storage buildings and sheds manufactured and assembled offsite by a certified manufacturer. This definition does not apply to mobile homes. Section 553.36, F.S.

**MANUFACTURED HOUSING:** Describes both modular and mobile homes since both are manufactured in a plant and trucked to the site. The differences are as follows:

**MOBILE HOME (HUD HOME):** A residential structure that is transportable in one or more sections, and which is 8 feet (2.4 meters) or more in width, over 35 feet in length with the hitch, built on an integral chassis, and designed to be used as a dwelling when connected to the required utilities, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure (Section 513.01, F.S.). Pursuant to Section 553.36, F.S., a mobile home shall be constructed to standards promulgated by the U.S. Department of Housing and Urban Development (HUD) and must bear the HUD label. This industry is regulated in Florida by the Department of Highway Safety and Motor Vehicles (DHSMV). Upon installation, a mobile home's wheels and axles may be removed, but the integral chassis must stay in place. To be acceptable in Florida, a mobile home must be installed by a manufactured/mobile home installer licensed by DHSMV.

**MODULAR HOME (DCA HOME):** A home that is built in sections (modules) at a factory and assembled on site and is designed, built, permitted and inspected to the Florida Building Code (FBC), and any other design standards the City may adopt which apply to conventional construction, and must be installed on permanent foundations (e.g., poured footers, stem walls & poured piers or engineered slabs, just like site built homes) that are designed and built specifically for that home by a contractor licensed by the Department of Business & Professional Regulation (DBPR) (it is a violation of Florida Statutes for a mobile home installer to install a modular home). To be acceptable in Florida, a modular home must bear the insignia of the Florida Department of Community Affairs (DCA) on the inside of the cover of the home's electrical panel. They are considered real property when installed on a permanent foundation, and insured as such. Modular buildings may include residential, commercial, institutional, storage, and industrial structures. *(See Also Manufactured Building).*

(NOTE): A few modular manufacturers continue to produce their homes on a mobile home type chassis (called “on-frame” construction, which is allowed in the FBC) and transport them on wheels and axles just like mobile homes, as opposed to most who construct [without the chassis] on typical floor joist type construction and transport the modules on a flat bed trailer, lifting them into place onsite with a crane. No matter the method of construction, the modular home must be installed by a licensed contractor on a permanent foundation, as specified in Chapter 428.4, Florida Building Code (FBC).

**MANUFACTURING OF FINISHED PRODUCTS:** Includes small-scale production of finished goods and products, such as, carpentry shops, cabinet making, upholsterers, furniture lamination, decorative and ornamental fencing or ironworks, canvas awnings and boat accessories, and similar activities.

**MANUFACTURING OF RAW MATERIALS:** General, large-scale production of goods and products from raw materials, to either a finished product or intermediate product such as, but not limited to, lumber and wood products and building materials for uses such as pallets, skids, milling operations, and trusses and beams; and machinery and equipment production for the manufacturing and assembling of other products such as construction equipment, conveyors, cranes, die casting, dies, dredging, engines and turbines, farming and gardening, food products manufacturing, gear cutting, heating, ventilation, air conditioning, , industrial trucks and tractors, industrial furnaces and ovens, industrial molds, laundry and dry cleaning, materials handling, mining, oil field equipment, paper manufacturing, passenger and freight elevators, pistons, printing, pumps, refrigeration equipment, textile manufacturing.

**MARINA:** A commercial establishment engaged in the sale, maintenance, repair, docking and storage, wet or dry, of boats and watercraft used for pleasure or sports purposes, and accessories including motors, trailers, equipment and supplies. The sale of fuel and lubricants, provisions, bait and tackle shall be permitted.

**MARQUEES:** *See Canopy, Structural.*

**MEDICAL/HEALTH CARE OFFICE:** A use providing consultation, diagnosis, therapeutic, preventive or corrective personal treatment services by doctors, dentists, medical and dental laboratories and similar practitioners of medical and healing arts for humans licensed for such practice by the State of Florida.

**MEDICAL MARIJUANA DISPENSING FACILITIES:** The following definitions relate to medical marijuana and medical marijuana dispensing facilities.

**LOW-THC CANNABIS:** A plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only by a Medical Marijuana Treatment Center from a dispensing organization as authorized by State law.

**MARIJUANA:** All parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient as defined by Florida Statute 381.986.

**MEDICAL MARIJUANA DELIVERY DEVICE:** An object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body, and which is dispensed for a Medical Marijuana Treatment Center for medical use by a qualified patient.

**MEDICAL CANNABIS:** All parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use as authorized by State Law.

**MEDICAL MARIJUANA DISPENSING FACILITY:** Any property where medical cannabis or low-THC cannabis or Marijuana Delivery Devices are sold, purchased,

delivered, or dispensed for medical use by a Medical Marijuana Treatment Center as defined by Section 29, Article X of the State Constitution as authorized by State law.

**MEDICAL MARIJUANA TREATMENT CENTER (MMTC):** An entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department. (Term as defined by Section 20, Article X of the State Constitution.)

**MEDICAL USE:** The acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver's designated qualifying patient for the treatment of a debilitating medical condition.

**PHARMACY:** A place where drugs and medicines are prepared and dispensed. Pharmacies include medical marijuana dispensing facilities.

**MILITARY INFLUENCE PLANNING AREA (MIPA):** Area in which impacts from the presence of the Avon Park Air Force Range and the training activities may be experienced.

**MIPA I:** Area located within a three (3) mile radius of the Avon Park Air Force Range, a military training facility. There is the potential day and night low level aircraft overflight, and military training noise during training exercises. Additional property regulations may apply.

**MIPA II:** Area located outside of a three (3) mile radius of the Avon Park Air Force Range, a military training facility. There is the potential day and night low level aircraft overflight, and military training noise during training exercises. Additional property regulations may apply.

**MIPA III:** Area located outside of a three (3) mile radius of the Avon Park Air Force Range, a military training facility. There is some potential for occasional military training noise.

**MITIGATION:** Any action, including but not limited to, restoration, enhancement, or creation of wetlands, required to be taken in order to offset environmental impacts on permitted activities.

**MOBILE HOME:** *See Manufactured Housing.*

**MOBILE HOME PARK:** A place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five (5) or more mobile homes (Section 513.01, F.S.).

**MOBILE HOME SITE:** A space or plot of ground within a mobile home park or subdivision designated for the accommodation of not more than one (1) mobile home.

**MOBILE HOME SUBDIVISION:** A platted residential subdivision in which mobile homes and accessory residential structures are installed around any common set of amenities, including private internal roads, a clubhouse or recreation facility, and common open space.

**MODEL HOME:** A residential structure used for demonstration or sales purposes within a residential development under active development, open to the public for sales purposes, and not occupied as a dwelling unit.

**MODULAR HOME:** See Manufactured Housing.

**MOTEL:** See *Hotels and Motels*.

## Definitions, "N."

**NATURAL FLOW PATTERN:** The rate, volume and direction of the surface of groundwater flow as it exists prior to development.

**NATURAL SYSTEMS:** Systems which predominately consist of or use those communities of plants, animals, bacteria or other flora and fauna which naturally occur on the land, in the soil or in the water.

**NATURAL VEGETATION:** Vegetative communities which are native to, and therefore tolerant of, a particular geographic location.

**NIGHT CLUBS AND DANCE HALLS:** Any establishment dispensing alcoholic beverages for on-site consumption and where a room, place, or space is designated for music, dancing, or live entertainment. Alcohol consumption and entertainment are the primary use.

**NOISE:** A subjective description of an undesirable or unwanted sound.

**NONCONFORMING:** A lot, use of land, building, use of buildings, or use of buildings and land in combination which lawfully existed prior to the enactment of this Code, but which fails by reason of such enactment to conform to the regulations of the zoning district in which it is located.

**NONCONFORMING, LOT:** Any lot which does not meet the minimum dimensions, area, or other regulations of the zoning district in which it is located.

**NONCONFORMING, LOT OF RECORD:** A lot which is part of a subdivision recorded in the office of the Clerk of the Circuit Court of Polk County, or a parcel recorded by metes and bounds, which was in existence prior to the time of the adoption of this Code and which fails to meet the requirements for area, width, and/or depth for any permitted use within the zoning district in which it is located.

**NONCONFORMING, STRUCTURE:** A structure which was lawfully established in compliance with all applicable ordinances and laws, but which because of the application of a subsequent zoning ordinance no longer conforms to the setback, height, maximum lot coverage, or other building development requirements.

**NONCONFORMING, USE OF BUILDING:** The use of any building other than a use specifically permitted in the district in which the lot or parcel of land is located.

**NONCONFORMING, USE OF LAND:** The use of any land other than a use specifically permitted in the zoning district in which the lot or parcel of land is located.

**NONHAZARDOUS:** Those structures, uses, materials or premises that do not constitute a fire, explosion or safety hazard and/or do not emit any atmospheric or environmental pollutant,

light flashes, noxious gases, electromagnetic interference, radioactive emissions, smoke or heat, glare, dust, dirt, odor, noise or vibrations which may be heard or felt off the premises.

**NURSERIES AND GARDEN CENTERS, COMMERCIAL RETAIL:** Land or structures used to display flowers, shrubs, trees, plants, and garden accessories, such as tools, pots, garden ornaments, fertilizers, mulch, and similar accessories, primarily for retail sale to the public. May also sell by mail.

**NURSERIES AND GREENHOUSES, NON-COMMERCIAL:** Land or greenhouse engaged in the production and non-retail sale/lease of ornamental plants and nursery products, such as bulbs, flowers, shrubbery, trees, fruits and vegetables which are grown on the premises.

**NURSERIES, WHOLESALE:** Nurseries which sell nursery goods in large quantities for resale by a retailer. May also sell by mail.

**NURSERY SCHOOL OR KINDERGARTEN:** Any premises or portion thereof used for educational work or parental care of nonresident children of less than the age required for enrollment in the public school system, whether or not for compensation, as licensed by the State.

**NURSING HOME FACILITY:** Any facility which provides nursing services, as defined in Chapter 464, F.S., and which is licensed according to Chapter 400, F.S. Facility means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide, for a period exceeding twenty-four (24) hours, nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services; but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services (Section 400.021, F.S.).

## Definitions, "O."

**ODOR:** Solid, liquid, or gaseous material which produces an objectionable olfactory response in a human being.

**OFFICE:** A building, room, or space where clerical or administrative activities are performed or wherein specialized services, such as those of a doctor, dentist, lawyer, engineer, architect, chiropractor, osteopath, insurance agent, or real estate broker are provided.

**OFFICE PARK:** A large tract of land that has been planned, developed, and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.

**OFFICE SUPPLY STORE:** Establishments primarily engaged in one or more of the following: (1) retailing new stationery, school supplies, and office supplies; (2) selling a combination of new office equipment, furniture, and supplies; and (3) selling new office equipment, furniture, and supplies in combination with selling new computers.

**OFFICIAL ZONING MAP:** The official zoning map of the City of Frostproof, Florida, which depicts the zoning district classifications of this Code. Said map is herewith adopted by

reference and shall not be changed except by order of the governing body as provided for in this Code.

**OPEN SPACE (PERMEABLE):** Any portion of a lot or parcel not required, designated, or encumbered by either principal or accessory uses, buildings and structures and other site uses, such as traffic circulation or parking. Such open area may be landscaped or retained in the natural state and may be suitable for passive recreation or conservation uses; however, no improvements or alterations shall be permitted which would hinder the area's natural percolation of rainwater or stormwater runoff.

**ORDINANCE:** Pursuant to Section 166.041, F.S., an "Ordinance" is an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.

**OUTDOOR STORAGE:** The keeping, in an unroofed area, of any goods, material, merchandise, vehicles, or junk in the same place for more than twenty-four (24) hours.

**OUTPATIENT CLINIC:** An establishment where patients are not lodged overnight, but are admitted for examination and treatment by, but not limited to, physicians, dentists, optometrists and clinical laboratory personnel.

**OWNER:** Any person, group of persons, firm or firms, corporation or corporations, in whom is vested the fee, ownership, dominion, or title of property. This term may also include a tenant, if chargeable under his or her lease for the maintenance of the property, and any agent of the owner or tenant including a developer.

## Definitions, "P."

**PALLIATIVE CARE:** Services or interventions which are not curative but are provided for the reduction or abatement of pain and human suffering (Section 400.601, F.S.).

**PANELIZED HOMES:** Are constructed with whole wall panels built at the factory and installed on site. A panelized home must be designed, permitted, built, and inspected in accordance with the Florida Building Code.

**PARCEL OF LAND:** A tract of land which may be described by metes and bounds or by subdivision plat. *See Lot.*

**PARK:** An area, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

**PARKING LOT:** An open area used exclusively for the storage of motor vehicles, whether or not a fee is charged.

**PARKING SPACE, OFF-STREET:** An area specifically and permanently designated for the off-street parking or storage of vehicles. Such parking spaces shall meet the minimum dimensional requirements of this Code and no part of such parking space or spaces shall exist upon any public right-of-way.

**PATIO HOME:** A single family detached or semi-detached unit built on a small lot enclosed by walls which provide privacy. If the walls are ignored, its layout may be similar to either the zero lot line or duplex (twin house); thus, it may be built either as a detached or semi-

detached dwelling. The patio home appeals to those who want privacy without the maintenance of a larger yard.

**PERMEABLE PAVEMENT:** A range of materials and techniques for paving roads, parking lots, driveways and walkways, which allow the movement of water and air around the paving material. Although some porous paving materials appear nearly indistinguishable from nonporous materials, their environmental effects are qualitatively different as the pervious material allows precipitation to percolate through areas that would traditionally be impervious, and instead infiltrates the stormwater through the pavement to the soil below.

**PERMITTED USE:** A use permitted as a matter of right in accordance with zoning district regulations.

**PERSON:** Includes any individual, group of persons, firm, corporation, governmental agency, business, trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, and any legal public entity.

**PERSONAL SERVICES:** Those business activities usually conducted in a commercial zoning district customarily providing services rather than goods to individuals. Such uses include beauty salons (including tanning and nails), barbershops, seamstress/tailor, shoe repair, daytime spas, dry cleaning drop off point, fitness and weight loss centers, learning centers, and other similar, compatible or ancillary uses.

**PERSONAL WIRELESS SERVICES (PWS):** Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

**PERSONAL WIRELESS SERVICE (PWS) FACILITIES:** Facilities for the provision of personal wireless services.

**PERSONAL WIRELESS SERVICE (PWS) PROVIDER:** A company authorized by the FCC to operate a personal wireless services system; a PWS carrier.

**PET SERVICES:** Retail sales, grooming and boarding when totally within a building, of dogs, cats, birds, fish and similar small animals customarily kept as household pets. Typical uses include pet stores, dog bathing and clipping salons and pet grooming shops, but excluding uses for livestock and large animals.

**PLANNED UNIT DEVELOPMENT (PUD):** A form of development characterized by a unified site design and a mix of building types and/or land uses. A PUD allows for the calculation of densities over an entire development, rather than on an individual lot-by-lot basis and provides a process in which public officials have considerable involvement in determining the nature of development through site plan review. PUD's typically include aspects of both subdivision and zoning regulations and are administered through the rezoning process.

**PLANNED DEVELOPMENT PROJECT:** A complex of structures and/or land uses planned as an integral unit of development rather than as a single principal structure or use on a single lot. A planned development project may include a subdivision, but a subdivision need not be construed to be a planned development project.

**PLAT:** A map, drawn to scale, which depicts the division of land into lots, blocks, parcels tracts or portions thereof in compliance with the requirements of Chapter 177, F.S., as amended or as hereafter amended, and may include the term "replat", "amended plat", or "revised plat".



**PLAT OF RECORD:** A plat which conforms to all the requirements of the applicable laws of the State of Florida and this Code and which has been filed and recorded in the Office of the Clerk of the Circuit Court for Polk County.

**PRE-CUT HOMES:** Commonly referred to as “kit homes” are cut and sized at a factory and assembled on site by the owner or a contractor. A pre-cut home must be designed, permitted, built, and inspected in accordance with the Florida Building Code.

**PREMISES:** Any lot or other tract of land and all the structures on it.

**PRINCIPAL BUILDING/STRUCTURE/USE:** A building, structure, or use, in which is conducted the predominant or primary function or activity of the lot upon which it is located.

**PRINTING AND PUBLISHING:** Establishments engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; and establishments manufacturing business forms and binding devices.

**PROFESSIONAL OFFICE AND SERVICES:** A use providing professional or consulting services in the fields of law, architecture, design, engineering and surveying, planning, accounting and similar professions.

**PROJECT:** The particular structures and improvements proposed by the applicant on a particular land area which are part of a common plan of development and shall include the subdivision of land.

**PROJECT INITIATION:** All acts antecedent to actual construction activities and includes, but is not limited to, land clearing, utility construction and the like.

**PROPERTY LINE:** *See Lot Line.*

**PROPERTY OWNERS' ASSOCIATION (aka HOME OWNERS' ASSOCIATION):** A nonprofit organization recognized as such under the laws of the State of Florida and operated under recorded land agreements through which each owner or a portion of a subdivision, be it a lot, home, property, or any other interest, is automatically subject to a charge for a prorated share of expenses, either direct or indirect, for maintaining common properties within the subdivision, such as roads, parks, recreational areas, common area, or other similar properties. Within the text of this Code, a property owners' association is considered a single entity for property ownership.

**PUBLIC:** Includes buildings, structures, lands and facilities that are owned, leased, or operated by a public body, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings. Also includes educational systems or facilities, parks and recreation systems or facilities and public health systems or facilities, transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, stormwater management systems or facilities, and potable water systems or facilities.

**PUBLIC BODY:** Any government or governmental agency of the City of Frostproof, Polk County, State of Florida, or of the United States Government.

**PUBLIC NOTICE:** The legal advertisement given of an action or proposed action of a governing body as set forth in these regulations or applicable Statutes of the State of Florida.

**PUBLIC OFFICES:** A building occupied by the city, county, state or federal government or legally empowered special governmental district in which public officials and employees direct the administrative and executive functions and affairs of government.

**PUBLIC USE:** The use of any land, water, or building by a municipality, public body or Board, Commission, or authority, County, State, or the Federal government, or any agency thereof for a public service or purpose.

**PUBLIC UTILITY:** A business that furnishes an everyday necessity to the public at large. Public utilities provide water, sewer, electricity, natural gas, telephone service, and other essentials including generating and switching stations and transit. Public utilities may be publicly or privately owned; many are operated as private businesses.

**PUBLIC SERVICE STRUCTURES:** Any structure, excluding buildings for general administrative, executive, studio, warehousing or storage functions or general maintenance operations, that is necessary for the operation and maintenance of a utility that is regulated or controlled by the city, county, state or federal government or legally empowered special governmental district, but not owned and operated by such government. Public service structures include the following: railroad tracks and related appurtenances; telephone and telegraph transmission lines, towers and related appurtenances; radio broadcasting, television transmission towers and related appurtenances; water and sanitary sewer distribution and collection mains, lines and related appurtenances; and electric, gas, petroleum and steam transmission lines, pipes, towers, transformers, meters, substations and related appurtenances.

**PUBLIC TRANSPORTATION TERMINALS:** An establishment engaged in passenger transportation by railway, highway, water, or air, or furnishing services related to transportation, including maintenance facilities and/or freight transportation provided such maintenance facilities and/or freight transportation is incidental and accessory to the principal passenger transportation services. Includes buses and taxi stands.

## Definitions, "Q."

## Definitions, "R."

**RATE:** Volume per unit of time.

**RECEIVING BODIES OF WATER:** Any waterbodies, watercourses or wetlands into which surface waters flow.

**RECHARGE:** The inflow of water into a project, site aquifer, drainage basin or facility.

**RECHARGE AREA, NATURAL:** An area where recharge of the aquifer naturally occurs.

**RECREATION:** The pursuit of leisure time activities occurring in an indoor or outdoor setting (s. 9J-5.003 FAC).

**RECREATION FACILITY:** A component of a recreation site used such as a trail, court, athletic field, or swimming pool. (Rule 9J-5.003, FAC).

**RECREATION USES, INDOOR, COMMERCIAL:** This category includes, but is not limited to, bowling alleys, dance studios, schools for martial arts, physical fitness centers, private clubs or lodges, movie theaters, theaters and auditoriums, and indoor skating rinks.

**RECREATION USES, INDOOR, PUBLIC:** Indoor recreation uses include areas for recreation activities including, but not limited to, aquariums, day or youth camps, community or recreation centers, gymnasiums, indoor skating rinks, indoor swimming pools, indoor tennis, racquetball, handball courts, and all other institutional indoor recreation.

**RECREATION USES, OUTDOOR, COMMERCIAL:** This group includes recreation uses that are greater nuisances than conventional outdoor recreation activities because of their size and scale, traffic volumes, noise, lights, or physical hazards such as flying objects or use of weapons. These uses include, but are not limited to, amusement parks, drive-in theaters, fairgrounds, golf driving ranges (including miniature golf), marinas, outdoor theaters (or amphitheaters), race tracks (e.g., auto, dog, go-cart, harness, horse, motorcycle), ranges (skeet, rifle, or archery), sport arenas, and all other outdoor commercial recreation uses.

**RECREATION USES, OUTDOOR, PUBLIC:** Outdoor recreation uses include but are not limited to, arboretums, basketball courts, boat launching ramps, areas for cycling, hiking, and jogging, golf courses (regulation or par 3), outdoor nature areas, parks (public or private), picnic areas, playfields, playgrounds, commercial stables, outdoor swimming pools and springs, tennis courts, tot lots, wildlife sanctuaries, and all other outdoor recreation uses. Specifically excluded are outdoor movie theaters, firing ranges, miniature golf courses, golf driving ranges, and marinas.

**RECREATION VEHICLE (RV):** A unit primarily designed as temporary living quarters for recreation, camping, or travel use, that either has its own motive power or is mounted on or drawn by another vehicle. The basic entities of recreation vehicles are: travel trailer, fifth-wheel travel trailer, camping trailer, truck camper, motor home, private motor coach, van conversion, and park model RV/park trailer. (Section 320.01, F.S.).

**RECREATION VEHICLE (RV) CAMPGROUNDS:** A development designed specifically to accommodate recreation vehicles for overnight or limited vacation-season stays.

**RECREATION VEHICLE (RV) PARKS:** A place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five (5) or more recreational vehicles or tents; the term also includes buildings and sites set aside for group camping and similar recreational facilities. The terms "campground," "camping resort," "RV resort," "travel resort," and "travel park," or any variations of these terms, are synonymous with the term "recreational vehicle park" (Section 513.01, F.S.).

**RECREATION VEHICLE UNIT:** Those units primarily designed as temporary living quarters for recreation, camping or travel use that either have their own mode of power or are mounted on or drawn by another vehicle. When traveling on the public roadways of Florida, recreational vehicle units shall comply with the length and width provisions of Section 316.515, F.S., and as that Section may hereafter be amended. Unless stated otherwise, the following definitions are provided in Section 320.01, F.S.:

1. **"Travel Trailer"**: A vehicular portable unit mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use. It is of a body width, not more than eight (8) feet and a body length of no more than forty (40) feet when factory equipped for the road.
2. **"Fifth-Wheel Trailer"**: A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred (400) square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
3. **"Camping Trailer"**: A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreation, camping or travel use.
4. **"Truck Camper"**: A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters, for recreation, camping, or travel use.
5. **"Motor Home"**: A vehicular unit built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreation, camping or travel use. Motor homes shall comply with the length and width provisions of Section 316.515, F.S., and as that Section may hereafter be amended. For the purposes of this Code, motor home shall NOT refer to "mobile home" or "manufactured home".
6. **"Private Motor Coach"**: A vehicular unit which does not exceed the length, width, and height limitations provided in Section 316.519 (9), F.S., is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
7. **"Van Conversion"**: A vehicular unit which does not exceed the length and width limitations provided in Section 316.515, F.S., is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.
8. **"RV Park Trailer"**: A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed four hundred (400) square feet when constructed to ANSI A-119.5 standards, and five hundred (500) square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

**RECREATIONAL CAMPING:** An outdoor recreational activity where participants, or campers, live outdoors in a tent or trailer for one or several nights while on vacation, or as a recreational activity.

**RECYCLING CENTER, INDOOR:** A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

**RECYCLING CENTER, OUTDOOR:** A collection point for small recyclable items and materials, such as cans, bottles, newspapers, secondhand goods and used motor oil. Activities of a recycling collection center are limited to sorting, compacting and transferring.

**RECYCLING COLLECTION STATION:** An accessory use that serves as a neighborhood drop-off point for the collection and temporary storage of small recoverable resources, such as glassware, plastic jugs and metal cans, but which does not involve any processing.

**RECYCLED MATERIALS PROCESSING FACILITY:** A structure or enclosed space used for the collection and processing of recyclable materials for shipment, or to an end-user's specifications, by such means as baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, re-manufacturing and shredding.

**RELIGIOUS ESTABLISHMENT:** A building occupied by a nonprofit religious organization or group operated for the sole purpose of worship and related activities, and any use customarily accessory thereto.

**RENEWABLE ENERGY:** Energy generated partially or entirely from non-depleting energy sources for direct end use or electricity generation. Means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, as defined in Section 366.91, F.S., solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power (Section 377.803, F.S.). Renewable energy can be generated on site or at a central station.

**RENEWABLE ENERGY TECHNOLOGY:** Any technology that generates or utilizes a renewable energy resource (Section 377.803, F.S.).

**RENT:** To rent includes to lease, to sublease, to let and otherwise grant for consideration the right to occupy premises not owned by the occupant.

**RESOLUTION:** Pursuant to Section 166.041, F.S., a "Resolution" is defined as an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

**RESTAURANT, DRIVE-IN/DRIVE THRU/WALK-UP:** Any restaurant serving food and/or nonalcoholic beverages to persons in vehicles for consumption in the vehicle or on the premises, including outdoor eating areas, and/or at walk-up windows. Services by carhops to persons in vehicles on the premises shall cause a restaurant to be classified and regulated as this type restaurant. For purposes of this definition, fast food chains or operations shall also be considered as drive-in restaurants.

**RESTAURANT, SIT DOWN/TABLE-SERVICE:** A retail service establishment wherein the entire business activity, or substantially most of the business activity, consists of the sale of food to patrons seated at tables, booths and/or counter stools for consumption within the building; includes cafeterias, delicatessens, sports bars, cafés and bistros. Within the PUD and

TND zoning districts, sidewalk cafes may be approved on sidewalks located within a public right-of-way as an accessory use to an existing or proposed restaurant whose primary purpose is food service to persons seated at a table.

**RESTAURANT, TAKE OUT & SHORT ORDER:** A retail service establishment with full kitchen facilities whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed. This may be a total counter stool operation, or with any combination of counter stool and/or tables and booths; service may be provided to persons in vehicles, or at walk-up windows in combination with indoor seating for at least twenty (20) persons.

**RETAIL SALES:** Stores and shops selling multiple lines of merchandise including: art galleries, artists' supplies, antique shop, bicycles, clothing and accessories, collectibles (cards, coins, comics, stamps, etc.), department stores, drug and discount stores, dry goods, fabrics and sewing supplies, houseplant stores (indoor sales, only; outdoor sales are "Plant Nurseries"), furniture, home furnishings and equipment, general stores, gift and souvenir shops, hardware, hobby materials, luggage and leather goods, office supply store, musical instruments, parts and accessories, newsstands, home electronics/appliance store, jewelry, orthopedic supplies, pet supplies, religious goods, sporting goods and equipment, toys and games, video/dvd store, and variety stores.

**RETENTION:** The collection and storage of runoff without subsequent discharge to surface waters except as may be discharged through groundwater transmission.

**RIGHT-OF-WAY:** The area of land occupied or intended to be occupied by a street, crosswalk, curbs, sidewalks, railroad, electric transmission line, oil or gas pipeline, water and sewer lines, storm sewer main, culverts, ditches, or for another special use of public purpose, whether established by prescription, easement, dedication, gift, purchase, eminent domain, or any other legal means. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of areas on such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by the City shall be dedicated to public use by the subdivider and shown on the plat on which such right-of-way is established.

**ROADWAY:** The paved portion of the street available for vehicular traffic.

**ROADWAY FUNCTIONAL CLASSIFICATION:** The assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include arterial roads, collector roads and local roads.

## Definitions, "S."

**SCHOOL, LEISURE/SPECIAL INTEREST:** A facility engaged in the instruction of a particular leisure or special interest activity including but not limited to dance, karate, and crafts and arts schools. This provision excludes water ski schools.

**SCHOOL, TECHNICAL:** The use of land, structures or buildings for the provision of training in various skills and may include but not be limited to business schools and vocational schools.

**SCHOOL, TRADE:** An establishment which offers, for compensation, instruction in a trade or craft, including but not limited to, carpentry, masonry, metal working, machinery repair and operation, welding, fabrication and the like.

**SCHOOL, VOCATIONAL:** An establishment which offers, for compensation, instruction in a vocation such as but not limited to barbering, cosmetology, hair styling, bartending and interior decorating.

**SCREEN ROOMS/PORCHES:** A non-habitable structure consisting of roof panels, attached to the principal structure. Such room shall be open and unenclosed on the projecting three (3) sides, supported by columns. The columns may only support screen mesh, solid kick panels up to twenty-four (24) inches in height above the floor of the room and/or vinyl panels which are seasonal, nonpermanent and removable.

**SEASONAL POPULATION:** Part time inhabitants who utilize, or may be expected to utilize, public facilities or services, but are not residents. Seasonal population shall include tourists, migrant farm workers, and other short term and long term visitors (Rule 9J-5.003, FAC).

**SEDIMENT:** The solid material, whether mineral or organic, that is in suspension, is being transported, or has moved from its site of origin by air, water or gravity.

**SEDIMENTATION FACILITY:** Any structure or area which is designed to hold runoff water in such a manner as to promote the settling out of suspended matter.

**SERVICE DRIVE:** A public street, generally paralleling and contiguous to a main traveled way, primarily designed to promote safety by eliminating promiscuous ingress and egress to the main traveled way, and providing safe and orderly points of access at fairly uniformly spaced intervals.

**SERVICE STATION, MINOR AUTOMOTIVE REPAIRS:** Activities conducted at a service garage involving retail sale of automotive fuels or oils and maintenance or small-scale mechanical work on motor vehicles including inspection, maintenance, repair or replacement of brake systems, ignition and electrical systems, carburetors and fuel systems, batteries, oil, antifreeze and other fluids, and tires. Also included are auto washing and detailing, and the tuning and adjustment, but not disassembly or removal, of engines and transmissions.

**SETBACK:** The required minimum horizontal distance between the front, rear, or side property lines and the front, rear, or side lines of a building, as measured from any vertical wall or support of the building. Projections of up to thirty (30) inches may be permitted beyond the wall or support of the building. Equipment such as air conditioning units, pumps, steps, and similar devices are exempt from meeting the setback requirement. When two (2) or more lots under one (1) ownership are used for a single permitted principle use, the exterior property lines of the lots so grouped shall be used for determining setback when the interior common lot line is straddled by the principal structure.

**SEWAGE DISPOSAL FACILITY:** The land, building, and apparatus employed in the treatment of sewage by chemical precipitation or filtration, bacterial action, or some other method.

**SHOPPING CENTER:** A group of commercial establishments built primarily for retailing purposes on common property planned, developed, owned or managed as a unit with common off-street parking provided on the same site.

**SHOPPING CENTER, MINI:** A complex of commercial establishments customarily under single ownership not containing any accommodations or residential units, and on less than five (5) acres of land. The principal use of such establishments is the retail sales of goods; but may include other non-residential uses permitted in the zoning district in which it is located.

**SHRUB:** A low growing perennial, woody, or evergreen plant with persistent stems.

**SIDEWALK:** The portion of a street or crosswalk, paved or otherwise surfaced, intended for pedestrian use.

**SIGN:** Any structure, part thereof, or device, whether or not attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, work, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, or designation, enterprise, or industry, which is located upon any land, on any building, in or upon a window, or indoors in such manner as to attract attention from outside the building. *See Article 8, Definitions, for more detailed Sign definitions.*

**SINGLE FAMILY DWELLING:** See Dwellings, Single Family.

**SITE:** Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which is in one (1) ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.

**SITE DEVELOPMENT PLAN:** A plan, drawn to scale, showing uses and structures proposed for a parcel of land. It includes lot lines, streets, building sites, reserved open spaces, buildings, major landscape features, both natural and man-made, the locations of proposed utility lines, and, other pertinent information, per Section 10.02.01 of this Code. The site development plan is required to acquire a development, building or stormwater permit and shows the means by which the developer will conform to applicable provisions of this Code and other applicable development requirements.

**SITE PLAN REVIEW:** The process whereby local officials review the site plans and maps of a developer to assure that they meet the stated purposes and standards of the Land Development Code, provide for the necessary public facilities, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

**SMOKE:** Small gas borne or airborne particles resulting from combustion operations and consisting of carbon and ash and other matter present in sufficient quantity to be observable.

**SOLAR ENERGY SYSTEM:** Equipment that provides for the collection and use of solar energy for water heating, space heating or cooling, or other applications that would normally require a conventional source of energy such as petroleum products, natural gas, or electricity that performs primarily with solar energy. In other systems in which solar energy is used in a supplemental way, only those components that collect and transfer solar energy shall be included in this definition (Section 377.803, F.S.).

**SOLAR PHOTOVOLTAIC SYSTEM:** A device that converts sunlight into electrical current (Section 377.803, F.S.).

**SOLAR THERMAL SYSTEM:** A device that traps heat from sunlight in order to heat water (Section 377.803, F.S.).



**SOLID WASTE:** Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. (Rule 9J-5.003, FAC).

**SOLID WASTE FACILITIES:** Structures or systems designed for the collection, processing or disposal of solid wastes, including hazardous wastes, and includes transfer stations, processing plants, recycling plants, and disposal systems. (Rule 9J-5.003, FAC).

**SOLID WASTE PROCESSING PLANT:** A facility for incineration, resource recovery, or recycling of solid waste prior to its final disposal. (Rule 9J-5.003, FAC).

**SOLID WASTE TRANSFER STATION:** A facility for temporary collection of solid waste prior to transport to a processing plant or to final disposal. (Rule 9J-5.003, FAC).

**SOUND:** Rapid fluctuations of atmospheric pressure which are audible to persons.

**SPECIAL NEEDS HOUSING:** Facilities that provide twenty-four (24) hour care, services and housing in an institutional or residential setting for adults and/or children with conditions, disabilities or circumstances that qualify them for short or long-term housing and care. Such facilities include, but are not limited to adult family-care home, assisted living facility, family foster home, foster care facility, group home facility, hospice residential unit, nursing home facility, and other similar facilities and homes; all of which are defined elsewhere in this Article.

**SPORTS BAR:** Any establishment which sells, serves, dispenses or provides alcoholic beverages for the consumption on premises, even if incidental to the sale of food and nonalcoholic beverages, where indoor recreational uses are provided on the same premises including, but not limited, to the following: pool tables, dart games, air hockey, viewing of multiple television sets, and/or more than two (2) video games/pinball/arcade machines per one hundred (100) seats.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual date of construction, repair, reconstruction placement or other improvements was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, of any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STATE:** The State of Florida and all its duly appointed agencies.

**STATE PLAN COORDINATES:** The system of plan coordinates which has been established by the National Ocean Survey for defining and starting the positions or locations of points on the surface of the earth within the state and shall hereinafter be known and designated as the "Florida Coordinate System".

**STORMWATER:** The flow of water that results from a rainfall event. (Rule 9J-5.003, FAC).

**STORMWATER BASIN (a.k.a. Drainage Basin):** The area defined by topographic boundaries which contributes stormwater to a watershed, drainage system, estuarine waters, or oceanic water, including all areas artificially added to the basin. (Rule 9J-5.003, FAC).

**STORMWATER CONVEYANCE SYSTEM:** Any natural or man-made system which transports excess rainfall from the land to a point of discharge.

**STORMWATER DETENTION STRUCTURE (a.k.a. Drainage Detention Structure):** A structure which collects and temporarily stores stormwater for the purpose of treatment through physical, chemical or biological processes with subsequent gradual release of the stormwater. (Rule 9J-5.003, FAC).

**STORMWATER MANAGEMENT FACILITIES:** Manmade structures that are part of a stormwater management system designed to collect, convey, hold, divert, or discharge stormwater, and may include stormwater sewers, canals, detention facilities and retention facilities. (Rule 9J-5.003, FAC).

**STORMWATER MANAGEMENT RETENTION STRUCTURE:** (a.k.a. Drainage Retention Structure): A structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage (Rule 9J-5.003, FAC).

**STREET:** Any public or private right-of-way set aside for public travel and access to abutting property. The word "street" shall also include the words "road," "avenue," "lane," "boulevard," "thoroughfare," "highway," "place," "way," "drive," "terrace", "circle", "court", "terrace", "parkway", for such purposes.

**STRUCTURE:** Anything constructed, installed, or portable, the use of which requires a location on or attachment to a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes fences, docks, advertising signs, billboards, swimming pools, gazebos, poles, pipelines, gas or liquid tank, transmission lines, tracks, or other manmade facilities or infrastructure.

**SUBDIVIDE:** Also referred to as "to plat". To divide or subdivide lands into lots, blocks, parcels, tracts, sites, or other divisions, and to record the subdivision or plat in the Office of the Clerk of the Circuit Court of Polk County.

**SUBDIVISION:** The division or platting of real property into three (3) or more lots, parcels, tracts, tiers, blocks, sites, units or any other division of land, whether improved or unimproved, and includes the establishment of new streets and alleys, additions and re-subdivisions or replats; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided; and which further includes the term "subdivide," meaning to divide land by conveyance or improvement into lots, blocks, parcels, tracts or other portions. (Section 177.031, F.S.).

**SUBDIVISION, MINOR:** Any subdivision containing not more than four (4) lots abutting upon an existing dedicated street with permanent pavement and all other required improvements. Minor subdivisions may be administratively approved by the Development Review Committee following submission of a minor subdivision plat meeting the requirements of Article 10, Section 10.08.04 of this Code, Chapter 177, F.S. and Article 11, Section 11.08.00 of this Code.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure

either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or a State inventory of historic places.

**SUFFICIENCY REVIEW:** Department of Community Affairs (DCA) review of an adopted evaluation and appraisal report to determine whether it has been submitted in a timely fashion and whether it contains components in accordance with the prescribed criteria in Section 163.3191, F.S., and Rule 9J-5 (Rule 9J-5.003, FAC).

**SURFACE WATER RUNOFF OR RUNOFF:** Only that part of rainfall, which as surface water, flows off the land.

**SURVEY DATA:** All information shown on the face of a plat that would delineate the physical boundaries of the subdivision and any parts thereof.

**SWFWMD:** The Southwest Florida Water Management District.

**SWITCHING STATION:** A particular type of substation where energy is routed either from different sources or to different customers. For example, a switching station near an energy generating facility may be able to switch some or all of its energy flow from one region to another as needed. A switching station near a city, on the other hand, might allow the city to switch between different energy providers if one provider goes offline or routes their energy to a different customer. Switching stations often contain circuit breakers and other automated mechanisms that switch or divide their output between different distribution lines when system faults occur or when the system shuts down transmission altogether in the event of a serious problem.

## Definitions, "T."

**TEA ROOM:** A low-impact neighborhood eatery located in close proximity to major roadways while being compatible with adjacent residential properties, typically serving non-alcoholic beverages, sandwiches and light fare.

**TENT:** A collapsible, movable, structure where the roof and/or one-half or more of the sides are constructed of silk, cotton, canvas, fabric, or similar pliable material, and the structure is held up by poles and kept in place by ropes and pegs. Tents serve as a shelter and may be open-air, consisting of a roof top and supports, or they may consist of a roof top with supports and walls.

**TINY HOME:** A residential dwelling or lodging unit that has a minimum living space of two hundred and fifty (250) square feet, and which is capable of being connected to available utilities including plumbing (water and sewer service), mechanical, natural gas, communications, and electrical systems.

**TINY HOME LODGING:** A unified development located on property configured as a single development, on which tiny homes are used for short-term rental or for lease lodging accommodations to visitors.

**TINY HOME SUBDIVISION:** A unified development located on property configured as a single development, on which tiny homes (leased or privately owned) are located on individual lots, and where common areas and open space areas are established.

**TOWNHOUSE:** A building or structure designed for and/or containing one (1) dwelling unit and or intended for occupancy by not more than one (1) family or household and attached to other similar buildings or structures by not more than two (2) party walls extending from the foundation to the roof and providing two (2) direct means of access from the outside. For the purpose of this Code, a townhouse may include a building or structure in fee simple, condominium, cooperative or leasehold ownership or any combination thereof.

**TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND):** A compact, walkable, mixed-use development, which is clearly functionally distinct or geographically separated from existing urban areas and other TND's, and where a variety of residential housing types, and commercial and civic buildings and spaces are within close proximity to each other. A TND shall include basic economic activities, all major land use categories, with the possible exception of agricultural and industrial, a centrally provided full range of public facilities and services, and shall be based on a master development plan. TND's are a planning concept based on traditional small town and city neighborhood development principles.

**TRANSFER OF DEVELOPMENT RIGHTS:** A governmentally recognized right to use or develop land at a certain density, or intensity, or for a particular purpose, which is severed from the realty and placed on some other property. (Rule 9J-5.003, FAC).

**TRIPLEX:** A building divided into three dwelling units, designed or intended for occupancy by three families.

**TRUCK AND MOTOR FREIGHT TERMINALS:** An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation; furnishes services incidental to air, motor freight, and rail transportation.

**TRUCK STOP:** Any facility offering fuel for sale for commercial vehicles, trucks and automobiles and constructed and designed for the maneuverability and fueling of tractor trailer vehicles; has the capacity to fuel three (3) or more tractor trailer vehicles at the same time and parking facilities for three (3) or more vehicles. The facility may include provisions for one (1) or more of the following: (a) sleeping accommodations for commercial vehicle or truck crews; (b) sale of parts and accessories for commercial vehicles or trucks; (c) a restaurant; or (d) truck parking or storage area.

**25-YEAR FREQUENCY, 24-HOUR DURATION STORM EVENT:** A storm event and associated rainfall during a continuous twenty-four (24) hour period that may be expected to occur once every twenty-five (25) years. Its associated floodplain is that land which may be expected to be flooded during the storm event.

## Definitions, "U."

**USE:** Use refers to the activities which take place on any land or premises and also refers to the structures located thereon and designed for those activities.

**UTILITIES:** Includes, but is not limited to water, electric, gas, sanitary sewer, storm drainage, telephone and television systems.

## Definitions, "V."

**VARIANCE:** A grant of relief from the strict terms of the Unified Land Development Code regulations pertaining to structure height, lot width and depth, area of structures, and size of yards and open spaces, where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the Code would result in unnecessary and undue hardship. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall the variance be granted because of the presence of nonconformities in the zoning district or in adjoining zoning districts.

**VEGETATION:** All plant growth, especially trees, shrubs, vines, ferns, mosses and grasses.

**VEHICLE:** A conveyance for persons or materials as may be licensed by the State.

**VEHICULAR USE AREA:** All areas used for circulation, parking, and/or display or any and all types of vehicles, boats, or construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the principal use.

**VESTED RIGHT:** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. However, once development has been started or has been completed, there is a right to maintain that particular use regardless of the classification given the property. In order for a nonconforming use to earn the right to continue when the zoning is changed, the right must have vested before the change. If the right to complete the development was not vested, it may not be built, no nonconforming use will be established, and the new regulations will have to be complied with.

**VETERINARY ANIMAL HOSPITAL:** Any building or portion thereof designed or used for the veterinary care, surgical procedures, or treatment of animals, but not boarding of well animals.

**VETERINARY CLINIC:** A facility which provides for outpatient care of animals wholly within a soundproof, air-conditioned structure, with minimal overnight stays and hours of operation limited to traditional office/clinic hours. Such use shall not include outside kennels.

**VOLUME:** Occupied space and is measured in cubic units.

## Definitions, "W."

**WAREHOUSE:** A building used solely for the purpose of storage or distribution of goods, wares, merchandise or other articles.

**WAREHOUSE, MINI:** A building or group of buildings that contain individual compartmentalized and controlled separate storage spaces leased or rented on an individual basis and accessible to the lessees through individual doors (also known as self storage facilities).

**WASTEWATER FACILITIES (aka "Sanitary Sewer Facilities"):** Structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, treatment plants and disposal systems. (Rule 9J-5.003, FAC).

**WASTEWATER LIFT STATION (aka "Sewer Lift Stations" or "Pump Stations"):** Used to help transport liquid wastewater from homes and businesses across the City to a treatment plant for processing and cleaning. Sewer pipes are generally gravity driven and wastewater flows slowly downhill until it reaches a certain low point. The "lift" stations then push the wastewater back uphill to a high point where gravity can once again take over the process thereby transporting the liquid to a treatment plant.

**WATER, COMMUNITY WATERS, OR WATER RESOURCES:** Any and all water on or beneath the surface of the ground or in the atmosphere. It includes water in any watercourse, waterbody, or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as lake waters.

**WATER DETENTION STRUCTURE, WATER MANAGEMENT STRUCTURE:** A facility which provides for storage of stormwater runoff and the controlled release of such runoff during and after a storm.

**WATER RETENTION STRUCTURE:** A facility which provides for storage of stormwater runoff.

**WATERBODY:** Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernable shoreline.

**WATERCOURSE:** Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed or banks, and shall include any adjacent area which is subject to flooding.

**WHOLESALE AND DISTRIBUTION:** Establishments engaged in selling merchandise to retailers, and to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes such establishments as: agents, merchandise or commodity brokers, and commission merchants, assemblers, buyers and associations engaged in the cooperative marketing of farm products, merchant wholesalers, and stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

**WETLANDS:** Any area that has been designated by Federal or State jurisdiction, as being inundated or saturated, by surface water or groundwater, whether flooded at all times or flooded only seasonally, but at a frequency and a duration sufficient to support those types of vegetation typically adapted for life in saturated soil conditions; includes fresh water marshes, swamps, bogs, and wet woodlands.

## Definitions, "X."

## Definitions, "Y."

**YARD:** The open area of a lot or parcel which is provided as a setback and is unoccupied by any structure.

- a. **FRONT YARD:** A space, extending along the full width of the lot or parcel measured from the nearest wall or other vertical portion of the structure, or building setback line, whichever is closest, to the front line of the lot or parcel.
- b. **REAR YARD:** That portion of the yard extending the full width of the lot and measured between the rear lot line and the parallel line to the nearest part of the principal building.
- c. **SIDE YARD:** Those portions of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines to the principal building.
- d. **WATERFRONT YARD:** A yard on lots abutting a waterfront, extending across the full width of the lot or parcel, and measured from the mean high waterline or retaining wall, whichever is closer, and the closest building setback line.

## Definitions, "Z."

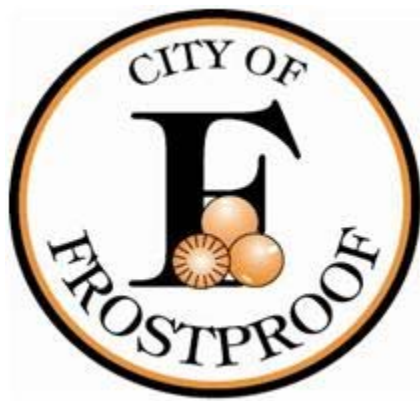
**ZERO LOT LINE DEVELOPMENT:** A development concept in which a single family detached unit may be sited on at least one (1) lot line, eliminating that yard, while retaining the other required yards. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

**ZONING DISTRICT:** An area identified on the Zoning Map of the City of Frostproof, Florida, assigned a zoning classification as indicated on such map, consisting of one (1) of several zoning classifications as set forth and established in Article 4 of this Code. Reference to the word "district" or "zone" shall mean Zoning District.

**ZONING MAP:** The official Zoning Map of the City of Frostproof, Florida, and as amended.

**ZONING ORDINANCE:** The Unified Land Development Code of the City, including the Zoning Map and all amendments to the Ordinance and said Map.

# *City of Frostproof*



Unified Land Development Code

## Article 3



**ARTICLE 3.**  
**GENERAL REGULATIONS FOR ALL ZONING DISTRICTS**

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## **ARTICLE 3.**

### **GENERAL REGULATIONS**

#### **Section 3.01.00. Newly Annexed Land.**

In accordance with Florida Statutes, Chapter 171.062:

- A. An area annexed to a municipality shall be subject to all laws, ordinances, and regulations in force in that municipality and shall be entitled to the same privileges and benefits as other parts of that municipality upon the effective date of the annexation. However, the provision of municipal potable water and wastewater services shall be contingent upon service and facility availability to the annexed property, and/or subject to specific written agreements.
- B. If the area annexed was subject to a Polk County Land Use Plan and County zoning, land development, or subdivision regulations, these regulations remain in full force and effect until the City adopts a Comprehensive Plan amendment that includes the annexed area.

#### **Section 3.02.00. State Building Code Adopted.**

The City of Frostproof hereby adopts and incorporates as the Construction Codes of the City, the latest edition of the Florida Building Code, as adopted by the State of Florida; and all construction codes mandated by and subject to and including by references, such additions, amendments and modifications that may be adopted by City ordinance or required to be added or enforced by any of the authorized boards, departments, rule making authorities, or Legislature of the State of Florida. The Codes, which are on file in the Building Division are administered by the Building Official. All persons wishing to construct any structure or improve any property within the City must abide by all construction codes and standards adopted and/or enforced by the City, as well as this Unified Land Development Code. In the event of a conflict between Code provisions, the more stringent provisions shall apply.

#### **Section 3.03.00. Use of Land and Buildings.**

No building or land shall be used or occupied and no building or part thereof shall be erected, constructed, moved or altered except in conformity with the regulations specified in the Unified Land Development Code and the zoning district in which it is located.

#### **Section 3.04.00. Lot Size.**

For the purpose of building, no lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area or other requirements of this Code are not maintained. This shall not apply when a portion of a lot is acquired for public use. Where the front, rear or side of a lot is not reduced by a voluntary dedication or eminent domain action, the setback requirements of this Code shall apply.

### **Section 3.05.00. Lots of Record.**

- A. A lot of record is a lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat, either prior to the effective date of this Code or after the effective date of this Code.
- B. If two or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption of this Code and such lots individually are less than the lot width requirements for the district in which they are located, such groups of lots shall be combined and considered a single lot or shall be grouped into several lots of minimum permitted size and the resulting lot or lots shall be subject to the dimensional requirements of this Code.

### **Section 3.06.00. Requirements for Lots Divided by a Right-of-Way or Easement.**

Where a single lot or parcel has been recorded in the public records of Polk County, under a unified legal description, is subsequently divided by a public right-of-way, road, alley or easement, the following standards shall apply:

- A. Where the land area on each side of the right-of-way or easement meets the minimum lot width and area required by the applicable zoning district, the property shall be considered two (2) lots.
- B. Where the land area on one (1) side of the right-of-way or easement fails to meet the minimum size requirement, then the property shall be considered one (1) lot for the purposes of this Code and a principal structure may be located on the larger portion of the property, if it meets the minimum lot width, and area requirements of the applicable zoning district.
- C. Where the land area on both sides of the right-of-way or easement fails to meet the minimum size requirement, then the property shall be considered one (1) lot for the purposes of this Code. A principal structure may be located on the larger portion of the property, if it meets the minimum lot width, and area requirements of the applicable zoning district.
- D. No proposed subdivision plat that includes a lot divided by a right-of-way or easement shall be approved, unless such lot meets the minimum lot requirements on one (1) side of the right-of-way or easement required by the applicable zoning district.

### **Section 3.07.00. Nonconformities.**

- A. Generally.

Nonconformities are land uses, structures, lots and other elements of development that do not conform to the provisions of this Unified Land Development Code but were created in accordance with those land development regulations (if any) in effect at the time of their establishment. Subject to the provisions listed below, nonconformities may continue to exist if otherwise lawful and in existence on the date of adoption of this Code. The casual, intermittent, temporary or illegal use of land or structures prior to the effective date of this Code shall not qualify such use or structure for the privileges outlined in this Section.

B. Pre-Existing Home Occupations.

Any home occupation, which pre-existed the passage of this Land Development Code and which does not meet all of the criteria provided in paragraph A above, may be considered a nonconforming use and may continue to operate under the following conditions:

1. The property owner shall already possess a business tax receipt for the home occupation, or shall obtain a business tax receipt within sixty (60) days of the enactment of this amendment to the Land Development Code. *(Amended Ord. 2011-14)*
2. The non-conforming home occupation may continue to exist only under the current property owner's business tax receipt or such business tax receipt issued to the current property owner within sixty (60) days of the enactment of this amendment to the Land Development Code. *(Amended Ord. 2011-14)*
3. The non-conforming home occupation cannot be sold or transferred to any successor owner of the property.
4. A non-conforming home occupation, including storage of inventory and materials, shall be conducted in the principal residence and/or within accessory structures on the property.
5. The non-conforming home occupation may continue to exist if not otherwise prohibited by any other law or regulation, and if in compliance with Section 4.11.00 A.1 through 4. and 6. Through 9. Of this Code. Notwithstanding the provisions of this paragraph to the contrary, those prohibited home occupations listed in Section 4.11.00 Part C of this Code, may continue to exist, consistent with the requirements of this section, with the exception of the following, which shall remain prohibited home occupation uses:
  - a. Public dining.
  - b. Fortunetelling or clairvoyance.
  - c. Adult entertainment.
  - d. Commercial sale or leasing of vehicles.
  - e. Massage and spa services.
  - f. Any use involving chemicals, matter or energy that may create or cause to be created noise, noxious odors, or hazards dangerous to the public health, safety and welfare.
6. The non-conforming home occupation shall not violate any applicable County, State or Federal laws.
7. The non-conforming home occupation shall comply with the requirements contained in Section 3.07.01 of this Code.

### **Section 3.07.01. Nonconforming Use of Buildings and Land.**

Nonconforming uses shall not be:

- A. Enlarged, increased or expanded to occupy a greater land or floor area than that allowed at the effective date of this Code, or amendment to this Code, whichever date created the nonconformity.
- B. Enlarged or intensified through the erection of any additional structure or use that is not permitted under the provisions of this Code.
- C. Re-established if 50% or more of the assessed value of the structure, as established by the Polk County Property Appraiser, is destroyed, or if the use is discontinued for one hundred eighty (180) consecutive days.
- D. Buildings that are nonconforming by use shall not be moved in whole or in part to any other location on the same lot or parcel that it occupies.
- E. Changed to another nonconforming use.
- F. A nonconforming use of a building or land, once changed to a conforming use, shall not be permitted to revert to a nonconforming use.
- G. Nonconforming uses of land where no principal structure exists, other than agriculture uses and structures, shall be discontinued within two (2) years of the adoption of this Code or amendment thereto, whichever date rendered the use nonconforming.

### **Section 3.07.02. Nonconforming Lots of Record.**

Lots not meeting the standards established in this Code for minimum width, depth and area, but recorded in the public records of Polk County prior to the date of adoption of this Code or amendment thereto, may be used for building purposes with the following provisions:

- A. Single family dwelling units shall not be built on lots of less than 50 feet in width and 5,000 square feet in area unless the Board of Zoning Appeals grants a variance.
- B. All other structures shall be built on lots of no less than 60 feet in width and 6,000 square feet in area unless the Board of Zoning Appeals grants a variance.
- C. Contiguous lots that are of single ownership, and do not separately meet width, depth and area requirements of the applicable zoning district, shall be considered a single lot for development purposes.
- D. Nonconforming lots of record shall not be reduced in size, width or depth without a variance authorized by the Board of Zoning Appeals.
- E. All development that is allowed on nonconforming lots of record shall meet the requirements of A and B above and shall be subject to normal setbacks and all other requirements of this Code.

### **Section 3.07.03. Nonconforming Structures.**

Structures qualifying as nonconforming shall not be:

- A. Transported to any other parcel of land unless such transport would render the structure conforming to all applicable provisions of this Code.
- B. Enlarged or expanded in any manner, unless such enlargement reduces the degree of nonconformity and is carried out in accordance with the provisions of this Unified Land Development Code.
- C. Rebuilt, repaired or renovated in excess of fifty percent (50%) of the assessed value of the structure, as established by the Polk County Property Appraiser.
- D. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

### **Section 3.07.04. Nonconforming Mobile Home Parks.**

Existing mobile home parks that are nonconforming by use shall not be redesigned, expanded in area, or modified to accommodate additional mobile homes. Replacement of existing mobile homes in such parks shall be prohibited.

Mobile home parks that are nonconforming by design only (for example do not meet development/design standards, such as setbacks, area requirements, etc.) may be expanded in area and/or modified so as to reduce or eliminate those aspects of design that render it nonconforming. The City Manager, or his or her designee, upon approval by the Polk County Health Department, may authorize additional mobile home sites in such parks upon submission of a site development plan showing a redesign of the park that substantiates the following:

- A. Overall density of the park will not exceed the allowable density established in the Comprehensive Plan and the Unified Land Development Code.
- B. An area totaling a minimum of one hundred and fifty (150) square feet for each mobile home space shall be set aside as common open space.
- C. Mobile homes within the Mobile Home Park shall comply with Florida Building and Life Safety Codes for building separation.
- D. Where possible, all development standards of the zoning district shall be met, or the degree of nonconformity reduced. In no case shall the degree of nonconformity be increased.

Proposals which do not include the addition of new mobile home spaces, such as replacing individual mobile home units within the Mobile Home Park, are exempt from conditions A and B above.

### **Section 3.07.05. Nonconforming Mobile Homes.**

The replacement of an existing mobile home on property that is not designated for mobile home use on the Official Zoning Map shall be prohibited.

### **Section 3.08.00. Moving of Buildings.**

No structure shall be moved from one (1) development site to another unless such structure shall, at the new location, comply with all applicable provisions of this Code.

### **Section 3.09.00. Temporary Construction Trailers.**

Temporary buildings used solely in conjunction with construction work may be permitted in any zoning district but shall be removed immediately upon completion of construction. The temporary structure shall not be installed prior to issuance of a building permit.

- A. The Building Official may authorize the use of a temporary structure at a construction site upon approval of a development plan and compliance with all applicable laws, rules and regulations of the State of Florida and the adopted codes of the City of Frostproof.
- B. Such structure shall only be used as a construction coordination office, for the storage of tools and supplies used for the construction and development approved for the site, or a use directly related thereto.
- C. The applicant shall designate the exact location of the temporary structure on the development plan, and shall place it only in the approved location.
- D. If a manufactured home is to be used, the wheels and axles shall not be removed.

### **Section 3.10.00. Model Homes and Temporary Sales Offices.**

Model homes and temporary sales offices may be permitted within residential subdivisions prior to final plat approval by the City Council and subsequent to the developer's receipt of the City's written approval of a concept plan. The following requirements shall apply to all model homes and temporary sales offices constructed prior to final plat approval:

- A. Each subdivision shall be allowed at least one (1) model home.
- B. The total number of model homes permitted within a subdivision shall not exceed ten percent (10%) of the total number of lots within the subdivision. Developers shall receive approval from the City prior to starting construction of any model homes.
- C. All model homes shall meet all lot area and building setback requirements for the zoning district in which the subdivision is being platted. Failure of a model home to comply with the required setbacks shall result in a refusal to issue a certificate of occupancy for that home.
- D. Fire hydrants and a stabilized road base shall be constructed and approved for use prior to the issuance of any building permits for model homes. The developer shall be responsible for maintaining the stabilized road base in a manner that allows for the safe passage of fire/rescue equipment. Should the road surface be found in an unsafe condition, the Building Official shall issue a "Stop Work" order on all model homes under construction until such time the roadway is brought back to a safe condition.
- E. Should the fire hydrants and a stabilized road base not be in place, model homes may be constructed according to standards established in the latest edition of NFPA (National Fire Protection Association) Publication 1141, Standard for Fire Protection Infrastructure for Land Development in Suburban and Rural Areas, and as may be amended.

- F. To receive/seek final subdivision approval, a scaled drawing of the subdivision showing the locations of all model homes, shall be submitted to the Office of the Building Department.
- G. No model home shall be occupied for residential purposes until the final subdivision plat has been approved by the City and recorded with the Clerk of the Courts.
- H. Model homes may be used as temporary sales offices for the subdivision in which they are located. Model homes and temporary sales offices may continue operating until all lots or houses within that subdivision are sold.
- I. Signs used for model homes and temporary sales offices shall conform to the requirements set forth by Article 8 of this Code. All signs shall be reviewed for placement, design, and duration by the Building Official. The sign area shall not exceed thirty-two (32) square feet.

#### **Section 3.11.00. Modular Buildings.**

A modular home or building shall be permitted in all zoning districts provided their use satisfies the definition of "Modular Home or Building" as contained in Article 2, Definitions. In addition, modular homes or buildings shall also satisfy the following requirements:

- A. Any modular home or building shall be of the type that is consistent with the certification requirements of the Florida Department of Community Affairs which shall be demonstrated to the satisfaction of the Building Official prior to issuance of a building permit.
- B. Modular homes or buildings shall be constructed on a finished slab or block stem wall. If constructed on a raised block stem wall the exterior of the stem wall shall be finished with stucco, brick or other material of similar aesthetic appearance.

#### **Section 3.12.00. Temporary Tents.**

- A. Commercial Tents.
  - 1. With the exception of not-for-profit, civic and civic sponsored events, and church revivals or similar meetings, tents used for commercial purposes may be erected temporarily on property in a commercial or industrial zoning district no more than twice per year on a given site.
  - 2. Tents 120 square feet or less do not require a permit.
  - 3. Tents exceeding 120 square feet require a permit and a permit fee in the amount adopted by the City Council.
  - 4. Tents over four hundred (400) square feet shall require a special limited time building permit, to be obtained by a contractor who is registered with the City. All tents shall be erected as required by the manufacturer's installation instructions. A site plan showing the location of the tent, on-site parking, and access must be submitted by the permittee. No tent may block ingress and egress to a site. The plan need not be to scale, but distances should be accurately depicted and noted on the plan. For large sites, the parking may also be indicated by a statement of how many total parking spaces exist and how many are blocked and/or occupied by the tent.



5. Tents shall be allowed for a maximum of fifteen (15) days; the time limit may be extended up to thirty (30) days by the City Manager, or his or her designee. Tents shall be completely removed upon the expiration of the time limit stated in the permit.
6. Tents shall not be erected on City streets, sidewalks, or rights-of-way unless the City Council has granted approval to close such streets, sidewalks or rights-of-way to accommodate the tent. All tents/temporary structures require flame resistance certification. Fire extinguishers shall be provided as determined by the Fire Prevention Code. Any electrical service shall be installed by a licensed electrical contractor and approved by the City Building Division. Open flames or cooking shall not be permitted in tents. Any sanitary facilities that may be required on site shall comply with Polk County Health Department standards.
7. A user must have written notarized consent from the owner or authorized agent of the property on which the tent is to be located prior to issuance of the permit. All parking shall be on-site and the tent shall not reduce the existing number of parking spaces by more than twenty percent (20%).

B. Prohibited Use of Tents.

Except for the purpose of recreational camping, no tent shall be erected, used, or maintained for living quarters.

**Section 3.13.00. Minimum Maintenance of Commercial Buildings.**

This Section is not intended to apply to any existing single-family detached or duplex residential uses that may legally exist in any zoning district. However, mixed-use occupancies must meet these requirements. All commercial buildings, located within the City, shall meet the following minimum requirements which are in addition to any other requirements imposed by law.

A. Windows, Glass, Signs, Miscellaneous.

1. Every broken or missing window glass of a vacant or occupied structure shall be repaired or replaced. It shall be prohibited to replace the glass with plywood or other non-translucent materials except on an emergency basis for up to thirty (30) days unless the City Manager, or his or her designee, extends this time limit. Plywood may be used to secure openings on vacant buildings or portions of vacant buildings. The plywood must be painted to blend with the structure that it is applied to and installed according to requirements of the Building Code. If windows are eliminated on buildings, they shall be closed in with construction that is of the same type as the construction used in the exterior wall of that building, and all Fire Codes shall be met.
2. Display windows, entrances, signs, lighting, sun protection, awnings, porches, security grills, etc., shall be maintained and kept in good repair. Any elements that are in disrepair shall be brought into compliance by repair or removal. Awnings that are torn, badly faded, or structurally compromised shall be removed, repaired or replaced. Existing miscellaneous and nonfunctional elements on the building, such as empty electrical conduit, unused sign brackets, unused awning brackets, unsecured signs, etc., shall be removed and the building surface repaired or rebuilt.

B. Walls and other Structural Elements.

The exterior of all structures shall be maintained in good repair. This shall include the painting of wood, masonry or other building materials that are not designed to otherwise exist naturally without a weather-proofing system. A structure shall be considered to be in violation of this Section if more than ten percent (10%) of the painted surface or weather-proofing system is exposed to the elements as a result of the wear, peeling, dirt, mold, mildew, or deterioration of the material.

C. Temporary Coverings.

No temporary covering of any part of a structure may remain more than thirty (30) days, except in the event of damage caused by natural disasters.

D. Failure to Maintain.

Should the owner fail to properly maintain the commercial building, a Code Enforcement Officer shall give written notice, by first class mail, to the owner of record as appears on the latest property tax rolls. The notice shall state the nature of the violation and order the corrective action necessary. Should the owner fail within thirty (30) days from the date of the notice to take corrective action to the satisfaction of the Code Enforcement Officer, or file an appeal of the notice, the Code Enforcement Officer may issue a citation to the property owner. Additionally, the property owner is subject to applicable Code Enforcement provisions as provided in Chapter 5, Article IX of the City Code.

**Section 3.14.00. Boats, Utility Trailers, Sports Vehicles and Recreational Vehicles.**

Vehicles such as unoccupied boats, air boats, or personal watercraft with or without trailers; sports vehicles such as dune buggies, racing vehicles, off-road vehicles, hunting vehicles; unoccupied recreational vehicles (excluding recreational vehicles located in zoning districts which expressly permit such vehicles as a principal use); or utility trailers shall meet the following criteria:

A. Vehicle Registration.

Vehicles shall be operative and currently registered or licensed where required by State law.

B. Connection to Utilities.

No recreational vehicle shall be connected to utility services except in preparation for departure and for vehicle preservation and maintenance purposes.

C. Residential Use.

It is strictly prohibited to reside in a vehicle parked in a residential district or residential development other than for use as a temporary emergency shelter.

### **Section 3.15.00. Screening of Storage Areas.**

- A. Any area used for the storage of rags, scrap paper, scrap metal, any collection of inoperable or distressed motor vehicles or motor vehicles which are awaiting repair (amounting to more than one (1) such vehicle), equipment, appliances and materials, or a combination thereof, or a collection of machine parts, salvaged or used building materials, used material or scrap objects representing a volume occupying more than six (6) cubic feet shall be enclosed so that all portions of the area that face or can be seen from public streets or adjoining property shall be screened from view. Openings for ingress and egress shall have solid gates or doors which screen the interior from view.
- B. The required screening may be accomplished by any of the following methods, or by any combination of such methods:
  - 1. Construction of a solid masonry wall of at least six (6) feet in height, and which shall meet the requirements of Section 6.02.00 of this Code.
  - 2. Erection of an opaque fence, at least six (6) feet in height, and which shall meet the requirements of Section 6.02.00 of this Code.

### **Section 3.16.00. Minimum Space and Use Requirements.**

No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements:

- A. Every dwelling unit shall contain a minimum living space of at least two hundred fifty (250) square feet for the first occupant, one hundred (100) square feet for each of the next two (2) occupants, and seventy-five (75) square feet for each occupant thereafter.
- B. In every dwelling unit with two (2) or more habitable spaces, every room occupied for sleeping purposes by one (1) occupant shall have a minimum living space of at least eighty (80) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall have a minimum living space of fifty (50) square feet per occupant. Kitchens and areas not considered habitable space shall not be used for sleeping purposes.
- C. All habitable spaces shall be a minimum of seven (7) feet in any horizontal dimension.
- D. No dwelling or dwelling unit containing two (2) or more sleeping rooms shall be so arranged that access to a bathroom, shower room, or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room or outside the structure, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, shower room, or water closet compartment.

# *City of Frostproof*



Unified Land Development Code

## Article 4

## ARTICLE 4.

### ZONING DISTRICTS AND PERMITTED LAND USES

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## **ARTICLE 4.**

### **ZONING DISTRICTS AND PERMITTED LAND USES**

#### **Section 4.01.00. Purpose.**

The Frostproof Comprehensive Plan establishes various future land use classifications and contains a Future Land Use Map indicating the location of lands to which each of the classifications applies. This Unified Land Development Code establishes zoning districts to implement the Comprehensive Plan through detailed regulations and design standards that apply generally to residential, commercial, industrial, public, recreation and conservation land uses.

The purpose of this Article is to set forth the general provisions concerning the use of land, buildings and structures. The provisions herein regulate land use, density and intensity, establish zoning districts that identify the location of land uses in the City, and provide for a map locating the zoning districts in the City.

#### **Section 4.02.00. Establishment of Zoning Districts.**

The City hereby establishes the zoning districts listed in this Article in order to classify, regulate, and restrict the uses of land, water, buildings, and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of yards, courts, and other open spaces between buildings; and to regulate the intensity of land uses within the City. Each zoning district established herein is consistent with the Frostproof Comprehensive Plan, particularly with the goals, objectives, policies and map of the Future Land Use Element.

The future land use designation of the property shall be the first consideration when designating a specific zoning classification on a parcel or parcels of land. However, a property owner shall not necessarily be entitled nor be automatically permitted the most dense or intense (highest and best) use or zoning for his or her property. The appropriate zoning district among the range of eligible zoning districts within a specific future land use classification shall be decided on a case by case basis dependent upon the location and characteristics of the subject property and upon determining that such zoning would promote the public health, safety, general welfare, convenience, aesthetics and economic order.

#### **Section 4.03.00. Official Zoning Map and District Boundaries.**

- A. **District Boundaries and Map Adoption.** The boundaries of each district are hereby established as shown on a map entitled "Official Zoning Map, City of Frostproof, Florida". The Official Zoning Map shall be identified by the signature of the Mayor and attested by the City Clerk under the following words: "This is to certify that this is the Official Zoning Map referred to in the Unified Land Development Code, City of Frostproof, Florida, together with the date of the adoption of the Unified Land Development Code". Said map and all explanatory matter thereon accompanies and is hereby made a part of this Unified Land Development Code and will hereinafter be referred to as the "Zoning Map". Said map shall be retained in the Office of the City Clerk.

- B. **Map Amendment.** No changes or amendments to the Official Zoning Map shall be made except in compliance and conformity with all procedures set forth in the Unified Land Development Code. If changes or amendments are made to district boundaries or other subject matter portrayed on the Official Zoning Map, such changes or amendments shall be made promptly after official adoption of the change or amendment as provided for herein. The City Manager, or his or her designee, shall be responsible for assuring that the physical updating and amendment of the Official Zoning Map is carried out within fifteen (15) working days of Council action.

The Official Zoning Map may correct drafting and clerical errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the Code or any subsequent amendment thereto without duly noticed public hearings as provided in Article 11 of this Code.

When any Official Zoning Map is replaced, the prior Map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption and amendment.

#### **Section 4.04.00. Interpretation of District Boundaries.**

When uncertainty exists as to boundaries of the districts on the Official Zoning Map, the following rules shall apply:

- A. **CENTER LINES.** Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed as following such lines.
- B. **LOT, SECTION AND TRACT LINES.** Boundaries indicated as approximately following platted lot lines, section or tract lines shall be construed as following such lines.
- C. **POLITICAL BOUNDARIES.** Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.
- D. **RAILROAD LINES.** Boundaries indicated as following railroad lines shall be construed to be following the centerline of the railroad right-of-way.
- E. **SHORELINES.** Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
- F. **PARALLEL LINES.** Boundaries indicated as parallel to or extensions of features indicated in numbers 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- G. **UNCERTAINTIES.** Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in case any other uncertainty exists, the City Manager, or his or her designee, shall interpret the intent of the Official Zoning Map as to the location of district boundaries.



- H. **VACATED PROPERTY.** Whenever any street, alley or other public way is vacated by official action of the City Council, the use, district and area regulations governing the property that abuts each side of the street, alley or public way shall be automatically extended to the center of such vacated area and all of the property included within the area shall be subject to all appropriate future land use, zoning and development regulations. In the event abandoned property is not divided at the centerline for abutting properties, the property ownership line, as determined by the abandonment, shall serve as the boundary line.
- I. **EXCLUDED AREAS.** Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained within Article 11 of this Code.

#### **Section 4.05.00. Land Use Classifications.**

The purpose of these provisions is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. All land use activities are classified into future land use categories with corresponding zoning classifications. These provisions apply throughout this Code.

**TABLE 4.05.01.  
FUTURE LAND USE MAP DESIGNATIONS AND COMPATIBLE ZONING DISTRICTS**

<b>FUTURE LAND USE CATEGORIES</b>	<b>COMPATIBLE ZONING DISTRICTS</b>
Agriculture (AG) 1 dwelling unit per 5 acres	AG (Agriculture) PUD (Planned Unit Development)
Agriculture Transitional	PUD (Planned Unit Development)
Residential Estate (RE) 2-4 units per acre	R-1a (Single-Family, Estate) PUD (Planned Unit Development)
Residential, Low Density (RL) 0-4 units per acre	R-1b (Single-Family, Low Density) MH-1 (Mobile Home) PUD (Planned Unit Development)
Residential, Medium Density (RM) 4-10 units per acre	R-1c (Single-Family, Medium Density) MH-1 (Mobile Home) PUD (Planned Unit Development)
Residential, High Density (RH) 10-14 units per acre	R-1d (Mixed Residential, High Density) PUD (Planned Unit Development)
12-20 units per acre	R-2 (Multi-Family, High Density) PUD (Planned Unit Development)
Commercial (C)	CO (Commercial Office District) CBD (Central Business District) CN (Commercial Neighborhood District) CG (Commercial General District) PUD (Planned Unit Development)
Industrial (I)	I-1 (Light Industrial) I-2 (Heavy Industrial) PUD (Planned Unit Development)
Public (P)	P (Public)
Recreation (REC)	REC (Recreation)
Conservation (CON)	CON (Conservation)

#### **Section 4.06.00. Description of Zoning Districts.**

This Section contains a description of each of the zoning districts established by the City and identifies: 1) the intended purpose of each zoning district; and, 2) specific provisions that apply within a particular zoning district. Specific development standards for maximum density, minimum lot size, minimum lot width, minimum lot depth, minimum floor area, setbacks, maximum lot coverage, and maximum building height are found in Article 5 of this Code. Development design standards are found throughout Article 6, "Development Design and Improvement Standards".

#### **Section 4.06.01. AG, Agriculture District.**

The purpose of this zoning district is to provide for agricultural activities within the City and to provide for the continuation of the agricultural tax exempt status established by Florida Statutes, on property that is at the perimeter of the City, is used for agricultural activities and does not have any established urban land uses. In general, a wide range of agricultural pursuits and single family detached dwelling units at a maximum density of one dwelling unit per five gross acres (1du/5ac) are permitted.

##### **A. Permitted Uses:**

1. Producing or harvesting crops or plants, raising livestock or fish, forestry activities, animal specialty farms, nurseries, ornamental horticulture areas, noncommercial greenhouses, and bee keeping.
2. Farm worker housing is permitted at a maximum density of six dwelling units per gross acres (6 du/1 ac) of agricultural classified land when in conformance with applicable HRS rules and regulations and upon the City granting Conditional Use Approval to the units. Density transfers may be allowed to cluster units.

##### **B. Prohibited Uses:**

1. Intense agricultural activities such as feed lots and egg production are not allowed within the City limits unless they are pre-existing uses of land prior to annexation. Discontinuation of the use shall result in a nonconforming use in accordance with the terms of Section 3.07.01.
2. Keeping and raising venomous reptiles.

##### **C. Other requirements:**

1. Excess produce and other products that are agricultural in nature and harvested from orchards, vineyards, nurseries, ornamental horticultural areas, groves, noncommercial greenhouses, as well as excess produce harvested from any commercial farm, may be sold on the premises to the general public by the means of a roadside stand or similar structure. The City Building Official shall issue building permits, as required for such structures. Setbacks from rights-of-way and property lines shall be those required for an accessory structure.
2. Clubhouses and similar facilities are permitted on parcels retained by the developer or dedicated to and maintained by a homeowners association.

## **Section 4.06.02. Residential Districts.**

### **Section 4.06.02.01. R-1a, Single-Family Estate and R-1b Single Family, Low Density, Residential Districts.**

The purpose of these districts is to provide areas for low density, single-family, detached units with the necessary and incidental accessory uses that are normally located with the principal use. Clubhouses and similar facilities are permitted on parcels retained by the developer or dedicated to and maintained by a homeowners association. The density permitted in these districts ranges from 0-4 units per gross acre (R-1b) to 2-4 dwelling units per gross acre (R-1a). Limited agricultural uses (see Article 2 definition for Agricultural Limited Uses) are allowed so long as there are no infrastructure improvements installed for approved development and no primary residential use has been established. Livestock, with the exception of pigs, raised for 4-H and FFA projects, are permitted on a temporary basis for single family dwellings only. *(Amended Ord. 2011-05).*

### **Section 4.06.02.02. R-1c, Single-Family, Medium Density Residential District.**

The purpose of this district is to provide areas for medium density single-family detached and two-family residential development with the necessary and incidental accessory uses that are normally located with the principal use. Clubhouses and similar facilities are permitted on parcels retained by the developer or dedicated to and maintained by a homeowners association. The density permitted in the R-1c district is 4-10 dwelling units per gross acre. Limited agricultural uses (see Article 2 definition for Agricultural Limited Uses) are allowed so long as there are no infrastructure improvements installed for approved development and no primary residential use has been established. Livestock, with the exception of pigs, raised for 4-H and FFA projects, are permitted on a temporary basis for single family dwellings only. *(Amended Ord. 2011-05).*

### **Section 4.06.02.03. R-1d, Mixed Residential, High Density Residential District.**

The purpose of this district is to provide areas for high density residential development, which allows single-family and attached types of units, including duplexes and triplexes, and the necessary and incidental accessory uses that are normally located with the principal use. Clubhouses and similar facilities are permitted on parcels retained by the developer or dedicated to and maintained by a homeowners association. The density permitted in the R-1d district is 10-14 dwelling units per gross acre. Limited agricultural uses (see Article 2 definition for Agricultural Limited Uses) are allowed so long as there are no infrastructure improvements installed for approved development and no primary residential use has been established. Livestock, with the exception of pigs, raised for 4-H and FFA projects, are permitted on a temporary basis for single family dwellings only. *(Amended Ord. 2011-05).*

#### **Section 4.06.02.04. R-2, Multi-Family, High Density Residential District.**

The purpose of this district is to provide areas for multi-family dwelling uses at high density along with the necessary and incidental accessory uses that are normally located with the principal use. Clubhouses and similar facilities are permitted on parcels retained by the developer or dedicated to and maintained by a homeowners association. The density permitted in the R-2 district is 12-20 dwelling units per gross acre.

#### **Section 4.06.02.05. MH-1, Mobile Home Park District.**

The Mobile Home Park District is established for the purpose of providing a district for mobile homes in approved parks and subdivisions, occupied as single-family dwellings, with the intent of creating an environment of a residential character, permitting only those uses, activities and services which are compatible with the residential environment. This is not a commercial district. The regulations contained in this Section are intended to protect the residential character of mobile home parks. Clubhouses, swimming pools, laundry and similar facilities are permitted on parcels retained by the developer or dedicated to and maintained by a homeowners association for exclusive use by park residents. The MH-1 district allows densities up to six dwelling units per gross acre (6 du/1 ac).

### **Section 4.06.03. Commercial Districts.**

#### **Section 4.06.03.01. CO, Commercial Office District.**

The Commercial Office District is intended to encourage a mix of office, low intensity commercial and medium density residential uses (4-10 dwelling units per gross acre). Low intensity commercial uses are supportive or a secondary use to office development and include small item shops and stores limited to retail sales of personal service items and small convenience items, or services typically needed on a frequent and recurring basis.

#### **Section 4.06.03.02. CBD, Central Business District.**

The Central Business District is intended to provide a vibrant mixed use center which supports office, retail, residential, government, institutional, visitor-serving, cultural and entertainment uses within the heart of the City. Its primary purpose is to group these specialized uses together in a compact area designed for pedestrian movement. This zoning district is exempt from landscaping, parking and loading, lot and building coverage, setback requirements, and specific sign regulations, due to the unique and historic quality of this district and the unique arrangement of the buildings along the downtown streets. Where residential development occurs, it shall be in the Medium to High density range (4-14 dwelling units per gross acre).

The shaded area on the map below depicts district boundaries and properties that lie within the CBD.



#### **Section 4.06.03.03. CN, Commercial Neighborhood District.**

The Commercial Neighborhood District is intended to apply to small-scale neighborhood shopping centers and small pedestrian-oriented retail districts. The service area of these districts is generally less than one mile. Typical uses include corner stores or convenience stores, restaurants, bakeries, small supermarkets or drug stores, dry cleaners, video stores, and similar uses that serve the immediately surrounding neighborhood. While this is primarily a commercial category, high density residential uses (10-14 dwelling units per gross acre) are also supported by this designation.

#### **Section 4.06.03.04. CG, Commercial General District.**

The Commercial General District is intended to apply to arterial streets and traffic ways where business establishments, primarily not of a neighborhood or community service type, may properly be located to serve large sections of the City and/or beyond the City limits. Typical commercial uses include supermarkets, larger drug stores, department stores and variety stores, clothing stores, banks, offices, restaurants, movie theaters, hotels, and similar uses that draw from multiple neighborhoods. Where buildings contain both residential and commercial or retail uses, the residential units shall be located above the ground floor commercial/retail uses. The residential density standards for this district are within the High Density range (10-20 dwelling units per gross acre).

#### **Section 4.06.04. Industrial Districts.**

##### **Section 4.06.04.01. I-1, Light Industrial District.**

The I-1 District is intended primarily for the manufacturing, processing, fabrication, assembly, treatment, and/or packaging of finished products or parts, predominantly from previously prepared materials that do not involve materials, processes or machinery likely to cause undesirable effects upon nearby or adjacent business and residential property. Uses mainly include operations with a service character including those catering to the service industry needs of the surrounding community.

##### **Section 4.06.04.02. I-2, Heavy Industrial District.**

The I-2 District is intended primarily for the basic processing and manufacturing of materials or products, which are predominately from extracted or raw materials. This type of manufacturing and processing has the potential to cause undesirable effects upon nearby residential or business property because of its appearance and/or potential for generating noise, vibration, odor, glare, fire, explosion, or air or water quality threats. Uses may include storage or manufacturing processes using flammable or explosive materials; storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions; and uses engaged in the recycling of recoverable resource materials, such as paper products, glassware, steel, or metal cans reprocessed into new products.

#### **Section 4.06.05. P, Public District.**

The purpose of this district is to establish locations for existing and future publicly owned properties such as local, state, and federal government buildings, facilities and schools, and locations for existing and future privately owned facilities that provide or serve a public benefit.

#### **Section 4.06.06. REC, Recreation District.**

The purpose of this district is to establish locations for publicly-owned recreation facilities, and properties reserved for open space. Accessory uses that are secondary and incidental to principal uses include bathhouses, caretakers' residences, pavilions, and boat docks.

#### **Section 4.06.07. CON, Conservation District.**

The purpose of this district is to preserve the proper functioning of natural resources, such as wetlands, floodplains, and groundwater recharge areas. Accessory uses that are secondary and incidental to principal uses include restrooms, caretakers' residences, pavilions, boardwalks, and pedestrian/bicycle paths.

#### **Section 4.07.00. Special Needs Homes and Facilities.**

Special Needs Homes and Facilities is a general category of uses that include a range of facilities and homes identified in the Florida Statutes as providing for the shelter and care of individuals with common needs. The homes and facilities are divided into two (2) groups that have similar characteristics: family care homes and care facilities. Family care homes are permitted in all residential districts by Statute. Other care facilities, such as nursing homes, assisted living facilities, child care facilities may be regulated as to location and conditions of operation by the local government. Foster care facilities and group homes of all types shall have a minimum 1,000 foot separation between each facility. Article 2 of this Code defines each family home and care facility.

#### **Section 4.08.00. Family Care Homes.**

Adult family care homes, family day care homes, and family foster homes are permitted in residential areas in homes occupied by the family that provides the licensed care. Pursuant to Florida Statutes, these types of family care homes are not subject to local zoning laws because they are owner-occupied and because only a small number of persons can be cared for in each home. However, no sign indicating the purpose or nature of the facility shall be permitted. Licensing, registration, occupancy and other matters are regulated under specific provisions of the Florida Statutes. These uses are included in Table 4.10.01 of this Article, and are permitted in all residential zoning districts.

Community residential homes provide a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Homes with six or fewer residents, which otherwise meet the definition of a community residential home, are deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances and are allowed in a single-family or multifamily zoning district without approval by the local government, provided that such homes shall not be located within a radius of 1,000 feet of another existing home with six or fewer residents. Homes of 7 or more residents are subject to local government review for location and conditions of operation (Section 419.001, F.S.).

Any violation of applicable State Statute or regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use.

#### **Section 4.09.00. Special Needs Care Facilities.**

Care facilities, which include nursing homes, hospice facilities, assisted living and day care establishments, may provide short-term or up to 24-hour care to adults, children, the elderly and the infirm and are subject to local zoning laws. They are generally most appropriately located in commercial areas, but may, with Conditional Use approval, be located in residential districts, where in such cases the facility shall be a) designed to look like a residential home consistent with the type of residential development allowed within that particular residential zoning district, or b) located in an existing residential home. They are licensed or registered by the State of Florida according to separate and specific provisions of the Florida Statutes. The facilities are listed as a group in Table 4.10.01, Land Uses and Zoning Districts. Any violation of applicable State statute or regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use.



#### **Section 4.10.00. Zoning Districts and Allowed Land Uses.**

Land uses allowed within each zoning district are provided in Table 4.10.01.

##### **A. Permitted Uses.**

Permitted uses are designated by the letter "P". Permitted land uses within a PUD or Overlay District are subject to approval by the City Council.

##### **B. Conditional Uses.**

Uses that require Conditional Use approval are designated by a "C". A Conditional Use would not be appropriate generally throughout the zoning district or without restriction, but which, if controlled as to number, area, location, and relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity, and is permissible. Article 11 provides the process to review Conditional Use requests. Conditional Uses require Planning and Zoning Commission review with final approval by the City Council.

1. A Conditional Use Approval runs with the use of the property. Ownership may change, but so long as the character and conditions of the Conditional Use approval do not change, the Conditional Use approval remains in effect.
2. Should the use change to a use permitted in the zoning district that is not the use approved as the Conditional Use Approval, and remains so for six (6) months or more, a new application will be required to reestablish any Conditional Use.
3. The expansion or reconfiguration of any use or development that is subject to Conditional Use Approval shall require a new or amended Conditional Use prior to the issuance of a building permit.

##### **C. Mining Activities.**

Mining activities are prohibited within the City of Frostproof.

**Table 4.10.01  
Land Uses and Zoning Districts**

AGRICULTURAL AND RESIDENTIAL LAND USES																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Agriculture; General Farming, Animal Grazing, Aquaculture, Produce, Agricultural Road Side Stand associated with on-site agricultural uses <sup>1</sup>	P															
Agricultural Limited Uses <sup>2</sup>	P	P	P	P	P											
Farm Worker Housing	C															
Nurseries and Greenhouses, Commercial Non-Commercial	P	P	P	P	P											
Single Family Dwellings, Standard & Modular Construction	P	P	P	P	P			C	C							
Mobile Home Park & Subdivision, Individual Mobile Homes							P									
Duplex, Two-Family				P	P											
Triplex, Three Family				P	P											
Apartments						P		C	P	C	C					
Boarding House					C	C				C						
Cluster Homes				P	P											
Condominium						P			P	C	C					
Garage Apartment				P	P				C							
Garden Apartments						P										
Guest House		P	P	P												
Patio Homes				P	P											
Townhouse					P	P										
Zero Lot Line Homes				P	P											
GROUP CARE FACILITIES																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
<b>Family Care</b>																
Adult Family Care Home	P	P	P	P	P	P	P									
Community Residential Home (up to 6 residents) *	P	P	P	P	P	P	P									
Community Residential Home (7-14 residents)					C	C	C									
Family Day Care Home	P	P	P	P	P	P	P									
Family Foster Home	P	P	P	P	P	P	P									
<b>Special Needs Care Facilities</b>					C	C		C		P	P					
Adult Day Care Center					C	C		C	P	P	P					
Child Care Facility					C	C		C								
Foster Care Facility		C	C	C	C	C	C									
Group Home (4-6) residents		C	C	C	C	C	C									
Group Home (7-15 residents)					C	C	C			C						
Assisted Living					C	C		C		P	P					
Nursing Home					C	C		C		P	P					
Hospice		C	C	C	C	C	C	C		P	P					

\* Provided the home is not located within a 1,000 foot radius of another home with 6 or fewer residents.

**P = Permitted Use**

**C=Conditional Use**

<sup>1</sup> Amended Ord. 2011-05

<sup>2</sup> Added per Ord. 2011-05

**Table 4.10.01  
Land Uses and Zoning Districts**

LODGING																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Bed and Breakfast	C	C	C	C	C	C		C	P							
Tea Room			C	C	C	C										
Hotel/Motel								C	P	P	P					
RV Park & Campgrounds	C						C									P
OFFICE/FINANCIAL/MEDICAL FACILITIES/CLUBS																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Bank/Financial Institution								P	P	P	P	P				
Business Office								P	P	P	P	P	P			
Clinic								P	P	P	P	P				
Clubs, Community/Fraternal		C	C	C	C	C		P	P	P	P	P				
Funeral Home/Mortuary								C	C	P	P	P	C			
Hospital								P		P	P	P		P		
Hospital Heliport								C		C	C	P		C		
Lodges and Retreats, Private	C	C	C	C	C	C										
Medical/Health Care Office								P	P	P	P	P	C			
Laboratory, Medical/Dental								P			P	P	P			
Professional Office								P	P	P	P	P				
Office Park								P				P	P			
PERSONAL SERVICES																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Barber and Beauty Shops								P	P	P	P	P				
Fitness Center/Health Club									P	P	P					
Laundromat										P	P					
Laundry/Dry Cleaning Drop-Off and Pick-Up								P	P	P	P	P				
Nail Salons								P	P	P	P	P				
Seamstress/Tailor								P	P	P	P	P				
Shoe Repair								P	P	P	P	P				

**P = Permitted Use**

**C=Conditional Use**

**Table 4.10.01  
Land Uses and Zoning Districts**

RETAIL COMMERCIAL, No Outdoor Storage																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Alcohol Package Sales									C	P	P	P	C			
Auto Parts Sales									P	P	P	P				
Bakery									P	P	P	P				
Bars, Lounges, Taverns									C	C	P	P	P			
Convenience Store (No Gas)								P	P	P	P	P	P			
Convenience Store (With Gas)									C	P	P	P	P			
Florist								P	P	P	P	P				
Kennels (Indoor)											P	P				
Maintenance & Repair of Appliances & Small Equipment										P	P	P				
Mini-Warehouse/Self-Storage											C	P	P			
Night Clubs and Dance Halls											C	P				
Office Supply Store & UPS Store								P	P	P	P	P				
Pet Services								P	P	P	P	P				
Pharmacy/Drugstore, Medical Marijuana Dispensing Facilities								P	P	P	P	P				
Recycling Center (indoor)									C	C	P	P	P			
Restaurant (Sit Down/Table Service)								P	P	P	P	P				
Restaurant (Take Out/Short Order)									P	P	P	P				
Retail Sales									P	P	P	P	C			
Service Station (Minor Automotive Repair)									C	C	P	P	P			
Shopping Center (<150,000 GLA)									P	P	P					
Shopping Center (>150,000 GLA)									C	C	P					
Veterinary Clinic								P		P	P	P				
Veterinary Hospital											P	P				

**P = Permitted Use**

**C=Conditional Use**

**NOTE: Sidewalk cafés may be allowed, upon approval, within Planned Developments.**

**Table 4.10.01  
Land Uses and Zoning Districts**

RETAIL COMMERCIAL, Outdoor Storage or Activities																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Auto, Truck & Boat Sales and Leasing											P	P				
Automotive Repair (Major)											P	P	P			
Building Supply Sales											P	P				
Car Wash & Detailing										P	P	P	P			
Equipment Sales and Rentals											P	P	P			
Light Duty												P	P			
Heavy Duty													P			
Flea Market & Farmers Market											C	P				
Kennels (Indoor and/or Outdoor)											P	P				
Marinas and Related Activities											P					
Mobile Home/RV Sales											P	P				
Nurseries and Garden Centers										P	P	P				
Pet Services											P	P				
Recycling Center (Outdoor)												P	P			
Restaurant (Drive-In/Drive Thru/Walk-Up)									C	P	P	P				
Sidewalk Cafe									C							
NON-RETAIL SERVICE COMMERCIAL																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Animal Shelter											P	P				
Auto, Truck & Boat Repair; No Sales											P	P	P			
Contractor's Shops & Storage Yard												P	P			
Equipment & Material Storage Yard												P	P			
Equipment Repair											P	P	P			
Light Duty												P	P			
Heavy Duty													P			
Warehouse												P	P			
Wholesaling & Distribution											P	P	P			

**P = Permitted Use**

**C=Conditional Use**

**Table 4.10.01  
Land Uses and Zoning Districts**

<b>LIGHT INDUSTRIAL</b>																
<b>LAND USE</b>	<b>AG</b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>	<b>CO</b>	<b>CBD</b>	<b>CN</b>	<b>CG</b>	<b>I-1</b>	<b>I-2</b>	<b>P</b>	<b>CON</b>	<b>REC</b>
Airports/Aviation Uses												C	C	C		
Food & Beverage Manufacturing, Processing & Packaging												P				
Laundry & Dry Cleaning Plant												P	P			
Manufacturing of Finished Products												P	P			
Printing/Publishing											P	P	P			
Recycled Materials Processing Facility												P	P			
Truck Stops											C	P	P			
Truck & Motor Freight Terminals												P	P			
<b>HEAVY INDUSTRIAL</b>																
<b>LAND USE</b>	<b>AG</b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>	<b>CO</b>	<b>CBD</b>	<b>CN</b>	<b>CG</b>	<b>I-1</b>	<b>I-2</b>	<b>P</b>	<b>CON</b>	<b>REC</b>
Auto Salvage Yard													P			
Food & Beverage Manufacturing, Processing & Packaging													P			
Junkyard													C			
Manufacturing of Raw Materials													P			
Storage & Processing of Flammable Materials													P			
Storage of Sand/Gravel/Blocks													P			

**P = Permitted Use**

**C=Conditional Use**

**Table 4.10.01  
Land Uses and Zoning Districts**

PUBLIC SERVICE FACILITIES																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Government Facilities & Structures								P	P	P	P	P	P	P		
Cemetery	C	C	C	C	C	C	C					C	C	P		
<u>Personal Wireless Service Facility</u>	C	C	C	C	C	C	C	C		C	P	P	P	P		
Ground Mounted Facilities <sup>3</sup>																
Structure Mounted Facilities <sup>4</sup> (Accessory Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P
Utility Pole Mounted Facilities (Accessory Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<u>Public Utilities</u>	C											P	P	C		
Alternative Energy Facility																
Electrical Power Plant												P	P	C		
Electric Power or Telephone Substation/Switching Station	C	C	C	C	C	C	C	C	C	P	P	P	P	C		
Natural Gas Facility												P	P	C		
Hybrid Power System Facility												P	P	C		
Television or Radio Broadcasting Transmission Facility and/or Tower	C										C	P	P	C		
Water Utility Plant	C											P	P	P		
Wastewater Utility Plant	C											P	P	P		
Wastewater Lift Station	C	C	C	C	C	C	C	C	C	C	C	P	P	P		

**P = Permitted Use**

**C=Conditional Use**

<sup>3</sup> See Section 6.12.05.01 for conditions pertaining to allowing ground mounted facilities in residential districts.

<sup>4</sup> See Section 6.12.04.01 for conditions pertaining to allowing structure mounted facilities.

**Table 4.10.01  
Land Uses and Zoning Districts**

<b>PUBLIC SERVICE FACILITIES</b>																
<b>LAND USE</b>	<b>AG</b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>	<b>CO</b>	<b>CBD</b>	<b>CN</b>	<b>CG</b>	<b>I-1</b>	<b>I-2</b>	<b>P</b>	<b>CON</b>	<b>REC</b>
Correctional Facility														C		
Fire Station & EMS Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Police Station	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Post Office	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
<b>EDUCATIONAL/CULTURAL FACILITIES</b>																
<b>LAND USE</b>	<b>AG</b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>	<b>CO</b>	<b>CBD</b>	<b>CN</b>	<b>CG</b>	<b>I-1</b>	<b>I-2</b>	<b>P</b>	<b>CON</b>	<b>REC</b>
College/University								P		P	P	P		P		
Community Center	C	C	C	C	C	C	C	C	C	C	C			P		
Cultural Facility	C	C	C	C	C	C	C	C	C	C	C	C	C	P		
Religious Establishment	C	C	C	C	C	C	C	C	C	C	C	C	C			
Schools, Grades K-12	P	P	P	P	P	P	P	P	P	P	P			P		
Schools, Vocational/Technical								P		P	P	P	P			
Schools, Trade												P				
Schools, Leisure/Special Interest								P	C	P	P	P	P			
<b>RECREATIONAL USES</b>																
<b>LAND USE</b>	<b>AG</b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>	<b>CO</b>	<b>CBD</b>	<b>CN</b>	<b>CG</b>	<b>I-1</b>	<b>I-2</b>	<b>P</b>	<b>CON</b>	<b>REC</b>
Park (Passive)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Recreation - Indoor																
Public Commercial	P	P	P	P	P	P	P	P C	P P	P P	P P	P P	P P	P		P
Recreation – Outdoor																
Public Commercial	P	P	P	P	P	P	P	P	P	P P	P P	P P	P	P		P
Equestrian Facility/Private Stables	P															
Equestrian Facility/Commercial	C									C	C	P				P

**P = Permitted Use      C=Conditional Use**

**Note: An Equestrian District Overlay May be Attached to a Planned Development (See Article 7).**



#### **Section 4.11.00. Home Occupations.**

A. Home based occupations, unless specifically prohibited, or provided for in Section 3.07.00 Part B of this Code, may be conducted in the agricultural district and all residential and residential mixed use districts, without further City approval, under the following provisions:

1. There shall be no display of goods or advertising visible from the street.
2. A non-illuminated name plate, not exceeding one (1) square foot in area, may be displayed provided the name is affixed flat against the exterior surface at a position not more than two (2) feet distance from the main entrance to the residence.
3. No persons, except members of the immediate family of the proprietor of a home based occupation who resides on the premises, shall be employed to work at the location of the home based occupation.
4. No home occupation shall occupy more than twenty-five percent (25%) of the gross living area of the residence.
5. A home occupation, including storage of inventory and materials, shall be conducted in the principal residence.
6. The home occupation shall be clearly incidental and subordinate to the use of the home for residential purposes by its occupants. Under no circumstances shall the residential character of the property be changed by the home occupation.
7. The home occupation shall not generate traffic in greater volumes than would normally be generated by a dwelling unit in a residential area. No additional parking spaces shall be provided in excess of those required to serve the residential unit.
8. All materials used in the operation of the home occupation shall be stored, contained and disposed of consistent with applicable local, state and federal laws.
9. All home occupation practitioners shall obtain a business tax receipt.

B. The following uses are examples of allowable home occupations:

1. Activities conducted principally by telephone, computer, facsimile or mail.
2. Studios where handicrafts or objects of art are produced.
3. Teaching and tutoring instruction of no more than four pupils at a time.
4. Dressmaking or apparel alterations.
5. Additional examples of allowable home occupation uses are provided in the definition for "Home Occupation", Article 2, Definitions.

C. The following home based occupations are prohibited, unless otherwise provided for in Section 3.07.00 Part B of this Code:

1. Barbershop.
2. Beauty shop.

3. Public dining facility.
4. Antique or gift shop.
5. Film developing or processing.
6. Fortunetelling or clairvoyance.
7. Repair shops, excepting fine watch repair.
8. Adult entertainment.
9. Automotive service and repair.
10. Commercial sale or leasing of vehicles.
11. Massage and spa services.
12. Any use that requires a Building Code upgrade (i.e., from residential standards to commercial standards) to accommodate the home occupation.
13. Any use involving chemicals, matter or energy that may create or cause to be created noise, noxious odors, or hazards dangerous to the public health, safety and welfare.

#### **Section 4.12.00. Bed and Breakfast.**

- A. A bed and breakfast inn is a residential structure containing guest rooms where lodging with breakfast included is provided for compensation, and generally for a stay of a week or less.
- B. Bed and breakfast structures are normally found in established neighborhoods and may be the primary residence of the owner and innkeeper.
- C. Residential structures rented out for a season or for longer than two (2) weeks are considered boarding houses.
- D. Parking requirements are provided in Article 6, Section 6.05.09.01, and signage requirements are provided in Article 8.

#### **Section 4.13.00. Historic Preservation.**

Historic preservation regulations are contained in Article XII, Chapter 5 of the Municipal Code of Ordinances.

#### **Section 4.14.00. Tea Room.**

- A. A tea room is a low-impact neighborhood eatery located in close proximity to major roadways while being compatible with adjacent residential properties, typically serving non-alcoholic beverages, sandwiches and light fare.
- B. Tea Rooms are permitted as a Conditional Use in Residential: R-1b, R-1c, R-1d, and R-2.

- C. Tea Rooms permitted as a Conditional use are limited to no more than fifty (50) seats and open on a daily basis between the hours of 10:00 a.m. and 4:00 p.m. Special events may be scheduled throughout the day until 9:00 p.m.
- D. The following information shall be provided in addition to that required by Section 11.04.04.02 Application: Proposed Hours of Operation, Noise Policies/Limitations, Proposed Maximum Occupancy, Sample/Representative Menu, Floor Layout Plans, Signage Plans.
- E. The Planning and Zoning commission and City Council shall address the following items in addition to the review requirements of Section 11.04.04.04: off street parking accommodations, buffering and screening to adjacent residential properties, hours of operation, compatibility with normal residential character, confirmation that the proposed use meets the definition of tea room and review of floor plan.

#### **Section 4.15.00. Medical Marijuana Dispensing Facilities.**

As required through Florida Statute 381.986. medical marijuana dispensing facilities must meet the following requirements:

- A. A medical marijuana dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless approved by the City Commission at a public hearing at which the City determines that the location promotes the public health, safety, and general welfare of the community.
- B. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors; pressure switches; and duress, panic, and hold-up alarms; and
- C. Maintain a video surveillance system that records continuously twenty-four (24) hours a day and meets the following criteria:
  - 1. Cameras are fixed in a place that allows for the clear identification of persons and activities in controlled areas of the premises. Controlled areas include grow rooms, processing rooms, storage rooms, disposal rooms or areas, and point-of-sale rooms.
  - 2. Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points.
  - 3. Recorded images must clearly and accurately display the time and date.
  - 4. Retain video surveillance recordings for at least forty-five (45) days or longer upon the request of a law enforcement agency.
- D. Ensure that the medical marijuana dispensing facility's outdoor premises have sufficient lighting from dusk until dawn.
- E. Not dispense from its premises, marijuana or a marijuana delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver marijuana to qualified patients 24 hours a day.
- F. Store marijuana in a secured, locked room or a vault.

- G. Require at least two (2) of its employees, or two (2) employees of a security agency with whom it contracts, to be on the premises at all times where cultivation, processing, or storing of marijuana occurs.

All employees must be twenty-one (21) years of age or older and have passed a background screening.

**Table 4.10.01  
Land Uses and Zoning Districts**

RETAIL COMMERCIAL, No Outdoor Storage																
LAND USE	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON	REC
Alcohol Package Sales									C	p	p	p	C			
Auto Parts Sales									p	p	p	p				
Bakery									p	p	p	p				
Bars, Lounges, Taverns									C	C	p	p	p			
Convenience Store (No Gas)								p	p	p	p	p	p			
Convenience Store (With Gas)									C	p	p	p	p			
Florist								p	p	p	p	p				
Kennels (Indoor)											p	p				
Maintenance & Repair of Appliances & Small Equipment										p	p	p				
Mini- Warehouse/ Self -Storage											C	p	p			
Night Clubs and Dance Halls											C	p				
Office Supply Store & UPS Store								p	p	p	p	p				
Pet Services								p	p	p	p	p				
Pharmacy/Drugstore, Medical Marijuana Dispensing Facilities								p	p	p	p	p				
Recycling Center (indoor)									C	C	p	p	p			
Restaurant (Sit Down/Table Service)								p	p	p	p	p				
Restaurant (Take Out/Short Order)									p	p	p	p				
Retail Sales									p	p	p	p	C			
Service Station (Minor Automotive Repair)									C	C	p	p	p			
Shopping Center ( < 150,000 GLA)									p	p	p					
Shopping Center(> 150,000 GLA)									C	C	p					
Veterinary Clinic								p		p	p	p				
Veterinary Hospital											p	p				

# *City of Frostproof*



Unified Land Development Code

## Article 5

## ARTICLE 5.

### DENSITY, DIMENSIONAL AND SETBACK REGULATIONS

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## **ARTICLE 5.**

### **DENSITY, DIMENSIONAL AND SETBACK REGULATIONS**

#### **Section 5.01.00. Purpose.**

The purpose of this Article is to set forth the general provisions to regulate land use density and intensity, establish building, structure height and bulk regulations and to provide lot and yard requirements.

#### **Section 5.02.00. Yards and Lots for Principal and Accessory Structures.**

- A. For purposes of defining "front Yard", the front yard shall be that yard area that is parallel to the street frontage upon which the traditional front entrance for persons is located, e.g., the front door.
- B. Attached carports, garages, and screened enclosures are considered part of the principal structure and shall comply with principal building setback requirements.
- C. No accessory buildings shall be permitted in front yards. Accessory buildings shall be permitted in rear and side yards only and in accordance with setback regulations.
- D. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Article shall be included as part of a yard or other open space similarly required for another building.
- E. Projections, including awnings, bay windows, cornices, canopies, eaves, windowsills or other similar architectural features, and fireplaces may extend up to two (2) feet into a required building setback if the requirement for separation of structures is maintained and the projection meets Florida Building Code standards.
- F. Equipment such as air conditioning units, pumps, steps, and similar devices are exempt from meeting the setback requirement.
- G. Setback requirements for dwellings shall not apply when the following conditions are present:
  - 1. Developed lots within one hundred (100) feet on each side of the lot have less than the minimum required setback.
  - 2. These other lots are within the same block and zoning district and front on the same street.
  - 3. In such cases, the minimum required setback shall be the average of the existing setbacks on the developed lots.



**Table 5.02.01.  
Residential Development Standards**

	<b>AG <sup>1</sup></b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>
<b>Minimum Project Area</b>						1 acre	1 acre (Home)  5 acres (Park)
<b>Minimum Lot Area (Per Dwelling Unit)</b>							
Single-Family	5 acres	12,000 sq. ft.	10,000 sq. ft.	8,400 sq. ft.	7,200 sq. ft.		
Two-Family				5,000 sq. ft.	4,200 sq. ft.		
Multi-Family				4,000 sq. ft.	3,000 sq. ft.	2,400 sq. ft.	
Mobile Home Space							4,000 sq. ft.
RV Space							2,400 sq. ft.
<b>Minimum Lot Width (Per Dwelling Unit)</b>							
Single-Family	175'	100'	70'	60'	60'		
Two-Family				35'	30' <sup>2</sup>		
Multi-Family				35'	35'		
Mobile Home Park							50'
Mobile Home Space							50'
RV Space							40'
<b>Maximum Lot Coverage</b>							
Single-Family	4%	30%	30%	35%	35%		
Two-Family				35%	35%		
Multi-Family				45%	40%	75%	
Mobile Home Space							45%
RV Space							45%
<b>Minimum Front Yard Setbacks</b>							
Arterial & Collector Streets	75'	50'	45'	40'	35'	30'	30'
Other Streets	75'	40'	35'	30'	25'	20'	20'

<sup>1</sup> All setbacks for the Agriculture District, as shown throughout Table 5.01.01, apply to principal and accessory buildings.

<sup>2</sup> Minimum width of 35 feet per dwelling unit is required if a septic tank is used.

**Table 5.02.01  
Residential Development Standards**

	<b>AG<sup>3</sup></b>	<b>R-1a</b>	<b>R-1b</b>	<b>R-1c</b>	<b>R-1d</b>	<b>R-2</b>	<b>MH-1</b>
<b>Minimum Side Yard Setbacks</b>							
<i><b>Total</b></i>							
Single-Family	50' (each side abutting another lot)	20'	15'	15'	15'		
Two-Family				16'	16'		
Multi-Family				17'	17'	20'	
Mobile Home Space							15'
RV Space							15'
<i><b>One Side</b></i>							
Single-Family		8'	7'	6'	6'		
Two-Family				7'	7'		
Multi-Family				8'	8'	20'	
Mobile Home Space							6'
RV Space							6'
<b>Minimum Rear Yard Setbacks</b>							
Single-Family	50'	30'	30'	25'	25'		
Two-Family				25'	25'		
Multi-Family				25'	25'	10'	
Mobile Home Space							10'
RV Space							10'

<sup>3</sup> The minimum living area per dwelling in this district is 900 square feet.

**Table 5.02.01  
Residential Development Standards**

	AG	R-1a	R-1b	R-1c	R-1d	R-2	MH-1
<b>Minimum Side Setback Corner Lot</b>							
<i><b>Arterial &amp; Collector Streets</b></i>							
Single-Family	75'	30'	25'	20'	20'		
Two-Family				20'	20'		
Multi-Family				20'	25'	20'	
Mobile Home Park							20'
Mobile Home Space							15'
RV Space							15'
<i><b>Other Streets</b></i>							
Single-Family	75'	25'	20'	20'	15'		
Two-Family				20'	15'		
Multi-Family				20'	15'	20'	
Mobile Home Park							
Mobile Home Space							15'
RV Space							15'
<b>Maximum Building Height <sup>4</sup></b>	3 stories	40'	30'	30'	30'	40'	30'

<sup>4</sup> Building height for multi-family dwellings in R-1c & R-1d districts are subject to written approval from the City Fire Chief.

**Table 5.02.02  
Commercial and Industrial Development Standards**

	<b>CO</b>	<b>CBD</b>	<b>CN</b>	<b>CG</b>	<b>I-1</b>	<b>I-2</b>
<b>Maximum Lot Coverage</b>	70%	100%	75%	75%	75%	75%
<b>Maximum Building Coverage</b>	50%	100%	50%	50%	60%	70%
<b>Minimum Front Yard Setbacks</b>	25'	None	20'	None <sup>5</sup>	None <sup>5</sup>	None <sup>5</sup>
<b>Minimum Yard Setbacks</b>						
Total	30'	None	30'	30'	30'	30'
One Side	10'	None	10'	10'	10'	10'
Rear	20'	None	20'	20' <sup>6</sup>	None <sup>6</sup>	None <sup>6</sup>
Corner	20'	See footnote number 4.	20'	10' <sup>7</sup>	10' <sup>7</sup>	10' <sup>7</sup>
<b>Maximum Building Height</b>	60'	120'	40'	120'	120'	120'

**NOTE:** Buffer yard requirements, as applicable, must also be met. Buffer yards may be located within setback yard areas.

<sup>5</sup> A 20' setback is required adjacent to all rural principal arterial and rural collector streets.

<sup>6</sup> No Setback is required when rear yard abuts railroad right-of-way.

<sup>7</sup> A 15' setback is required when the side yard fronts on a street on which any developed lot within 100 feet within the same block on the same side of the street and within a residential zone has a structure or building setback from the existing right-of-way line.

#### **Section 5.03.00. Exclusions from Height Limitations.**

The height limitations contained in Tables 5.02.01 and 5.02.02 do not apply to spires, belfries, cupolas, water towers, flag poles, observation towers, transmission towers, domes, monuments, chimneys, elevator shaft enclosures, silos, airport control towers, or other appurtenances usually required to be placed above the roof level, and, excepting airport control towers not intended for human occupancy; however, the heights of these structures or appurtenances thereto shall not exceed the height limitations prescribed by the Federal Aviation Administration or any other federal or state agency. *(See Section 5.06.06 for height regulations for Radio and Television Antennas and Section 6.12.04.02 for height regulations for Cell Towers).*

#### **Section 5.04.00. Setbacks on State Roads.**

Structural setbacks along state roads shall, at a minimum, meet the requirements of the Florida Department of Transportation (FDOT) or shall meet the standards of the zoning district in which the property is located, whichever is greater.

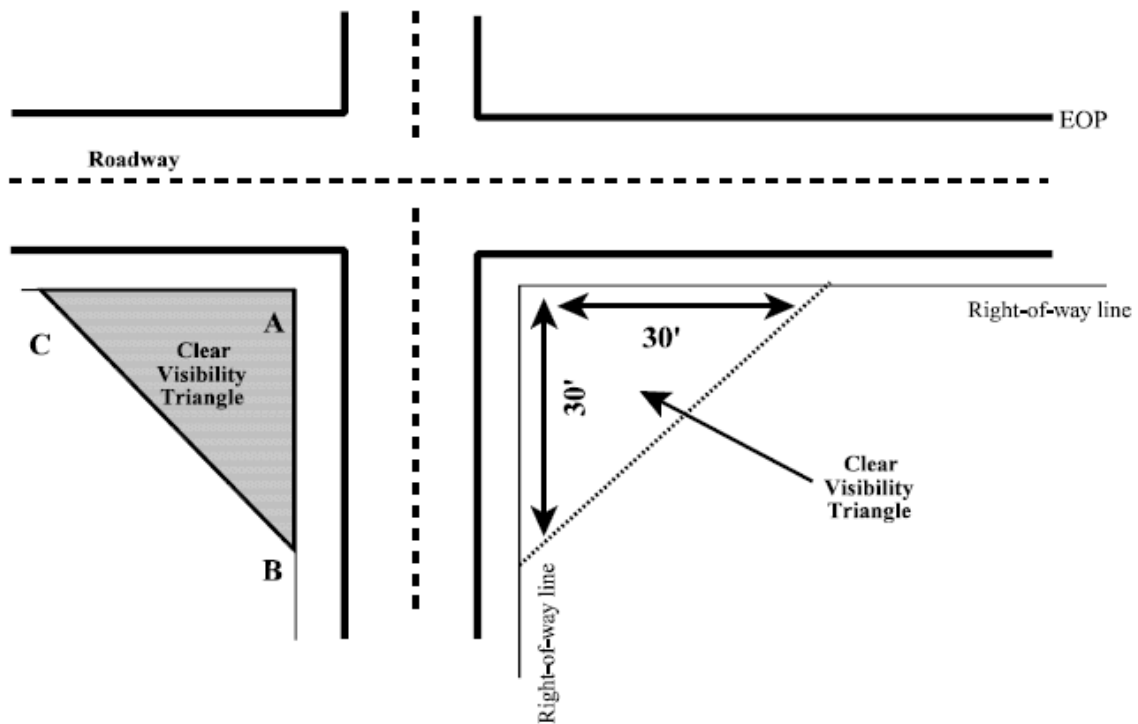
#### **Section 5.05.00. Setbacks for Vision Clearance.**

In order to provide a clear view of intersecting roads to the motorist, there shall be a triangular area of clear visibility formed by two intersecting roads or the intersection of a driveway and a road. Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and ten (10) feet above the grade, measured at the centerline of the intersection with the exception of publicly owned highway signs, utility poles and traffic control poles.

A. Rights-of-Way.

The triangle shall be formed by extending the rights-of-way lines to a point where the lines intersect each other (point A); and from point (A), measuring to a point 30 feet along both rights-of-way lines points (B and C).

**Figure 5.05.01. Clear Visibility Triangle at Roadway Intersections**

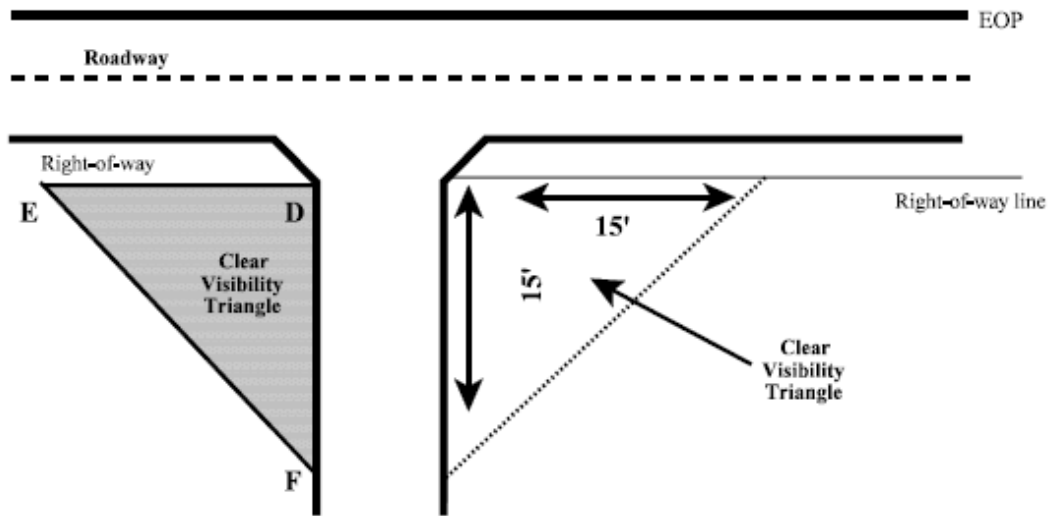


*EOP = Edge of Pavement*

B. Driveways.

The triangle formed by extending the edge of the driveway and the right-of-way line to a point where they intersect (point D); and from point (D), measuring to a point fifteen (15) feet to points designated as (E); and (F), and then connecting points (E) and (F) to form a line.

**Figure 5.05.02. Clear Visibility Triangle at Driveway Entrances**



*EOP = Edge of Pavement*

**Section 5.06.00. Accessory Structures/Uses.**

Accessory uses, as defined in Article 2, are those that are incidental and secondary to a principal use that is permitted within a given zoning district; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. It is the purpose of this Section to regulate the construction, placement, and use of accessory structures and uses, in order to ensure that they do not adversely affect nearby residents and/or surrounding properties. In addition to the standards provided below, accessory structures and uses shall meet all requirements and applicable provisions set forth in this Code.

An accessory structure is a freestanding structure in the rear or side yard of any lot. One (1) or more accessory structures may be permitted on a development site, provided that the following requirements are met:

- A. Accessory structures are storage sheds, pool service buildings, gazebos, bath houses, greenhouses, workshops and other clearly similar structures.
- B. Accessory structures shall be a minimum of five (5) feet from any interior lot line. Accessory structures in a "zero lot line" development may be constructed to a zero foot setback in accordance with the requirements set forth in Article 6.09.01 N.4., cluster/zero lot line development.

- C. Accessory structures shall not be constructed prior to the principal structure.
- D. All accessory structures shall comply with the Florida Building Code and all applicable standards of this Code.
- E. Accessory structures shall not be located in a required landscape buffer or within a public utility easement.
- F. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.
- G. All accessory structures shall be shown on a site development plan when required under Article 10 of this Code.
- H. Accessory structures may be plumbed for water hose connections, washing machine hookups and utility sinks.
- I. Accessory structures shall not be served by an electrical meter separate from that of the principal use.
- J. Except where otherwise provided, accessory structures shall be separated from each other and from the principal structure by no less than five (5) feet in all residential zoning districts and fifteen (15) feet in all commercial, professional, and industrial zoning districts.
- K. No mobile home, trailer, RV or vehicle of any kind shall be permitted as an accessory structure on any development site.
- L. Accessory structures permitted in the Mobile Home Park zoning district shall be temporary additions adjacent to and attached to mobile homes, including cabanas, carports, and storage units. They shall be of mobile home type construction and not permanent, conventional type construction. The size of the additions shall not exceed the length, width or height of the mobile home to which it is attached, and shall not encroach into any required yard or setback.
- M. Nonconforming accessory structures shall not be reestablished if destroyed or if use is discontinued for one hundred eighty (180) consecutive days.



#### **Section 5.06.01. Carports and Detached Garages.**

Carports and detached garages are accessory structures typically used for the parking of motor vehicles, boats, or trailers. As accessory structures, carports and detached garages are subordinate to the principal structure located on a parcel.

- A. Carports and garages may be constructed within a front yard, if attached to the principal structure. Structures attached to the principal building shall be considered part of the principal structure and subject to the principal structure front yard setbacks for the zoning district in which they are located. A deviation in these requirements may be allowed, e.g., through variance approval, however the front yard setback shall be no less than ten (10) feet in residential districts.
- B. Carports and garages, whether attached or detached, may be constructed within a side or rear yard.
- C. All carports and detached garages shall have a minimum setback from the side and rear property lines of five (5) feet. The minimum separation between the carport or detached garage from the principal structure shall be five (5) feet.
- D. A carport shall at all times remain open on all four (4) sides, if free-standing, and open on three (3) sides if attached to the main building.
- E. The area under the carport must be entirely concreted or asphalted and the width of the carport shall not be less than the width of the driveway.
- F. Carport and detached garage construction shall comply with the Florida Building Code.

#### **Section 5.06.02. Swimming Pools.**

Swimming pools are permitted as an accessory use and shall meet the following requirements:

- A. Swimming pools shall be at least five (5) feet from any lot line, as measured from the edge of the water, if no decking exists.
- B. Swimming pools, including all decking and screen enclosures, shall be located in the rear yard and shall not encroach into side yard setback areas. Decking and screen enclosures shall be at least five (5) feet from all lot lines.
- C. Screen enclosures over and around swimming pools shall be erected so as to conform to setback requirements for accessory buildings; however, such enclosures may be attached to the principal building. Lighting for pools shall be located and installed such that no direct light or reflected light is visible on adjoining properties.
- D. Swimming pools, surrounding decking, screen enclosures and vertical supports for screen enclosures shall not be located within public utility or stormwater management easements along side and rear lot lines.

- E. All swimming pools shall be completely enclosed by a fence, screen enclosure or a wall not less than four (4) feet high, as required by State Statute.
- F. No pool in residential zoning districts may be used for commercial purposes.

#### **Section 5.06.03. Screen Rooms/Porches.**

Screen rooms/porches are permitted in all residential districts and shall meet the following requirements:

- A. Screen rooms/porches may be constructed to within five (5) feet of rear property lines.
- B. Screen rooms/porches located within the front yard shall be part of the principal structure and shall meet the front yard setback for a principal structure.
- C. Screen rooms/porches shall not encroach into side yard setbacks and shall not be located within public utility or stormwater management easements along side and rear lot lines.

#### **Section 5.06.04. Boat Docks, Slips, Boat Houses and Fishing Piers.**

Docks and other water dependent structures shall comply with the requirements set forth by the Florida Department of Environmental Protection (FDEP) and the Florida Administrative Code 40D-4, and may be subject to an FDEP permit.

#### **Section 5.06.05. Gas Pumps and Pump Islands.**

Gas pumps and pump islands are accessory structures normally associated with convenience stores, automotive service businesses, truck stops and terminals, and businesses maintaining fleets of vehicles. The intent of this Section is to set forth requirements for the location and appearance of gas pumps and pump islands. All new and substantially reconstructed facilities providing for the dispensing of fuels shall meet the following:

- A. Gas pumps and pump islands shall have a minimum setback of twenty-five (25) feet from any property line. This distance is to be measured from the property line to the vertical support of the canopy, or if no canopy exists, to the gas pump or dispenser itself.
- B. Pump island canopies may not extend more than twelve (12) feet horizontally beyond the vertical canopy supports.
- C. Gas pumps or pump islands located between the principal building and an adjoining residentially zoned property shall require the placement of a six (6) foot wall between the gas pumps or pump island and the adjoining residentially zoned property.
- D. Exterior lighting fixtures shall cast no glare beyond the property line.

- E. Liquid fuels shall be stored in underground tanks. The design of these tanks shall meet all current standards established for the prevention of leaks and environmental contamination of groundwater supplies. Fuel tanks located in an industrial zoning district may be exempt from the requirement to be located underground. Where permitted, above ground fuel tanks shall be required to meet the same setback as a gas pump or pump island.
- F. Displays on pump islands shall be limited to racks containing lubricating oil or other automotive fluids.

#### **Section 5.06.06. Radio and Television Antennas.**

It is the intent of this Section to regulate the placement and height of antennas for radios, televisions and similar devices for the purpose of limiting their visual impact and ensuring compatibility with surrounding land uses. Antennas and large dish antennas are permitted as accessory uses in all zoning districts subject to the provisions set forth in this Section.

##### **Section 5.06.06.01. Definitions.**

For purposes of this Article, the following terms and words shall have the following meanings:

A. Antenna.

An external device for sending or receiving electromagnetic signals for radios, televisions or similar devices and which is accessory to the principal use or structure on or about which it is located. This shall include small parabolic or dish-shaped antennas three (3) feet in diameter or less. This shall not include antennas which are part of Personal Wireless Service Facilities or antennas mounted on communication towers.

B. Building-Mounted.

An antenna mounted on the roof, eaves or wall of a structure or on a support, mast or pole that is attached to a roof, eaves or wall of a structure.

C. Ground-Mounted.

An antenna mounted on a free-standing support, mast or pole on the ground.

D. Large Dish Antenna.

A parabolic or dish-shaped antenna greater than three (3) feet in diameter.

#### **Section 5.06.06.02. Standards for Antennas.**

##### **A. Location.**

1. Ground-mounted antennas shall be located in rear or side yards.
2. Building-mounted antennas shall be permitted on all buildings.

##### **B. Setbacks.**

Ground-mounted antennas shall be considered an accessory structure and shall have a minimum five (5) foot setback requirement.

##### **C. Maximum Height.**

When an antenna or small satellite dish is not mounted on a building, but is mounted on a supporting structure instead, the lower edge of the antenna shall not exceed eighteen (18) inches above the elevation of the principal structure's roof eave. When an antenna or satellite dish is mounted on a building, the combined height of the building and the antenna shall not exceed the maximum permitted building height in the applicable zoning district. This shall not apply to any antenna owned and operated by a federally licensed amateur radio station operator (ham), provided, however, that said owner/operator complies with applicable federal, state or county laws, regulations, or standards.

#### **Section 5.06.06.03. Standards for Large Dish Antennas.**

##### **A. Building Permit Required.**

A building permit shall be required prior to installing any large dish antenna.

##### **B. Ground-Mounted.**

###### **1. Location.**

Ground-mounted large dish antennas shall be located in rear yards unless a side yard exception is granted (refer to (D) Permit, below.) No large dish antenna shall be located in any front yard, except that a properly licensed business which sells large dish antennas may display them in the front yard of its properly zoned business location for demonstration or sales promotion purposes.

###### **2. Setbacks.**

Ground-mounted large dish antennas shall meet the setback requirements for accessory structures in the zoning district where located except that in no case shall any portion of a large dish antenna extend to within ten (10) feet of any property line.

3. Maximum Height.

Ground-mounted large dish antennas shall not exceed twenty (20) feet in height in Residential and CO zoning districts and twenty-five (25) feet in height in Commercial and Industrial zoning districts.

C. Building-Mounted.

1. Location.

Building-mounted large dish antennas are permitted on principal or accessory building within any commercial or industrial district (excluding the CO district).

2. Setbacks.

In no case shall any portion of a large dish antenna extend to within ten (10) feet of any property line.

3. Maximum Height.

Large dish antennas shall not exceed a height of more than fifteen (15) feet above the roof of the building upon which it is mounted, including base.

D. Permit.

Prior to the side-yard placement of any ground-mounted large dish antenna, the owner must secure a permit from the City. The application for the permit must be accompanied by a plot plan showing the lot lines and dimensions of the subject property, the location and dimensions of any structures thereon, the location of any public or private rights-of-way adjacent to said property and the proposed placement site for the antenna. Additionally, if applicable, the application shall be accompanied by an affidavit from the owner or installer stating that a rear yard placement is not possible and the reasons therefore. The fee for a permit shall be on record with the City.

**Section 5.06.07 Accessory Dwelling Units.**

Subject to the following standards and procedures, accessory dwelling units shall be permitted where any legally-conforming single-family detached dwelling unit is the principal structure on, or under construction on the same lot or parcel.

**Section 5.06.07.01. General Requirements.**

- A. Only one (1) accessory dwelling unit may be permitted per lot or parcel.
- B. The use of a Recreation Vehicle (RV) or mobile home as an accessory dwelling unit shall be strictly prohibited.
- C. Either the principal dwelling unit or the accessory dwelling unit shall be the legal residence of the property owner.

- D. Accessory dwelling units shall have a separate street address from the principal dwelling on the lot.
- E. An Accessory dwelling unit shall not be sold separately from the principal dwelling unit.
- F. Utilities.
  - 1. Accessory dwelling units shall respect the City's requirements for water/wastewater connections and Health Department standards for lot size requirements if utilizing an on-site wastewater system.
  - 2. Electric service to an accessory dwelling unit shall be by a feed from the principal dwelling unit. An accessory dwelling unit shall not have a separate electric meter from the principal dwelling unit.

**Section 5.06.07.02 Development Design Standards.**

- A. Setbacks.
  - 1. Accessory dwelling units shall be permitted in rear and side yards with a minimum building setback of five (5) feet from any interior property line.
  - 2. Where abutting a roadway, building setbacks shall comply with the setback standards required of principal structures as set forth in article 5 for the specific zoning district.

**B. Separation Requirements.**

Accessory dwelling units shall be detached from the principal dwelling unit and separated a minimum of ten (10) feet or as otherwise directed by the City's Building and/or Fire Official.

**C. Maximum Floor Area.**

The maximum floor area of an accessory dwelling unit shall be forty percent (40%) of the square footage of the principal dwelling unit, up to a maximum of eight hundred fifty (850) square feet.

**D. Architectural Features.**

The design and exterior treatment of accessory dwelling units shall be architecturally compatible with the principal dwelling.

**E. Functional Areas.**

Every accessory dwelling unit shall be constructed to include a habitable sleeping area, lavatory, and a bathtub or shower stall in each unit. Kitchens with cooking and eating spaces are not required.

F. Access and Parking.

1. Vehicle access to the accessory dwelling unit shall be from an alley, from the side street of a corner lot, or from a shared driveway connection to the street.
2. A minimum of one off-street parking space shall be provided for the accessory dwelling unit in addition to off-street spaces required for the principal dwelling, Tandem parking in driveways is permitted.

G. Garage Unit.

An accessory dwelling unit may be constructed over a detached garage in accordance with the following standards.

1. A garage unit shall be permitted in rear and side yards with a minimum building setback of five (5) feet from any interior property line.
2. Where abutting a street, building setbacks shall comply with the setback standards required of principal structures as set forth in Article 5 for the specific zoning district.
3. The garage unit and the principal dwelling unit shall be separated a minimum of ten (10) feet or as otherwise directed by the City's Building and/or Fire Official.

**Section 5.07.00. Special Parking Restrictions.**

For purposes of this Section, "commercial vehicle" is defined as any semi-tractor/trailer combination vehicle or any trailer portion of said combination.

A. Residential Zoning Districts.

Within any residential zoning district, no commercial vehicle shall be parked, including overnight, unattended during the day, or used for storage purposes, on any public right-of-way or private property.

B. Commercial Zoning Districts.

No commercial vehicles shall be parked or utilized for storage purposes, including overnight, on any public right-of-way.

**Section 5.08.00. Distressed or Abandoned Vehicles.**

A. Vehicle Storage.

No distressed or abandoned vehicle shall be parked, and no motor vehicle frame, vehicle body, or vehicle body part shall be stored on residentially designated or residentially used property except when in a completely enclosed garage or building.

B. Screening.

One distressed or abandoned vehicle or vehicle component is permitted in the rear yard of a residential dwelling unit provided such vehicle or vehicle component is stored no closer than five (5) feet from any side or rear property line and is completely screened, from the view of neighboring homes and properties (see Section 6.02.00 of this Code for fence and wall regulations). Sheet metal or tarpaulin shall not be used to satisfy the opaque screening requirements of this Section.

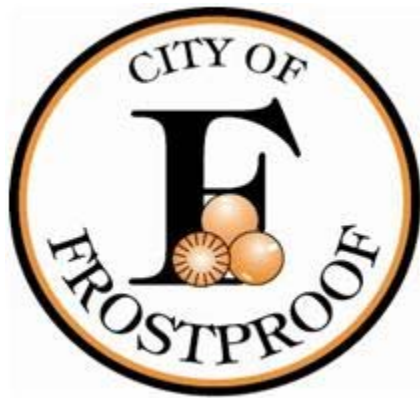
#### **Section 5.09.00. Waterfront Properties.**

All new structures adjacent to surface water or watercourses shall be located landward of the 100 year flood plain or fifty (50) feet landward of the 10 year flood plain if one has been established (whichever is less restrictive) and a minimum twenty-five foot (25') upland buffer shall be required around identified wetlands. A site specific survey shall be performed, signed and sealed by a professional surveyor and mapper. Water dependent structures are exempt from this requirement. Article 6, Section 6.07.06, J. provides stormwater setbacks requirements along waterfront properties.

Development of waterways and canals involving dredge and fill and excavation shall require permits from state and federal agencies having jurisdiction, including but not limited to the Southwest Florida Water Management District (SWFWMD), Army Corp of Engineers (ACOE), Florida Department of Transportation (FDOT), Florida Department of Environmental Protection (FDEP), and the Environmental Protection Agency (EPA). Such permits shall be submitted to the Building Official as part of a site development application.



# *City of Frostproof*



Unified Land Development Code

## Article 6

## ARTICLE 6.

### DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

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## **ARTICLE 6.**

### **DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS**

#### **Section 6.01.00. General Provisions.**

##### **Section 6.01.01. Purpose.**

The purpose of this Article is to provide development and improvement standards applicable to all development activity within the City of Frostproof.

##### **Section 6.01.02. Responsibility for Improvements.**

Unless otherwise specifically provided, all improvements required by this Article shall be designed, installed, and paid for by the developer.

##### **Section 6.01.03. Principles of Development Design Improvements.**

The provisions of this Article are intended to ensure functional and attractive development. Development design shall first take into account the protection of natural resources as prescribed in Article 9 of this Code. All development shall be designed to avoid unnecessary impervious surface cover over the site; to provide adequate access to lots and sites; and to avoid adverse effects of glare, noise, odor, traffic, stormwater management, and utilities on surrounding properties.

#### **Section 6.02.00. Fences, Walls, Hedges and Berms.**

##### **A. Permit.**

No permanent fences shall be installed in any zoning district without the issuance of a permit from the City. Applications for a permit shall include a plan which details the proposed fence construction, including fence location in relation to property lines and easements, as well as any other information deemed necessary by the City for reviewing the application. A fee shall be charged for the issuance of a permit. A list of fees is on file at the Office of the Building Department.

##### **B. Location.**

No fence, wall, or hedge shall be constructed or planted in any right-of-way, except as may be placed as part of a public highway safety or beautification project.

##### **C. Height.**

###### **1. Residential Zoning Districts.**

No fence or wall above forty-eight (48) inches or four (4) feet in height shall be allowed in front yards. Side yard fences, including those within a side yard which abuts a street, shall be permitted to a height of six (6) feet from the rear property line to a point parallel to the front building line of the principal structure. The following uses shall be exempt from these requirements:

- a. Utility and power substations;
- b. Water and wastewater facilities;
- c. Public swimming facilities;
- d. Stormwater retention ponds.

2. Non-Residential Zoning Districts.

- a. Fences shall be a maximum of eight (8) feet in height in front, rear, and side yards in CG, I-1 and I-2 zoning districts.
- b. Fences located in any residential district, CO or CN zoning district or within the CBD, shall be a maximum height of six (6) feet in the rear yard and in the side yard from the rear property line to the front of the principal building.
- c. Fences placed on property that is located in an office, commercial, or industrial zoning district, and is presently being utilized for residential purposes, shall have a maximum fence height of six (6) feet in the front, rear, and side yards.

D. Materials.

No fences shall be installed, constructed or erected without complying with the following regulations:

- 1. Fences must be constructed of new materials designed for that purpose or aged for proper architectural effect. Fences having a side with exposed or irregular structural components, and a more finished, uniform and aesthetically attractive side, shall be constructed and installed so that the more finished side faces outward from the fence's property toward the adjoining property.
- 2. No fence shall contain any substance designed or reasonably likely to inflict injury to any person or animal, including, but not limited to, razor or barbed wire, glass or electrically charged wire; with the exception that barbed wire and electrically charged wire may be used in the agricultural district and up to three (3) strands of barbed wire may be used on top of a six-foot fence in the I-1 and I-2 zoning districts.
- 3. Notwithstanding the provisions of this Section, the use of security fencing may be used at sites, such as electrical substations and communications facilities, where such fencing is required by Federal, State or local law, or other sections of this Code. Further, temporary security fencing may be utilized for construction sites while a permit for the work is active for the construction site. All temporary fences shall be removed prior to the issuance of a Certificate of Occupancy.

E. Swimming Pools.

Fencing shall comply with Article 5, Section 5.06.02, fencing requirements for swimming pools, and any other City Code or applicable building code requirements related to fencing.

F. Height Variances.

The Board of Zoning Appeals may, upon specific approval, grant a variance to the above height limitations if a valid circumstance exists such as the character of the neighborhood, slope or terrain, architectural necessity, or a residentially zoned lot abutting a commercial establishment.

G. Maintenance.

The property owner shall maintain any fence to its original designed condition. Missing boards, pickets, posts, gates, etc. shall be replaced in a timely manner with material of the same type, quality, and finish as the existing fence.

H. Berms.

The use of berms for screening and buffering in place of a wall or fence is encouraged. Berms provide a natural, more aesthetically pleasing form of screening between differing land uses. The following design criteria shall apply to all new berms constructed in the City:

1. Berms shall not exceed five (5) feet in height. Berms over two (2) feet in height are required to remain outside of any visibility triangle as defined in Section 5.05.00, Article 5 of this Code.
2. No berm shall have a slope greater than twenty-five percent (25%).
3. All berms shall be planted with grass or other approved ground covers to ensure stability and prevent erosion.
4. Continuous berms greater than two hundred fifty (250) feet in length shall be interrupted, at a minimum, every two hundred fifty (250) feet by twenty-five (25) feet of landscaping, wall, or fence.
5. No portion of a berm shall be permitted to encroach onto a public or private right-of-way. Berms shall not be located over underground utility facilities.

**Section 6.03.00. Decorative Subdivision Perimeter Walls.**

Single family subdivisions may have decorative subdivision perimeter or screening walls. The wall height shall be no greater than six (6) feet and the poles/columns shall be no greater than eight (8) feet in height provided all of the following criteria are met:

- A. The wall shall be constructed of brick, stucco, split-face block, wrought iron, wood, or a combination thereof.
- B. The wall shall be designed in a manner that is residential in character.
- C. The wall shall be installed a minimum setback of five (5) feet from the property line.
- D. No portion of the wall shall be located within any easement.
- E. Placement of landscape material shall comply with Section 6.04.05.09 of this Article.
- F. Ground cover and irrigation shall be provided.



## **Section 6.04.00. Landscape Requirements.**

### **Section 6.04.01. Purpose and Intent.**

The City Council finds that landscaping makes important contributions to the public safety and the general welfare of the City. The purpose and intent of this Section is to set forth requirements and standards for the provision of canopy trees and buffer yards, the conservation of native plants and trees, and the conservation of water resources in the City. Specifically, it is intended that buffer yards will aid in reducing the potential negative impacts caused by glare, noise, dust, dirt, litter, odors and view of various land uses on adjacent properties. It is further intended that the planting of canopy trees will aid in lowering the ambient temperature of the air through increased shading; in conserving water; in enhancing the appearance of properties; in improving property values; and generally in protecting the health, safety and welfare of the public through the improvement of the quality of the human environment. As part of the development approval process, the City of Frostproof shall ensure that all new development is properly buffered to prevent adverse impacts on surrounding land uses.

### **Section 6.04.02. Applicability and Exemptions.**

#### **A. Applicability.**

Except as specifically excluded in the exemptions below, the requirements and regulations of this Section shall apply to all land development and improvements, and to construction that alters or changes the character of use of the land or improvement.

#### **B. Exemptions.**

The development, redevelopment, reconfiguration, expansion or change of use of any site requiring review by the City must comply with all elements of this Article, unless any of the following exemptions apply:

1. Enlargement or repair of one single family or duplex residence on an individual lot, unless specifically stated otherwise.
2. Existing development of two thousand five hundred (2,500) square feet or less if the expansion or repair encompasses less than two hundred and fifty (250) square feet.
  - a. If at any time a permit for expansion exceeds that allowed by this exemption, the permit for construction that exceeds the exempted amount shall require full compliance with the Landscape Code.
  - b. The exemption does not apply to new vehicular use areas that may be associated with the exempt development.
3. New single family or duplex development on an individual residential lot is exempt from tree canopy requirements and all buffer yard requirements if the development is compatible/similar to the abutting properties.
4. Bona fide agriculture.

5. Buildings and structures are not counted as impervious surface for the purpose of calculating the areas that must be shaded with canopy trees.
6. Swimming pools and the area specifically designed to be the deck or pool apron abutting the pool are exempt from canopy requirements.
7. Docks, piers, seawalls, boardwalks and other improvements designed to serve pedestrians near the water or in the use of boats are exempt from canopy requirements. Paved areas abutting a seawall, dock or pier are exempt to a maximum width of ten feet (10').
8. Paved surfaces within the supporting cables of a radio, television or microwave tower or a cable television satellite receiver, are exempt from canopy requirements.
9. Land developed in the Central Business District or other properties where existing buildings have no setbacks from property lines, which are physically unable to comply with buffer yard and/or canopy requirements.
10. Major publicly funded land developments, improvements, or construction proposed by a public authority empowered to use condemnation, which alter or change the character or use of the land or improvement thereon, shall be excluded and exempt from the strict application of canopy and buffer yard requirements through an eminent domain waiver. The process and procedures for this type of waiver are contained in Article 11 of this Code.

#### **Section 6.04.03. Definitions.**

For purposes of this Article, the terms below shall have the following meanings:

- A. **BERM:** An earthen embankment erected to provide or act as a landscaping screen.
- B. **BONA FIDE AGRICULTURAL PURPOSES:** (Florida Statutes, Section 193.461). Good faith commercial agricultural use of the land, which includes but is not limited to horticulture, livestock, dairy, tropical fish, sod farming and all forms of farm products and farm production. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:
  1. The length of time the land has been so used.
  2. Whether the use has been continuous.
  3. The purchase price paid.
  4. Size, as it relates to specific agricultural use, but in no event shall a minimum acreage be required for agricultural assessment.
  5. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
  6. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease.
  7. Such other factors as may from time to time become applicable.
- C. **BUFFER YARD:** A yard containing plant material, fences, walls and/or berms to provide a visual screen and physical separation between incompatible land uses.

- D. **CROWN:** Refers to that part of the tree consisting of limbs, branches, twigs and leaves; the top of the tree.
- E. **DIAMETER BREAST HEIGHT (D.B.H.):** Always taken as four and one half (4½) feet above the ground, that being a convenient height at which to measure a tree's diameter. When a tree has grown with more than one stem at four and one half (4½) feet above grade, DBH shall be equal to the sum of the diameters of the individual stems measured at four and one half (4½) feet above grade.
- F. **DRIP LINE:** An imaginary circle that could be drawn on the soil around a tree directly under the tips of its outermost branches. The feeder roots of a tree usually extend to or beyond this line and receive water that drips off the canopy above.
- G. **IMPERVIOUS SURFACE:** For purposes of this Article, impervious surfaces shall include those surfaces which have been compacted or covered with a layer of material so that they are highly resistant to infiltration by water and include all parking areas, driveways, streets, sidewalks, and other areas of concrete, asphalt, compacted clay or other similar surfaces.
- H. **PAVEMENT:** A hard, stabilized surface of impervious or permeable material that will bear travel. Includes the term "paved area" and "paved surface".
- I. **PLANTING AREA:** A particular location where plants are placed in the ground to grow.
- J. **PERMEABLE PAVEMENT:** A range of materials and techniques for paving roads, parking lots, driveways and walkways, which allow the movement of water and air around the paving material. Although some porous paving materials appear nearly indistinguishable from nonporous materials, their environmental effects are qualitatively different as the pervious material allows precipitation to percolate through areas that would traditionally be impervious, and instead infiltrates the stormwater through the pavement to the soil below.
- K. **TREE CANOPY:** The area shaded by the crown of mature trees.
- L. **VEHICULAR USE AREA:** All paved areas, including impervious and hard surface, and stabilized permeable pavement, which provide site access, traffic circulation and areas for vehicular parking, loading and unloading.

#### **Section 6.04.04. Landscape Plans and Permits.**

Prior to issuance of a development permit, a Landscape Plan shall be submitted to the City Building Official showing canopy tree and buffer yard information required by this Article. The Landscape Plan shall be drawn to a scale with sufficient clarity and detail to indicate the type, nature and character of the improvements on the site, and the relative location of all landscaping in relation to said improvements. The Landscape Plan may be submitted separately, but shall be a part of the site development plan, when a site development plan is required.

No building, grading or site preparation shall be allowed until the Landscape Plan has been approved by the City Building Official. The plans shall be dated and stamped approved and only these plans and the requirements of this Landscape Code shall govern the construction of the site landscaping and subsequent maintenance

inspections. A permit shall be obtained for the project within twelve (12) months of the approval date of the approved Landscape Plan or the Plan shall become invalid, unless granted an extension. Site plan requirements are provided in Article 10.

#### **Section 6.04.05. Landscaping.**

Landscaping shall include the conservation of native plants and trees; the selection and planting of canopy trees to shade vehicular use areas, sidewalks and other paved surfaces; and the design, selection of trees and shrubbery, and the planting of landscape materials to establish buffer yards.

##### **Section 6.04.05.01. Selection of New Trees and Shrubs.**

All plants identified in this Article are "Florida Friendly" plants for Polk County that are best suited to the environment in the City and shall be used to meet the minimum landscape requirements of this Article.

All new living plant material to be installed shall be nursery grown and root pruned stock, free of insects, disease and defects, and shall satisfy the requirements of Florida Grade No. 1 or better as defined in the most current edition of Grades and Standards for Nursery Plants, Florida Department of Agriculture and Consumer Services, Florida Division of Plant Industry. All plants installed on the site shall be in accordance with the plans stamped approved by the City.

##### **Section 6.04.05.02. Preservation of Existing Trees and Shrubs.**

An existing canopy tree shall be preserved whenever possible. When a buffer yard is to be provided by preserving existing trees and shrubs, all healthy species, which are not listed as an invasive plant in Table 6.04.07.07.E, and which are growing in the location, shall be acceptable to the City and may be maintained in their natural setting. In these instances, credit shall be given by the City for preservation of said plant material which may be incorporated into the required landscaping areas to fulfill the intent of this Article. Landscape plans shall identify those existing plant materials credited toward the City landscape requirements.

Areas of existing vegetation to remain on site and as noted on Landscape Plans shall not be encroached upon or damaged during construction by any or all activities above or below ground. Visible barricades shall be placed around these areas and shall be kept clear of all construction materials, traffic and debris. Areas that have been damaged or removed shall be replanted and refurbished to restore the area as much as possible to its original condition.

The following methods and procedures shall be followed when preserving trees:

1. The use of hand labor may be necessary to clear vegetation within the drip line of those trees to be preserved. This shall be determined by the City Building Official at the time of barricading as described below.
2. The area within the drip line of any tree to be preserved shall remain undisturbed; no materials, machinery, and soil shall be placed within the drip line.

3. Materials, wires, signs or nails shall not be attached to any tree unless such materials are used to preserve the tree.
4. All felled material shall be promptly and carefully removed from the site in order to avoid potential damage to remaining trees and vegetation.
5. Visible barricades shall be erected around those trees to be preserved. These barricades shall be at the drip line of the tree(s) and no closer than ten (10) feet to the trunk of the tree.
6. All trees to be preserved, except palms, shall have their natural soil level maintained. Tree wells and/or retaining walls shall be provided where necessary to maintain the natural existing soil level. The design of these structures shall be approved by the City.
7. All efforts shall be made through the Grading and Drainage Plan to maintain the natural drainage to those trees to be preserved. Swaling and minor negative grade changes should always be designed outside the drip line area as much as possible. Piping should be used where deep swales or ditches would require significant grade changes adjacent to trees to be saved. Trenching of any type should be avoided in the drip line area. Where underground installations are required adjacent to the trunks of trees to be preserved, tunneling should be used. When trenching or tunneling near trees to remain, protective measures should be taken.

#### **Section 6.04.05.03. Minimum Tree Planting Height and Planting Area.**

The minimum required tree *planting height* is based on the mature height of the tree as follows:

<u>Minimum Planting Height</u>	<u>Mature Tree Height</u>
6 feet	7-30 feet
8 feet	30-50 feet
10 feet	51 feet +

To ensure the healthy development of the tree, the minimum planting area for a canopy tree located within a vehicular use area shall be two hundred (200) square feet and the minimum planting area for an understory tree located within a vehicular use area shall be one hundred twenty (120) square feet.

All newly planted trees shall be staked and guyed immediately after installation and shall remain supported until the root systems have established themselves to adequately support the tree.

#### **Section 6.04.05.04. Minimum Shrub Planting Requirements.**

Shrubs shall be a minimum of one (1) foot tall at the time of planting, except where they are to act as required screening for residential uses and districts, in which case they shall be a minimum of three (3) feet in height at the time of planting and maintained at a minimum height of five (5) feet at maturity. One (1) foot high shrubs shall be spaced no greater than thirty (30) inches on center and three (3) foot high shrubs shall be spaced no greater than thirty-six

(36) inches on center. The City may authorize alternate spacings for species which have especially broad coverage.

#### **Section 6.04.05.05. Lawn Grass.**

Grass may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion (generally slopes steeper than 10:1). Grassed areas that are installed by methods other than sod shall attain a full grassed coverage within three (3) months of the date of installation. A list of lawn grass species and their characteristics, including drought tolerance level, soil type, light requirements, wear tolerance and plant maintenance, are contained in Table 6.04.07.07.D. The selection of lawn grasses shall be based upon the species and characteristics which are most appropriate for the site.

#### **Section 6.04.05.06. Ground Covers and Vines.**

Ground covers shall be species which attain a maximum average height of twelve (12) inches at maturity and shall be spaced no greater than eighteen (18) inches on center. Vines shall be a minimum of thirty (30) inches in height at the time of planting and physically supported to allow normal growth. Ground covers may be planted in lieu of lawn grass. A list of ground covers and vines are contained in Table 6.04.07.07.C.

#### **Section 6.04.05.07. Mulch.**

All shrubbery, ground cover, and vine planting beds shall be mulched with standard accepted mulch materials to prevent invasion of other plant species; to absorb moisture for the benefit of the plants; and to present a neat and orderly appearance of the landscaped area. The mulched bed shall have a uniform coverage and a minimum depth of two inches (2"). The use of cypress mulch is discouraged.

Sheet drainage flow of stormwater run-off is not permitted through mulched planting beds; surface run-off in this situation shall be channelized and routed in flumes through the planting beds with no more than one flume for every fifty (50) linear feet.

#### **Section 6.04.05.08. Planting Beds.**

The planting bed for all landscaping materials shall be free of weeds, debris, and noxious materials and shall consist of a healthy plant growth medium. The planting bed soil shall provide adequate support, drainage, and nutrients for the plants. If excavation of compacted and/or deleterious material is required, replacement soil shall be placed throughout the planting hole for each plant in an area at least twice as wide as the plant ball and 1½ times as deep as the depth of the plant ball.

#### **Section 6.04.05.09. Landscaping for Decorative and Masonry Walls.**

Residential subdivisions and commercial and industrial developments may have decorative entrance and screening walls. Landscaping (a combination of trees and shrubbery) shall be installed within the property setback/buffer yard

area. If there are no specific buffer yard requirements for the development, one (1) tree shall be planted for each fifty (50) linear feet of wall. Buffer yard trees and shrubs required by this Article shall be planted on the street side of the wall. Walls shall be constructed in compliance with Section 6.02.00.

**Section 6.04.05.10. Encroachments.**

A. Structures.

Accessory uses, buildings, and dumpster pads shall not encroach upon or conflict with required landscaped areas.

B. Parking Stalls.

No more than two (2) feet of vehicular overhang shall be allowed into a landscape area and no trees and shrubs shall be planted within the area of encroachment.

**Section 6.04.06. Canopy Trees and Tree Species.**

Canopy trees shall be required for the purpose of shading vehicular use areas, sidewalks and other paved surfaces associated with all development in the City, thereby lowering the ambient temperature of the air through increased shading; conserving water; enhancing the appearance of properties; improving property values; and generally protecting the health, safety and welfare of the public through the improvement of the quality of the human environment. Buildings and structures shall not be used in calculating or estimating the area of paved surface.

- A. To meet the minimum tree canopy requirements of this Code, canopy trees shall be selected from Table 6.04.06.02.
- B. Canopy shall be interspersed throughout all vehicular use areas rather than restricted in any way to only a portion of the site. This allows the applicant flexibility and creative design opportunities.
- C. Canopy trees shall be planted no closer than five (5) feet to any paved surface.
- D. Planting areas under canopy trees shall be planted in compatible shrubs from Table 6.04.07.07.B and/or with ground covers from Table 6.04.07.07.C. Any grass planted in landscaped areas shall be drought tolerant.
- E. Canopy trees for new development shall be provided at a rate of two (2) trees per residential lot or one (1) tree per attached unit. Existing trees to be preserved may be used to satisfy this requirement on individual development parcels provided they are not specifically listed as an invasive species in Table 6.04.07.07.E.
- F. Palm trees may be used as canopy trees so long as they constitute no more than ten percent (10%) of the total number of trees required and are substituted at a ratio of three (3) to one (1) towards the number of required canopy trees.

#### **Section 6.04.06.01. Vehicular Use Areas Interior Landscaping.**

##### **A. Applicability.**

Landscaping shall be provided within vehicular use areas to provide visual and climatic relief from broad expanses of pavement, and to define logical areas for pedestrian and vehicular circulation. All new and proposed vehicular use areas including expansions, except those serving single-family detached or duplex units and public rights-of-way, shall conform to the minimum landscaping requirements of this Article. Existing vehicular use areas shall be redeveloped to meet the landscape requirements of this Article when any one of the following conditions occurs on the property:

1. The existing development or structures are demolished and the vehicular use area is to remain in use.
2. Structural additions, repairs or alterations are proposed which are equal to or greater than fifty percent (50%) of the assessed value of the structure.
3. There is a change in the character of land use (e.g., from office use to retail use).

##### **B. Vehicular Use Area Defined.**

All paved areas, including impervious and hard surface, stabilized permeable pavement, which provide site access, traffic circulation and areas for vehicular parking, loading and unloading. Vehicular use areas shall not include the site perimeter for which a landscape buffer yard may be required.

##### **C. Canopy Area Requirement.**

Landscaping shall be provided throughout the vehicular use areas and over pedestrian circulation pavement in an amount equal to fifty percent (50%) coverage over all vehicular use areas and pedestrian circulation pavement associated with all land uses subject to these requirements.

##### **D. Areas used for Parking and Maneuvering Large Trucks, Storing Products, and Open Lot Sales for Vehicles.**

The City Council may reduce tree canopy requirements over vehicular use areas which are exclusively used for parking and maneuvering large trucks, and/or storing materials or products outdoors, and car/vehicle sales lots. A site plan shall first be reviewed by the Planning and Zoning Commission, which may recommend necessary modifications and related conditions of approval after determining that such action upholds the public interest. The effect of the reduction shall not nullify the purposes and intent of the City Code or be contrary to the City's Comprehensive Plan. The process and procedures for this type of waiver are contained in Article 11 of this Code.



### Section 6.04.06.02. Canopy Tree Species.

Table 6.04.06.02 lists trees are Florida Friendly for Polk County and which shall be used to meet the City's tree canopy requirements.

**Table 6.04.06.02.  
Canopy Trees**

CANOPY TREES										
Species	Common Name	Mature Height (feet)	Mature Tree Crown Diameter (feet)	Type	Soil	Drought Tolerance	Light	Growth Rate	Mature Canopy (square feet)	Distance From Overhead Power Line (feet)
<i>Acer rubrum</i>	Red Maple	35-50	25	D	N-W	M	P, F	F	500	15-30
<i>Magnolia grandiflora</i>	Southern Magnolia	50-100	25	E	N-D Well-Drained	M	P, F	M	500	30+
<i>Pinus elliotii</i>	Slash Pine	80-100	25	E	N-D	H	P, F	F	500	15-30
<i>Pinus palustris</i>	Longleaf Pine	80-100	25	E	N-D	H	F	M	500	15-30
<i>Quercus virginiana</i>	Live Oak	50-60	50	E	N-D	H	P, F	M	2,000	30+
<i>Juniperus virginiana</i>	Southern Red Cedar	50	25	E	N-D	H	P, F	F	500	30+
<i>Taxodium distichum</i>	Bald Cypress	60-100	20	D	N-W	H	F	F	314	20
<p style="text-align: center;"><b>Key</b></p> <p><b>Type:</b> D = Deciduous, E = Evergreen      <b>Soil:</b> N = Normal, D = Dry, W = Wet</p> <p><b>Drought Tolerance:</b> H = High, M = Medium, L = Low      <b>Light:</b> S = Shade, P = Partial Shade, F = Full Sun</p> <p><b>Growth Rate:</b> F = Fast, M = Medium, S = Slow</p>										

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

#### **Section 6.04.07. Buffer Yards.**

A buffer yard is a landscaped strip along parcel boundaries that serves as a buffer between incompatible or potentially incompatible uses and zoning districts. The purpose of this Section is to establish minimum buffer yard widths and landscaping requirements, in order to ensure compatibility between adjacent properties and land uses. The minimum required width of the buffer yard is therefore based on the potential degree of incompatibility between two abutting land uses. In no case shall the buffer yard width be less than the minimum building setback required by the zoning district.

##### **Section 6.04.07.01. Establishment of Buffer Yards and Uses Allowed within Landscaped Areas.**

The type of buffer yard required depends on the nature of the adjoining land uses. The City provides four (4) different category types of buffer yards, identified as types A, B, C and D. Table 6.04.07.08 establishes the type of buffer yard required between proposed and existing land uses and Table 6.04.07.09 establishes the type of buffer yard required between a proposed land use and vacant property. Buffer yards are intended as landscaped open space therefore, they shall be free of pavement and permanent structures other than fences, unpaved pedestrian paths, and stormwater management and retention facilities.

If a property under development abuts an existing landscape buffer yard that meets the requirements of this Article, the required buffer yard area and the required number of buffer yard plants for the property under development may be relocated elsewhere on site, as additional landscape areas, if the site design would be better served in this manner.

##### **Section 6.04.07.02. Buffer Yard Width and Landscaping Requirements.**

Upon determining the type of buffer yard required for a property (type A, B, C, or D), the yard width and number of plantings shall be calculated. This information is provided in the Buffer Yard Diagrams contained in Section 6.04.07.10. Three options are offered within each buffer yard type, allowing a buffer yard which best fits the constraints and features of the site design. Any of the options within a particular buffer yard type will fulfill the buffer yard requirement. For example, if a Buffer Yard A is required, there are three options to choose from; a ten (10) foot wide buffer, a fifteen (15) foot wide buffer or a twenty (20) foot wide buffer. The number of trees and shrubs to be planted within the buffer yard area is dependent upon the buffer yard width chosen.

The diagrams specify the number of each type of plant required per 100 linear feet; a wider buffer yard requires less plant material. Trees and shrubs may be spaced evenly along the length of the buffer yard or grouped to best display the plant material. When natural plant material is present, it may be counted towards fulfilling the total requirement for trees and shrubs provided the existing material is generally consistent with the intent of this code.

### **Section 6.04.07.03. Buffer Yards Between Proposed Uses and Vacant Property.**

When property adjacent to a proposed development is vacant, the need for a buffer yard is determined by the zoning classification of the vacant site. The applicable buffer standard is found in Table 6.04.07.09.

### **Section 6.04.07.04. Buffer Yards along Rights-Of-Way.**

In addition to the standards set forth in this Article regarding landscape requirements between principal land uses and adjacent properties, provisions shall also be made to buffer land uses from adjacent public streets or rights-of-way as follows:

#### **A. Arterial Roadways.**

Land uses, excluding agriculture, located along arterial roadways are required to provide a landscape strip at least fifteen (15) feet wide with a minimum of five (5) canopy trees for each one hundred (100) linear feet of right-of-way frontage, or fraction thereof. A continuous hedge at least eighteen (18) inches high at planting, of a species capable of growing to at least thirty-six (36) inches in height and one-hundred percent (100%) opaque within eighteen (18) months is also required. Hedges shall be maintained at a height not less than thirty-six (36) inches. The height of the hedge shall be measured from the finished grade of the vehicular use area. S.R. 17, C.R. 630 and C.R. 630A shall meet these right-of-way buffer yard requirements.

#### **B. Collector Roadways.**

Land uses located along collector roadways are required to provide a landscape strip at least ten (10) feet wide with a minimum of one (1) canopy tree and 10 shrubs for each fifty (50) linear feet of right-of-way frontage, or fraction thereof.

#### **C. Railroad Rights-Of-Way.**

Commercial and industrial land uses located along railroad rights-of-way shall not be required to provide buffering between the use and the right-of-way. New residential developments, excluding individual single-family home sites, individual duplex units and individual infill lot development shall meet the requirements of a "D" buffer yard as specified in Section 6.04.07.10.

#### **D. Residential Street.**

New residential developments, excluding individual single-family home sites, individual duplex units and individual infill lot development, located along a residential street, shall provide a landscape strip at least five (5) feet wide with at least one tree per lot. Any canopy trees within a buffer yard may count towards the two (2) canopy tree requirement per Section 6.04.06E.

E. Setbacks for Vision Clearance.

Buffer yards shall comply with Article 5, Section 5.05.00, Setbacks for Vision Clearance.

**Section 6.04.07.05. Buffer Yards for Free Standing or Satellite Parking Lots.**

Buffer yards for free standing or satellite parking lots shall meet a minimum ten (10) foot wide buffer yard requirement when abutting an R-1a, R-1b, R-1c, R-1d or MH-1 zoning district. The buffer yard shall be opaque, which may be accomplished through any of the following methods: (1) installing plant material, (2) providing berms and installing plant material, or (3) installing plant material and constructing a minimum four (4) foot high fence. Buffer yards for parking lots abutting rights-of-way shall comply with Section 6.04.07.04 of this Article.

**Section 6.04.07.06. Buffer Yards and Utility Easements.**

Utility easements in a buffer yard do not prohibit the planting of shrubs in the area of the easement of an underground utility, but no tree shall be planted within twelve feet (12') of a buried utility. Tree planting restrictions in relation to overhead power lines are identified in Tables 6.04.06.02 and 6.04.07.07.A.

**Section 6.04.07.07. Buffer Yard Trees and Shrub Species.**

Tables 6.04.07.07.A., 6.04.07.07.B., 6.04.07.07.C., and 6.04.07.07.D. list the plant species that are Florida Friendly for Polk County and shall be used to meet the City's buffer yard requirements.

**Table 6.04.07.07.A.  
Small/Understory Trees**

SMALL/UNDERSTORY TREES										
Species	Common Name	Type	Soil	Drought Tolerance	Light	Growth Rate	Mature Height (feet)	Mature Tree Crown Diameter (feet)	Mature Canopy (square feet)	Distance From Overhead Power Line (feet)
Betula nigra	River Birch	D	A	L	P, F	F	45-65	16	200	15-30
Magnolia grandiflora "Little Gem"	Little Gem Magnolia	E	Well Drained	M	P, S	S	15-20	8	50	0
Cercis canadensis	Redbud	D	N-D	H	S, P, F	M-F	35	10	201	0
Tabebuia chrysostricha	Golden Tabebuia	D	N-D	M	F	F	25-35	25-35	300	15-30
Tabebuia impetiginosa	Pink Tabebuia	D	N-D	M	F	F	20-30	15-25	300	15-30
Ilex attenuata	East Palatka Holly	E	N-D	M	P, S	F	25-30	16	200	15-30
Ilex cassine	Dahoon Holly	E	N-W	M	S, P, F	M	25-30	16	200	15-30
Ilex vomitoria 'Pendula'	Weeping Yaupon Holly	E	N-D	H	P, F	M	15-20	15-20	300	0
Juniperus silicicola	Southern Red Cedar	E	Well Drained	H	P, F	F	25-30	12	120	15-30
Lagerstroemia indica	Crape Myrtle	D	N-D	H	F	F	15-25	12	120	0
Parkinsonia aculeata	Jerusalem Thorn	D	N-D	H	F	F	20-30	16	200	0
Ulmus alata	Winged Elm	D	N-W	H	P, F	F	20-25	25	500	15-30
Prunus angustifolia	Chickasaw Plum	D	N-D	H	P, F	M	15-20	12	113	0
<p align="center"><b>Key</b></p> <p><b>Type:</b> D = Deciduous, E = Evergreen      <b>Soil:</b> N = Normal, D = Dry, W = Wet</p> <p><b>Drought Tolerance:</b> H = High, M = Medium, L = Low      <b>Light:</b> S = Shade, P = Partial Shade F = Full Sun</p> <p><b>Growth Rate:</b> F = Fast, M = Medium, S = Slow</p>										

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

**Table 6.04.07.07.B.  
Shrubs**

SHRUBS								
Common Name & Species Name	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerance H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F= Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
Beautyberry <i>Callicarpa Americana</i>	N-D	H	S, P	M	White Flowers (Spring) Purple Berries	Up to 6'	Up to 6'	Florida Native. Low Maintenance. Deciduous.
Coontie Cycad <i>Zamia pumila</i>	N-D	H	S, P, F	S		Up to 4'	Up to 4'	Florida Native. Evergreen. Low Maintenance
Firecracker Plant <i>Russelia equisetiformis</i>	Well Drained	H	F	M	Red	Up to 4'	Up to 4'	Sprawling Evergreen. Low Maintenance.
Firebush <i>Hamelia patens</i>	N-W	M	S, P, F	F	Red/ Orange	Up to 15'	Up to 6'	Florida Native. Low Maintenance. Foliage turns red in winter. Can die in cold weather, but will come back.
Florida Privet <i>Forestiera segregate</i>	Well Drained	H	P, F	M		Up to 10'	Up to 10'	Florida Native. Evergreen. Low Maintenance.
Golden Dewdrop <i>Duranta erecta</i>	N-D	H	F, P	M	Purple Flowers Yellow Berries	Up to 20'	Up to 20'	Low Maintenance. Sprawling Habitat and Thorns.
Indian Hawthorne <i>Raphiolepis indica</i>	N-W	H	P, F	M		Up to 4'	Up to 4'	Evergreen. Low Maintenance.
Plumbago <i>Plumbago auriculata</i>	N-W	M	F	F	Purple	3'-6'	3'-6'	Low Maintenance.
Saw Palmetto <i>Serenoa repens</i>	N-D	H	S, P, F	S		Up to 6'	Up to 6'	Florida Native. Low Maintenance.

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

**Table 6.04.07.07.B.  
Shrubs**

SHRUBS								
Common Name & Species Name	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerance H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F = Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
Schelling's Dwarf Holly  <i>Ilex vomitoria</i> 'Schellings Dwarf'	N-D	H	P, F	M		Up to 4'	Up to 4'	Florida Native. Evergreen. Low Maintenance.
Simpson's Stopper  <i>Myrcianthes</i> <i>fragrans</i>	A	H	S, P, F	S	White Flowers Red Berries	Up to 20'	10'-15'	Florida Native. Evergreen. Low Maintenance.
Simpson's Stopper Compacta  <i>Myrcianthes</i> <i>fragrans</i> 'Compacta'	A	H	S, P, F	S	White Flowers Red Berries	Up to 5'	Up to 5'	Florida Native. Evergreen. Low Maintenance.
Walter's Viburnum  <i>Viburnum</i> <i>Obovatum</i> 'Riefler's Densa'	N-W	H	S, P, F	M	White Flowers Black Berries	Up to 20'	Up to 10'	Florida Native. Evergreen. Low Maintenance.
Walter's Viburnum  <i>Viburnum</i> <i>Obovatum</i> 'Withlacoochee'	N-W	H	S, P, F	M	White Flowers Black Berries	Up to 10'	Up to 10'	Florida Native. Evergreen. Low Maintenance. Can handle moist soils.
Wild Coffee  <i>Psychotria nervosa</i>	W	M	P, S	M	Red Berries	Up to 10'	Up to 6'	Florida Native. Low Maintenance. Prefers moist environment/shade.

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

**Table 6.04.07.07.C.  
Ground Covers, Flowering Plants, Ornamental Grasses and Palms**

GROUNDCOVERS								
Common Name & Species Name	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerant H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F= Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
Aloe <i>Aloe Vera</i>	D Well Drained	H	F, P	M		Up to 1'		Spreading plant.
Asiatic Jasmine <i>Trachelospermum asiaticum</i>	N-W	M	F, P	F	None; evergreen	Up to 6"	Up to 10'	Best in shade areas where turf grass will not grow. Low Maintenance.
Beach Sunflower <i>Helianthus debilis</i>	D	H	F	F	Yellow	Up to 2'	6' or more	Florida Native. Prolific sunflower bloom year round.
Liriope <i>Liriope muscari</i>	Moist to Well Drained	M	S, P, F	M	Purple (Summer)	10"-18"	10"-18"	Low Maintenance.
Perennial Peanut <i>Arachis glabrata</i>	D	H	F	S	Yellow	4"-6"		Can be plugged into existing turf or installed as sod.
Sunshine Mimosa <i>Mimosa strigulosa</i>	A	M	F	M	Pink	Up to 6"	8' or more	Fast growing
Sweet Potato Vine <i>Ipomea</i> spp.	Well Drained	H	S, P, F	F	Green or Purple Foliage	Up to 6"	Up to 10"	Will die in cold weather, but will come back.
FLOWERING PLANTS								
Common Name & Species Name	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerant H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F= Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
African Iris <i>(Dietes iridioides)</i>	N-D	M	P, F	S	White (Summer)	2'	2'	Evergreen. Low Maintenance.
Blanket Flower <i>(Gaillardia pulchella)</i>	N-D Well Drained	H	F	F	Yellow, Orange, Red or Multi	Up to 2'	Up to 2'	Florida Native. Will die back in winter, will self sow. Low Maintenance.

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.



**Table 6.04.07.07.C.  
Ground Covers, Flowering Plants, Ornamental Grasses and Palms**

FLOWERING PLANTS								
Common Name & Species Name	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerance H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F= Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
Bulbine ( <i>Bulbine frutescens</i> )	Well Drained	H	F	M	Yellow, Orange	Up to 2'	Up to 2'	Blooms year round. Best in mass plantings. Low Maintenance. Can't tolerate wet soil.
Crossandra ( <i>Crossandra infundibuliformis</i> )	Well Drained to Acidic	M	S	F	Orange	Up to 3'		Low Maintenance. Prefers moist soil.
Flax Lily <i>Dianella tasmanica</i>	Well Drained	H	P, F	F	Blue	Up to 2'	Up to 2'	Low Maintenance.
Purple Lantana <i>Lantana montevidensis</i>	N-D Well Drained	H	F	F	Purple (Year Round)	Up to 2'	Up to 6'	Low Maintenance.
Purple Porterweed <i>Stachytarpheta jamaicensis</i>	N-W	M	F, P	F	Purple	Up to 4'	Up to 4'	Low Maintenance.
Scarlet Sage <i>Salvia coccinea</i>	Well Drained	M	F	M	Red	Up to 3'	Up to 3'	Florida Native. Self Seeds. Low Maintenance.
Society Garlic <i>Tulbaghia violacea</i>	N-W Well Drained	M	F, P	M-F	Lavender	Up to 2'	Up to 2'	Blooms all summer. Low Maintenance.
Tampa Vervain <i>Glandularia tampensis</i>	N-W	H	F	M	Lavender	Up to 2'	Up to 2'	Florida Native. Low Maintenance.
Whirling Butterflies <i>Gaura lindheimeri</i>	N-W	H	F	S	Pink, White	Up to 2'	Up to 2'	Flowers all summer. Will die back in cold, but come back.

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

**Table 6.04.07.07.C.  
Ground Covers, Flowering Plants, Ornamental Grasses and Palms**

ORNAMENTAL GRASSES								
Common Name & Species Name	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerance H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F = Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
Dwarf Fakahatchee Grass  <i>Tripsacum floridanum</i>	A	M	P, F	M		Up to 2'	Up to 2'	Florida Native. Low Maintenance. Can tolerate moist soils.
Elliott's Love Grass  <i>Eragrostis elliotii</i>	D Well Drained	H	F, P	F		Up to 1'	Up to 1'	Florida Native. Low Maintenance.
Fakahatchee Grass  <i>Tripsacum dactyloides</i>	A	M	F	M		Up to 6'	3'	Florida Native. Low Maintenance. Can tolerate moist soils.
Muhly Grass  <i>Muhlenbergia capillaries</i>	A Well Drained	H	F	M	Purple/Pink Plumes	Up to 3'	Up to 3'	Florida Native. Low Maintenance.
Purple Love Grass  <i>Eragrostis spectabilis</i>	D Well Drained	H	F, P	F	Purple	Up to 1 ½ '	Up to 1 ½ '	Florida Native. Low Maintenance.
Sand Cord Grass  <i>Spartina bakeri</i>	A	H	F	F		4-6"	Up to 4'	Florida Native.

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

**Table 6.04.07.07.C.  
Ground Covers, Flowering Plants, Ornamental Grasses and Palms**

PALMS								
Common Name & <i>Species Name</i>	Soil Type W = Wet N = Normal D = Dry A = All Types	Drought Tolerance H = High M = Medium L = Low	Light Requirements S = Shade P = Partial Shade F = Full Sun	Growth Rate F = Fast M = Medium S = Slow	Flower Color	Height	Spread	Properties
Cabbage Palm <i>Sabal palmetto</i>	A	H	F, P	S	Flowers in Spring	50'-60'		Florida Native. Low Maintenance.
Chinese Fan Palm <i>Livistona chinensis</i>	A Well Drained	H	F	S		25'-50'		Cold Tolerant. Low Maintenance. Can Tolerate Moist Soils.
European Fan Palm <i>Chamaerops humilis</i>	Well Drained	H	P, F	F	Yellow Flowers Orange/Br own Fruit	Up to 15'		Cold Tolerant. Low Maintenance.
Indian Date Palm <i>Phoenix rupicola</i>	Well Drained	H	S	M	Purple Fruit	Up to 50'		Cold Hardy. Low Maintenance.
Lady Palm <i>Rhapis excelsa</i>	A Well Drained	M	S, P	M		Up to 10'	Up to 10'	Low Maintenance. Can Survive in Moist Soils.
Needle Palm <i>Rhapidophyllum hystrix</i>	A Well Drained	M	S, P, F	S	Purple Fruit	5'-6'	5'- 6'	Florida Native. Slow Growing. Cold Tolerant. Low Maintenance.
Paurotis Palm <i>Acoelorrhaphe wrighti</i>	A	M	P, F	S		Up to 30'		Spreading. Low Maintenance. Cold Hardy. Can be used as Hedge or Screen.
Pindo Palm <i>Butia capitata</i>	Well Drained	H	P, F	S	Orange Fruit	10'-15'		Cold Hardy. Low Maintenance.

Source: Polk County Florida Friendly Yards and Neighborhoods, Polk County Extension Office, University of Florida IFAS Extension.

**Table 6.04.07.07.D.  
Lawn Grasses**

CHARACTERISTICS	GRASS SPECIES					
	BAHIA	BERMUDA	CARPETGRASS	SEASHORE PASPALUM	ST. AUGUSTINE	ZOYSIA
AREA ADAPTED TO	Statewide	Statewide	Wet Areas	Statewide	Statewide	Statewide
SOIL	Acid, Sandy	Whole Range	Acid, Wet	Wide Range	Wide Range	Wide Range
LEAF TEXTURE	Coarse- Medium	Fine- Medium	Medium	Fine- Medium	Coarse- Medium	Fine- Medium
DROUGHT TOLERANCE	Excellent	Good	Poor	Good	Fair	Medium
SHADE TOLERANCE	Poor	Poor	Fair	Poor	Good	Good
WEAR TOLERANCE	Poor	Good- Excellent	Poor	Good- Excellent	Poor	Good- Excellent
NEMATODE TOLERANCE	Very Good	Poor	Poor	Good	Good	Poor
MAINTENANCE LEVELS	Low	Medium- High	Low	Medium	Medium	High
USES	Lawns, roadsides	Athletic Fields, golf courses	Wet Areas	Lawns, athletic fields, golf courses	Lawns	Lawns
ESTABLISHMENT METHODS	Seed, Sod	Sod, sprigs, plugs, some seed	Seed, sprigs	Sod, plugs, sprigs	Sod, plugs, sprigs	Sod, plugs, sprigs

*Source: "Selecting a Turf Grass for Florida Lawns," University of Florida IFAS Extension (ENH04, 2007).*

**Table 6.04.07.07.E.  
Invasive Plants**

The following invasive exotic plants have, or can potentially, alter native plant communities by displacing native species, changing community structures or ecological functions, or hybridizing with natives.

SCIENTIFIC NAME	COMMON NAME
<u>Abrus precatorius</u>	rosary pea
<u>Acacia auriculiformis</u>	earleaf acacia
<u>Albizia julibrissin</u>	mimosa, silk tree
<u>Albizia lebbbeck</u>	woman's tongue
<u>Ardisia crenata</u> (=A. crenulata <i>misapplied</i> )	coral ardisia
<u>Ardisia elliptica</u> (=A. humilis <i>misapplied</i> )	shoebutton ardisia
<u>Asparagus aethiopicus</u> (=A. sprengeri; A. densiflorus <i>misapplied</i> )	asparagus-fern
<u>Bauhinia variegata</u>	orchid tree
<u>Bischofia javanica</u>	bishopwood
<u>Casuarina equisetifolia</u>	Australian-pine, beach sheoak
<u>Casuarina glauca</u>	suckering Australian-pine, gray sheoak
<u>Cinnamomum camphora</u>	camphor tree
<u>Colocasia esculenta</u>	wild taro
<u>Cupaniopsis anacardioides</u>	carrotwood
<u>Dioscorea alata</u>	winged yam
<u>Dioscorea bulbifera</u>	air-potato
<u>Eichhornia crassipes</u>	water-hyacinth
<u>Eugenia uniflora</u>	Surinam cherry
<u>Ficus microcarpa</u> (F. nitida and F. retusa var. nitida <i>misapplied</i> )	laurel fig
<u>Hydrilla verticillata</u>	hydrilla
<u>Hygrophila polysperma</u>	green hygro
<u>Hymenachne amplexicaulis</u>	West Indian marsh grass
<u>Imperata cylindrica</u> (I. brasiliensis <i>misapplied</i> )	cogon grass
<u>Ipomoea aquatica</u>	waterspinach
<u>Jasminum dichotomum</u>	Gold Coast jasmine
<u>Jasminum fluminense</u>	Brazilian jasmine
<u>Lantana camara</u>	lantana, shrub verben
<u>Ligustrum lucidum</u>	glossy privet
<u>Ligustrum sinense</u>	Chinese privet, hedge privet
<u>Lonicera japonica</u>	Japanese honeysuckle
<u>Ludwigia peruviana</u>	Peruvian primrosewillow
<u>Lygodium japonicum</u>	Japanese climbing fern
<u>Lygodium microphyllum</u>	Old World climbing fern
<u>Macfadyena unguis-cati</u>	cat's claw vine
<u>Melaleuca quinquenervia</u>	melaleuca, paper bark
<u>Mimosa pigra</u>	catclaw mimosa
<u>Nandina domestica</u>	nandina, heavenly bamboo
<u>Nephrolepis cordifolia</u>	sword fern
<u>Nephrolepis multiflora</u>	Asian sword fern
<u>Paederia foetida</u>	skunk vine

Source: Florida Exotic Pest Plant Council, 2007.

**Table 6.04.07.07.E.  
Invasive Plants**

SCIENTIFIC NAME	COMMON NAME
<u>Panicum repens</u>	torpedo grass
<u>Pennisetum purpureum</u>	Napier grass
<u>Pistia stratiotes</u>	waterlettuce
<u>Psidium cattleianum</u> (=P. littorale)	strawberry guava
<u>Psidium quajava</u>	guava
<u>Pueraria montana</u> var. <i>lobata</i> (=P. <i>lobata</i> )	kudzu
<u>Rhodomirtus tomentosa</u>	downy rose-myrtle
<u>Rhynchelytrum repens</u> (=Melinis repens)	Natal grass
<u>Ruellia tweediana</u> (= R. <i>brittoniana</i> , R. <i>coerulea</i> )	Mexican petunia
<u>Sapium sebiferum</u> (=Triadica sebifera)	popcorn tree, Chinese tallow tree
<u>Scaevola taccada</u> (=Scaevola <i>sericea</i> , S. <i>frutescens</i> )	scaevola, half-flower, beach naupaka
<u>Schefflera actinophylla</u> (=Brassaia actinophylla)	schefflera, Queensland umbrella tree
<u>Schinus terebinthifolius</u>	Brazilian pepper
<u>Senna pendula</u> var. <i>glabrata</i> (=Cassia <i>coluteoides</i> )	climbing cassia, Christmas cassia, Christmas senna
<u>Solanum tampicense</u> (=S. <i>houstonii</i> )	wetland nightshade, aquatic soda apple
<u>Solanum viarum</u>	tropical soda apple
<u>Syngonium podophyllum</u>	arrowhead vine
<u>Syzygium cumini</u>	jambolan plum, Java plum
<u>Thespesia populnea</u>	seaside mahoe
<u>Tradescantia fluminensis</u>	white-flowered wandering jew
<u>Urochloa mutica</u> (= Brachiaria mutica)	Para grass
<u>Agave sisalana</u>	sisal hemp
<u>Aleurites fordii</u> (=Vernicia fordii)	tung oil tree
<u>Alternanthera philoxeroides</u>	alligator weed
<u>Antigonon leptopus</u>	coral vine
<u>Aristolochia littoralis</u>	calico flower
<u>Asystasia gangetica</u>	Ganges primrose
<u>Begonia cucullata</u>	wax begonia
<u>Blechum pyramidatum</u>	green shrimp plant, Browne's blechum
<u>Broussonetia papyrifera</u>	paper mulberry
<u>Callisia fragrans</u>	inch plant, spironema
<u>Casuarina cunninghamiana</u>	river sheoak, Australian-pine
<u>Cestrum diurnum</u>	day jessamine
<u>Clematis terniflora</u>	Japanese clematis
<u>Cryptostegia madagascariensis</u>	rubber vine
<u>Cyperus involucratus</u> (C. <i>alternifolius</i> misapplied)	umbrella plant
<u>Cyperus prolifer</u>	dwarf papyrus
<u>Dalbergia sissoo</u>	Indian rosewood, sissoo
<u>Elaeagnus pungens</u>	silverthorn, thorny olive
<u>Epipremnum pinnatum</u> cv. 'Aureum'	pothos

Source: Florida Exotic Pest Plant Council, 2007.

**Table 6.04.07.07.E.  
Invasive Plants**

SCIENTIFIC NAME	COMMON NAME
<i>Hemarthria altissima</i>	limpo grass
<i>Hibiscus tiliaceus</i> (= <i>Talipariti tiliaceum</i> )	mahoe, sea hibiscus
<i>Ipomoea fistulosa</i> (= <i>I. carnea</i> ssp. <i>fistulosa</i> )	shrub morning-glory
<i>Kalanchoe pinnata</i>	life plant
<i>Koelreuteria elegans</i> ssp. <i>formosana</i> (= <i>K. formosana</i> ; <i>K. paniculata</i> misapplied)	flamegold tree
<i>Leucaena leucocephala</i>	lead tree
<i>Limnophila sessiliflora</i>	Asian marshweed
<i>Livistona chinensis</i>	Chinese fan palm
<i>Melia azedarach</i>	Chinaberry
<i>Melinis minutiflora</i>	Molassesgrass
<i>Myriophyllum spicatum</i>	Eurasian water-milfoil
<i>Nymphoides cristata</i>	snowflake
<i>Panicum maximum</i>	Guinea grass
<i>Phoenix reclinata</i>	Senegal date palm
<i>Phyllostachys aurea</i>	golden bamboo
<i>Pteris vittata</i>	Chinese brake fern
<i>Ricinus communis</i>	castor bean
<i>Sansevieria hyacinthoides</i>	bowstring hemp
<i>Scleria lacustris</i>	Wright's nutrush
<i>Sesbania punicea</i>	purple sesban, rattlebox
<i>Solanum diphyllum</i>	two-leaf nightshade
<i>Solanum jamaicense</i>	Jamaica nightshade
<i>Solanum torvum</i>	susumber, turkey berry
<i>Sphagneticola trilobata</i> (= <i>Wedelia trilobata</i> )	wedelia
<i>Syagrus romanzoffiana</i> (= <i>Arecastrum romanzoffianum</i> )	queen palm
<i>Syzygium jambos</i>	rose-apple
<i>Terminalia catappa</i>	tropical-almond
<i>Terminalia muelleri</i>	Australian-almond
<i>Tribulus cistoides</i>	puncture vine, burr-nut
<i>Urena lobata</i>	Caesar's weed
<i>Vitex trifolia</i>	simple-leaf chaste tree
<i>Washingtonia robusta</i>	Washington fan palm
<i>Wisteria sinensis</i>	Chinese wisteria
<i>Xanthosoma sagittifolium</i>	malanga, elephant ear

Source: Florida Exotic Pest Plant Council, 2007.

**Table 6.04.07.08.  
Buffer Yard Requirements between Proposed and Abutting Land Uses**

PROPOSED LAND USE	ABUTTING LAND USE								
	Single family detached dwellings	Duplex; Single family attached; multi-family up to 4 units per acre; outdoor recreation facilities; cemeteries	Professional office with up to 8 parking spaces; child care centers in converted residential structures	Duplex, single family attached, mobile home parks and multi-family at 4-8 units per acre	Mobile home parks, single family attached, multi-family at 8+ units per acre up to and including 12 units per acre; Utility substations, switching stations, etc.	Professional office with 9+ parking spaces; Churches; Schools; Government facilities; Commercial development sites with up to 10 parking spaces	Other retail, wholesale, service businesses; Self-storage; Automobile service stations; Shopping centers; Hotels, motels; Hospitals; Multi-family over 12 units per acre	Light Industry; PWS; Governmental public works storage/equipment facilities	Heavy industry; Water and wastewater treatment facilities
Single family detached dwellings	N	A	B	B	C	C	C	D	D
Duplex; Single family attached; multi-family up to 4 units per acre; outdoor recreation facilities; cemeteries	A	N	A	B	B	C	C	D	D
Professional office with up to 8 parking spaces; child care centers in converted residential structures	B	A	N	A	B	B	C	C	D
Duplex, single family attached, mobile home parks & multi-family at 4-8 units per acre	B	B	A	N	A	B	C	C	D
Mobile home parks, single family attached, multi-family at 8+ units per acre up to & including 12 units per acre; Utility substations, switching stations, etc.	C	B	B	A	N	A	B	C	C
Professional office with 9+ parking spaces; Churches; Schools; Government facilities; Commercial development sites with up to 10 parking spaces	C	C	B	B	A	N	A	C	C
Other retail, wholesale, service businesses; Self-storage; Automobile service stations; Shopping centers; Hotels, motels; Hospitals; Multi-family over 12 units per acre	C	C	C	C	B	A	N	B	C
Light Industry; PWS; Governmental public works storage/equipment facilities	D	D	C	C	C	C	B	N	B
Heavy industry; Water & wastewater treatment facilities	D	D	D	D	C	C	C	B	N

N = No Buffer Yard Required.

A through D = Type of Buffer Yard Required (See Section 6.04.07.10 for Illustrated Guide of Example Buffer Yard Designs).



**Table 6.04.07.09.  
Buffer Yard Requirements between Proposed Land Uses and Vacant Property**

PROPOSED USE	ADJACENT VACANT LAND (By Zoning District)												
	AG R-1a R-1b	R-1c	R-1d	R-2	MH-1	CO	CBD	CN	CG	I-1	I-2	P	CON REC
Single family detached dwellings	N	A	A	A	B	B	N	C	C	C	D	C	C
Duplex; Single family attached; Multi-family up to 4 units per acre; Outdoor recreation facilities; Cemeteries	A	N	A	A	A	A	N	C	C	C	D	C	C
Professional office with up to 8 parking spaces; Child care centers in converted residential structures	A	A	A	A	A	N	N	B	B	B	C	C	C
Duplex, single family attached; mobile home parks and multi-family at 4-8 units per acre	A	A	N	A	A	A	N	C	C	C	D	C	C
Mobile home parks; Single family attached; Multi-family at 8+ units per acre up to and including 12 units per acre; Utility substations, switching stations, etc.	B	B	A	N	N	A	N	C	C	C	D	C	C
Professional office with 9+ parking spaces; Churches; Schools; Government facilities; Commercial development sites with up to 10 parking spaces	B	C	C	A	A	N	N	B	B	B	C	B	C
Other retail, wholesale, service businesses; Self-storage; Automobile service stations; Shopping centers; Hotels, motels; Hospitals; Multi-family over 12 units per acre	B	B	B	B	A	A	N	N	N	B	C	B	D
Light Industry; PWS; Governmental public works storage/equipment facilities	C	C	C	B	B	B	N	B	B	N	A	C	D
Heavy industry; Water and wastewater treatment facilities	D	D	D	C	C	C	N	C	C	A	N	D	D

N = No Buffer Required.  
A through D = Type of Buffer Yard Required (See Section 6.04.07.10 for Illustrated Guide of Example Buffer Yard Designs).

#### **Section 6.04.07.10. Buffer Yard Diagrams.**

This Section graphically depicts four (4) types of buffer yard plantings described as Buffer Yard A, Buffer Yard B, Buffer Yard C and Buffer Yard D. Each buffer yard type offers 3 variations which allow choice in the buffer yard width and the amount of plant material required per one hundred (100) linear feet of buffer yard property. The plant material does not need to be equally spaced and may be placed in any configuration within the required buffer yard area.

## BUFFER YARD

A

Plant Material per 100 linear feet

### Small Tree

*(See Table 6.04.07.07.A for list of acceptable trees)*

*Note: Canopy trees may also be used (Table 6.04.06.02)*

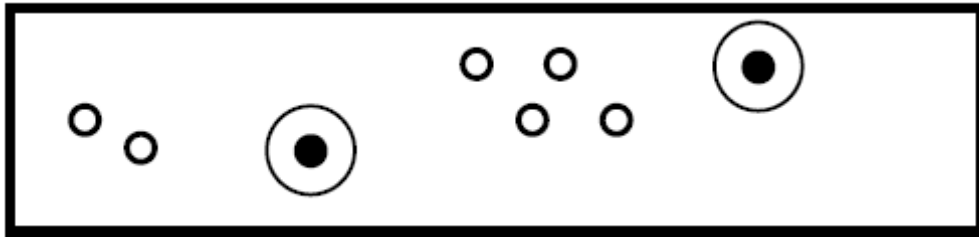


### Shrub/Ornamental Grass/Palm

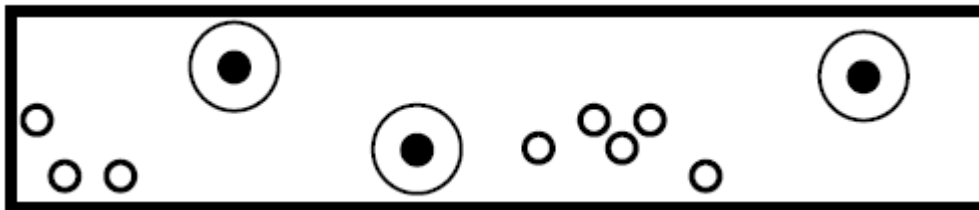
*(See Tables 6.04.07.07. B & 6.04.07.07.C for list of acceptable plants)*



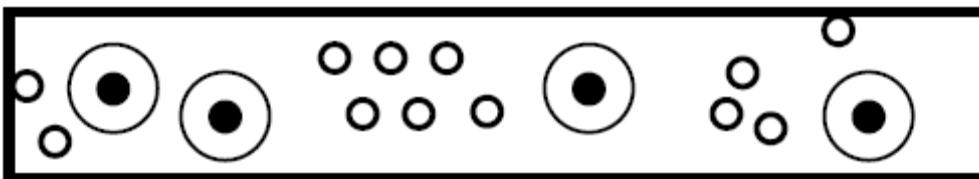
Width = 20 Feet  
2 small trees  
6 shrubs



Width = 15 Feet  
3 small trees  
8 shrubs



Width = 10 Feet  
4 small trees  
12 shrubs



## BUFFER YARD

B

Plant Material per 100 linear feet

### Small Tree

*(See Table 6.04.07.07.A for list of acceptable trees)*

*Note: Canopy trees may also be used (Table 6.04.06.02)*



### Shrub/Ornamental Grass/Palm

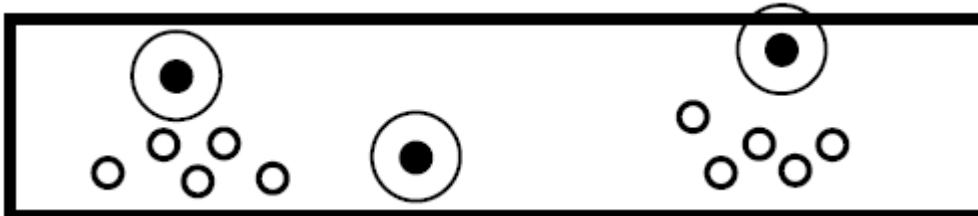
*(See Tables 6.04.07.07. B & 6.04.07.07.C for list of acceptable plants)*



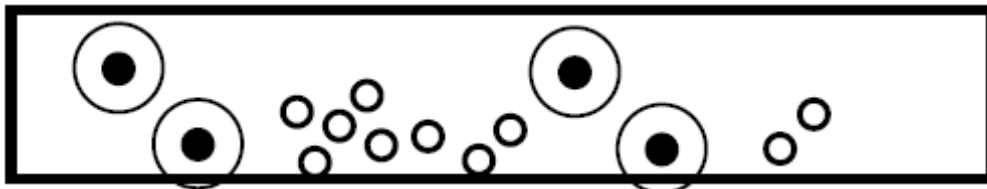
Width = 25 Feet  
2 small trees  
8 shrubs



Width = 20 Feet  
3 small trees  
10 shrubs



Width = 15 Feet  
4 small trees  
10 shrubs



## BUFFER YARD

C

Plant Material per 100 linear feet

### Small Tree

*(See Table 6.04.07.07.A for list of acceptable trees)*

*Note: Canopy trees may also be used (Table 6.04.06.02)*

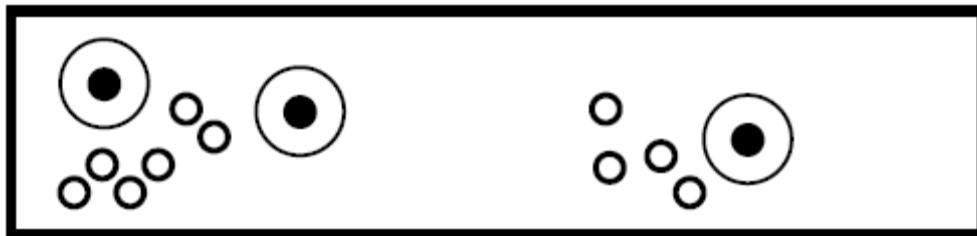


### Shrub/Ornamental Grass/Palm

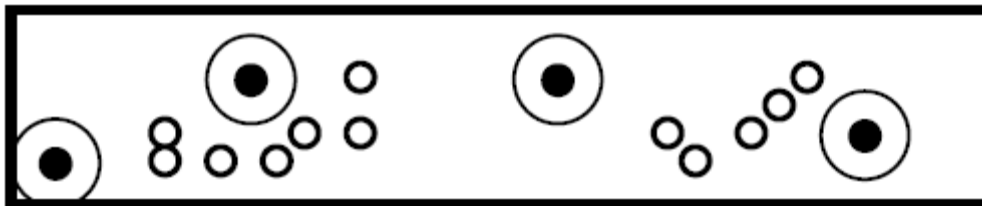
*(See Tables 6.04.07.07. B & 6.04.07.07.C for list of acceptable plants)*



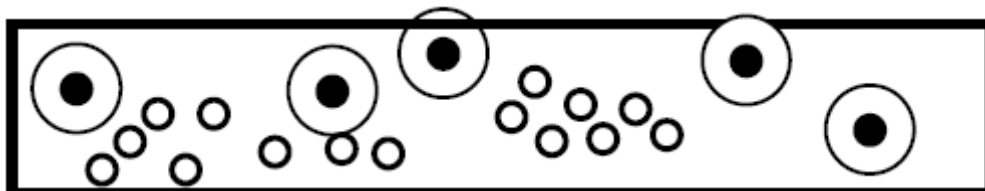
Width = 30 Feet  
3 small trees  
10 shrubs



Width = 20 Feet  
4 small trees  
12 shrubs



Width = 15 Feet  
5 small trees  
15 shrubs



## BUFFER YARD

D

Plant Material per 100 linear feet

### Small Tree

*(See Table 6.04.07.07.A for list of acceptable trees)*

*Note: Canopy trees may also be used (Table 6.04.06.02)*

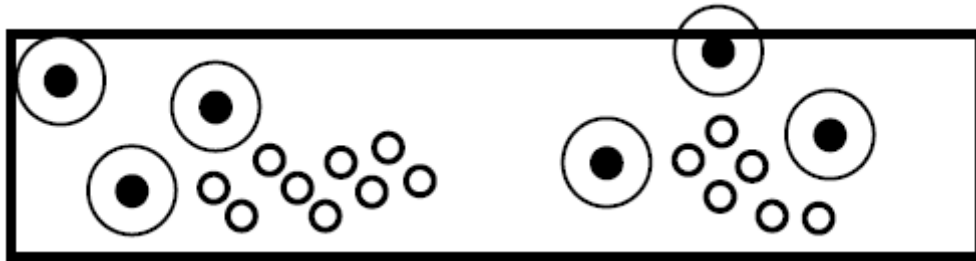


### Shrub/Ornamental Grass/Palm

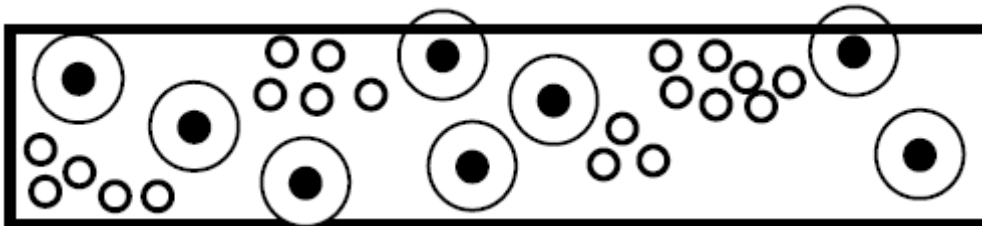
*(See Tables 6.04.07.07. B & 6.04.07.07.C for list of acceptable plants)*



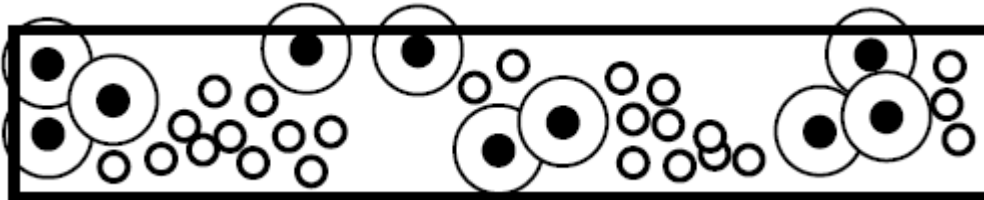
Width = 40 Feet  
6 small trees  
15 shrubs



Width = 30 Feet  
8 small trees  
20 shrubs



Width = 20  
10 small trees  
25 shrubs



**Section 6.04.08. Installation, Irrigation, Inspection, Certificate of Occupancy and Maintenance.**

All plants shall be "Florida No. 1" or better, shall be healthy and free of diseases and pests, and shall be selected from Tables 6.04.06.02, 6.04.07.07.A, 6.04.07.07.B and 6.04.07.07.C. Shrubs, at a minimum, shall be of nursery stock in two (2) gallon containers.

**A. Installation.**

1. Plants shall be installed during the period of the year most appropriate for planting the particular species. If this requirement results in the planting of some or all of the landscaping subsequent to development approval, a performance bond shall be posted prior to the issuance of a Certificate of Occupancy, in an amount sufficient to ensure that the required landscaping is installed.
2. The owner shall provide an appropriate planting soil medium for required plants and shall irrigate plant materials to sustain healthy growth of all plants to maturity.
3. Areas on any development site not used for buildings, including single family and duplex development on individual lots, paved surfaces, or other landscape improvements shall be sodded or seeded prior to the issuance of a Certificate of Occupancy.
4. Areas within public rights-of-way, and areas off-site which have been disturbed by construction activity, shall be cleaned of all debris, re-graded to the proper elevations, and sodded so as to restore the area to a stabilized and planted state.

**B. Irrigation.**

1. All landscaped areas shall be provided with an appropriate irrigation system, consistent with the needs of the plants contained therein and water conservation efficient.
2. An irrigation system shall be designed to provide full coverage of all landscape areas without over spraying onto impervious surfaces including pavement, vehicular or pedestrian areas and/or adjacent properties.
3. Complete plans and/or specifications shall be provided explaining the size, type and layout of all lines, spray heads, pumps and other necessary irrigation fixtures.
4. Backflow prevention devices shall be screened from view by a hedge on three sides, leaving the service side open for maintenance and repair accessibility.
5. The irrigation system shall be operational prior to the issuance of any Certificate of Occupancy for the property.

C. Inspection and Certificate of Occupancy.

1. The City Building Official shall inspect the landscaping installation to ensure that it is in conformance with the requirements set forth in this Article and with the approved Landscape Plan.
2. The vehicular use area shall not be used, and no Certificate of Occupancy shall be issued for any related structure, until the City Building Official has approved the required landscaping and irrigation installation. When occupancy of a related building is desired prior to the completion of the required site work, a conditional Certificate of Occupancy may be issued if all of the site paving, curbing, irrigation and finished grading is in place. In addition, a Landscaping Completion Agreement and a financial guarantee (bond) in the amount equal to one hundred fifty percent (150%) of the cost of the unfinished landscaping improvements (as determined by the Building Official) shall be submitted to the Building Department. The financial guarantee shall be in a form acceptable to the City. The unfinished site work shall be completed within thirty (30) days of the conditional Certificate of Occupancy. Once the site work is completed the City Building Official shall inspect the work and if acceptable, the financial guarantee shall then be returned to the property owner or his or her agent. If the work is not satisfactorily completed within the thirty (30) day period, the financial guarantee will be forfeited and the City will hire a contractor to complete the work.

D. Maintenance.

1. The property owner, tenant and his or her authorized agent shall be responsible for the maintenance of all required landscape areas to the minimum requirements of this Article and the design as shown on the approved landscape plan.
2. Landscape areas shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
3. The irrigation system shall be fully operational, the curbing and/or wheel stops shall be sound and in place, the mulch shall be at the proper depth and coverage, and all plant material shall be maintained in a healthy condition so as to grow to their normal habitat and meet the requirements of this Article.
4. This maintenance requirement shall carry with the land and shall be the responsibility of any subsequent owners and tenants of the property.

**Section 6.04.09. Violations and Penalties.**

- A. The City Building Official shall notify the property owner and his or her tenant in writing, with delivery confirmation, of any maintenance violations and the property owner, tenant or authorized agent shall restore the landscape areas to the minimum requirements of this Article and to the approved Landscape Plan within thirty (30) days from the receipt date of the notice. If a restoration plan differs from the original approved plan, three (3) copies of such restoration plan shall be submitted and approved by the City Building Official. The City Building Official shall re-inspect the property for compliance after the restoration is complete.



- B. Each failure to comply with any of the provisions of the Landscape Code shall constitute an individual violation. Failure to maintain viable landscaping consistent with the approved Landscape Plan shall constitute a violation subject to penalties and shall be subject to code enforcement action by the City.

#### **Section 6.04.10. Deviations from Regulations; Variances.**

The Planning and Zoning Commission is authorized to grant deviations from the landscape requirements where the application of the requirements to a specific site would result in a practical difficulty or a physical hardship affecting the economic use of the property.

### **Section 6.05.00. Transportation Systems.**

#### **Section 6.05.01. General Provisions.**

##### **A. Purpose.**

This Section establishes minimum requirements applicable to the development of the transportation system, including public and private streets, bikeways, pedestrian ways, parking and loading areas, and access control to and from public streets. The standards in this Section are intended to minimize the traffic impacts of development, to insure that all developments adequately and safely provide for the storage and movement of vehicles consistent with good engineering and development design practices.

##### **B. Compliance with Technical Construction Standards.**

All required elements of the transportation system shall be provided in compliance with engineering design and construction standards adopted by the City of Frostproof.

##### **C. Plans and Permits.**

Streets and off-street parking plans shall be submitted as part of the permit application for construction of any new development, off-street parking facility, or expansion of any existing off-street parking facility.

#### **Section 6.05.02. Street Design Standards.**

##### **A. General Design Standards.**

1. All streets in a new development shall be designed and constructed pursuant to all engineering design standards adopted by the City of Frostproof and may include impervious and hard surface, stabilized permeable pavement. Streets shall be dedicated to the City upon completion, inspection, and acceptance by the City.
2. The street system of the proposed development shall, to the extent practicable, conform to the natural topography of the site, preserving existing hydrological and vegetative patterns, and minimizing erosion potential, runoff, and the need for site alteration. Particular effort should be directed toward securing the flattest possible grade near intersections.

3. Streets shall be laid out to avoid environmentally sensitive areas.
4. Private streets may be allowed within any development, provided they are designed and constructed pursuant to all engineering standards applicable to public roads of the same functional classification.
5. Private ownership of streets may be permitted with approval by the City Council, if the developer, in writing, assures the City that these private improvements shall be kept in a satisfactory state of repair and maintenance by the developer or by a legally established homeowners association, which shall be clearly stated on the face of the final plat.
6. The street layout in all new development shall be coordinated with and interconnected to the street system of the surrounding area.
7. Streets in proposed subdivisions shall be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are unplatted, stub-outs in the new development shall be provided for future connection to the adjacent unplatted land.
8. Residential streets shall be designed to discourage through traffic, but not eliminate it.
9. Streets shall be designed to discourage double frontage lots (lots which have street frontage on two opposite sides).
10. Streets shall intersect as nearly as possible at right angles and in no case shall be less than sixty (60) degrees.
11. Intersections with an arterial street or highway shall be at least eight hundred (800) feet apart measured from centerline to centerline.
12. Curb lines at street intersections shall be rounded with a minimum radius of twenty (20) feet. At an angle of intersection of less than seventy-five (75) degrees or a pavement width exceeding forty (40) feet, a greater radius may be required by the City's engineer.
13. A centerline offset of at least one hundred twenty-five (125) feet shall be provided at street jogs.
14. In the event an arterial street intersects within one hundred fifty (150) feet of another arterial street or thoroughfare, the right-of-way width shall be increased by ten (10) feet on both sides to permit proper intersection design. This additional right-of-way shall be dedicated or conveyed as a public right-of-way easement.
15. Where a subdivision borders on or contains a major street or thoroughfare, a marginal access street or single tier lots backing on the road may be required in order to limit access to the major street or thoroughfare in the interests of maintaining street capacity and enhancing public safety.

B. Right-of-Way Widths.

The following right-of-way width standards are required for each street classification:

Arterial Roadways	=	FDOT standards.
Collector Roadways	=	70 feet minimum or Polk County Standards, whichever is greater.
Local Roads	=	60 feet with swale drainage. 50 feet with curb and gutter.
Cul-de-sacs	=	50 feet.
Neighborhood Distributor	=	60 feet.

C. Pavement Widths.

Pavement widths back to back of curb shall not be less than the following:

Arterial Roadways	=	FDOT standards.
Collector Roadways	=	52 feet.
Local Roads	=	24 feet with swale drainage. 28 feet with curb and gutter.
Cul-de-sacs	=	28 feet.
Neighborhood Distributor	=	28 feet.

D. Cul-De-Sac Turnarounds and Alleys.

1. Cul-de-Sacs.

Dead-end streets shall not exceed five hundred and fifty (550) feet in length and shall be provided with a turnaround, have a right-of-way diameter of at least ninety (90) feet, and a minimum paved surface diameter of eighty (80) feet.

2. Alleys.

Alleys shall be provided in commercial and industrial districts or areas except that the Planning and Zoning Commission may waive the requirement where other definite and positive provisions are made for service access, off-street loading, unloading or parking.

a. Width.

The width of any alley shall not be less than 20 feet.

b. Intersections, Direction Changes.

Alley intersections and sharp changes of direction shall be avoided. When necessary, all corners shall be rounded to a minimum radius of 25 feet to facilitate safe vehicular movement.

c. Dead Ends.

Dead end alleys are prohibited unless provided with a turnaround or cul-de-sac.

E. Street Names.

Proposed streets, which are obviously in alignment with other existing and named streets, shall bear the assigned name of the existing streets. In no case shall the name for a proposed street duplicate or be similar to existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, place, court and the like. Street names shall require approval by the Planning and Zoning Commission.

**Section 6.05.03. Street Blocks.**

- A. The length, widths and shapes of blocks shall be consistent with adjacent areas.
- B. Block lengths, shall not exceed one thousand-four hundred (1,400) feet in length or be less than five hundred (500) feet in length, except as may be approved by the Planning and Zoning Commission.
- C. Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth. Blocks may consist of single-tier lots where such are required to separate residential development from through vehicular traffic or non-residential uses.
- D. Where deemed necessary for the safety and welfare of pedestrians, the Planning and Zoning Commission may require a crosswalk of eight (8) feet minimum width.

**Section 6.05.04. Street Signage and Signalization.**

The developer shall deposit sufficient funds with the City to provide all necessary roadway signs and traffic signalization as may be required by the City, based upon City or State traffic standards. Signs shall be installed in conformance with uniform traffic-control standards adopted by the City and shall be free of visual obstruction. At least two street name signs shall be placed at each four-way street intersection, and one at each "T" intersection. The design of street name signs shall be consistent, of a style appropriate to the community, and of a uniform size and color.

**Section 6.05.05. Sidewalks and Bikeways Design and Construction Standards.**

New developments and new subdivisions shall provide bicycle and pedestrian ways. Design and construction of sidewalks and bikeways shall conform to all applicable engineering requirements adopted by the City of Frostproof, including provisions for access by physically handicapped persons.

- A. Projects abutting collector or arterial facilities shall provide sidewalks on at least one side of such roadways. Location of sidewalks shall be consistent with planned roadway improvements.
- B. Public sidewalks shall be provided on both sides of all internal project roads.
- C. Sidewalks shall be at least five (5) feet in width along arterial and collector streets and four (4) feet in width along all other streets and internal streets.
- D. Sidewalks and bikeways shall be located within the right-of-way or in a public easement approved by the City. All sidewalks shall be located a minimum of three (3) feet from the curb, or edge of pavement if no curb is present. Subject to the City's approval in advance, sidewalks may on occasion be located closer to the curb or edge of pavement to protect mature trees and above ground utility equipment.
- E. Residential projects adjacent to or in the immediate vicinity of commercial and/or office establishments, schools or recreation activities shall provide sidewalks from the development to the activity center.
- F. Pedestrian-ways or crosswalks, not less than ten (10) feet wide with a sidewalk meeting the requirements of this Section, may be required to be placed in the center of blocks more than eight hundred (800) feet long where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
- G. All sidewalks shall conform to the latest Americans with Disabilities Act (ADA) standards in effect at the time of site plan approval.

**Section 6.05.06. Curb, Sidewalk and Driveway Permits.**

No curb, parkway or sidewalk shall be cut or altered and no point of access or opening for vehicles onto a public street shall be established without a permit issued by the City. Permits shall be required from both the State and the City on State roads within the City limits.

**Section 6.05.07. Access Points onto Streets.**

All proposed development shall meet the following standards for vehicular access and circulation:

**A. Number of Access Points.**

**1. City Streets.**

The maximum number of access points permitted onto any one city street shall be as follows:

**Table 6.05.07.  
Number of Access Points on City Streets**

<b>Lot Width Abutting City Street</b>	<b>Number Of Points Of Access</b>
Corner Lots Less than 95 feet	1
Corner Lots Greater than 95 Feet up to 200 Feet	2
Mid-Block Lots Less than 75 feet	1
Mid-Block Lots Greater than 75 Feet up to 200 Feet	2
Mid-Block Lots Greater than 300 feet	1 additional access point for each 300 foot increment  0-300 feet = 1 300-600 feet = 2 600-900 feet = 3
All Other Lots Over 200 feet	2, plus 1 for each additional 200 feet or fraction thereof

2. State Roads.

The maximum number of access points permitted on State roads shall comply with FDOT standards.

3. County Roads.

The maximum number of access points on County roads shall comply with Polk County standards.

B. Separation of Access Points.

1. There shall be a minimum distance of twenty (20) feet, measured at the property line, between any two openings onto the same street.
2. Driveways shall be located a minimum of five (5) feet from any interior side property line.
3. No point of access shall be allowed within twenty (25) feet of the intersection of the right-of-way lines of any public road.
4. The distance between access points shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent driveway or roadway, at the property line.

C. Access to Residential Lots.

Residential subdivisions and individual single-family and duplex lots shall be designed and developed to provide access to local access streets. These lots shall not have direct access to a collector or arterial street; however, limited access easements may be utilized when lots abut such streets.

D. Access to Individually Owned Parcels.

No owner of any parcel of land in a subdivision shall be deprived by the vacation and annulment of a plat, or a portion of a plat, of reasonable access to such parcel, nor of reasonable access to existing facilities to which such parcel presently has access.

E. Access to Commercial or Industrial Properties.

No commercial or industrial building or structure shall be erected on a parcel of land which does not abut a public or privately maintained road for a minimum width of sixty (60) feet.

F. Driveway Widths.

1. Residential.

Single-family and duplex units shall have driveway widths from twelve (12) feet up to twenty (20) feet. Multi-family residential uses shall have driveway widths from twenty (20) feet up to twenty-four (24) feet for two-way traffic systems. Multi-family driveway widths for one-way traffic systems clearly marked by signs and painted pavement arrows shall be a minimum of fourteen (14) feet. The City may require wider driveway widths for large residential projects to provide for additional ingress/egress lanes depending upon factors of project size and density and the adjacent street design and usage.

2. Non-residential.

Non-residential driveway widths shall be twenty-four (24) feet for two-way traffic systems. For one-way traffic systems clearly marked by signs and painted pavement arrows, driveway widths shall be a minimum of fourteen (14) feet. The City's engineer may require wider driveway throats or transition radii to accommodate properties with substantial truck traffic or vehicular usage. A single point of access up to thirty-five (35) feet may be permitted in lieu of any two openings permitted on any one street; however service stations shall be permitted a maximum of two (2) openings not to exceed thirty-five (35) feet each in width along any abutting public street.

3. Adjacent uses are encouraged to share a common driveway provided that appropriate access easements are granted between or among the property owners.

**Section 6.05.08. Standards for Queuing Lanes for Drive-in Facilities.**

In addition to the number of parking spaces required in Table 6.05.09.01.A., developments that provide drive-thru services shall provide queuing lanes to accommodate the stacking of vehicles. An area eight (8) feet in width by sixteen (16) feet in length shall be reserved for each car length required in Table 6.05.08 below.

**Table 6.05.08.  
Queuing Lane Requirements**

<b>Spaces in Queuing Lanes</b>	
<b>Use</b>	<b>Number of Car Lengths</b>
Restaurant	6 car lengths
Financial Institution	4 car lengths per window or automated teller
Dry Cleaner	4 car lengths per window
Car Wash	3 car lengths per wash bay
Retail Establishment	4 car lengths per window

All facilities providing drive-in or drive-through service shall provide on-site stacking lanes in accordance with the following standards:

- A. The facilities and stacking lanes shall be located and designed to minimize turning movements in relation to driveway access to streets and intersections.
- B. The facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways.
- C. A by-pass lane shall be provided.
- D. Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-in facilities.
- E. Where turns are required in the exit lane, the minimum distance from any drive-in station to the beginning point of the curve shall be thirty (34) feet. The minimum inside turning radius shall be twenty (25) feet.
- F. Construction of stacking lanes shall conform to all engineering design standards adopted by the City of Frostproof.

**Section 6.05.09. Off-Street Parking and Loading.**

This Section shall apply to all new construction and changes in land use requiring off-street parking, and existing nonconforming parking facilities if on-site renovation, construction, or repair exceeds fifty percent (50%) of the assessed value of the property.

**Section 6.05.09.01. Off-Street Parking Requirements.**

- A. Number of Required Spaces.

In all districts, off-street parking shall be provided as set forth in the following table.



**Table 6.05.09.01.A.  
Off-Street Parking Requirements**

<b>RESIDENTIAL</b>	
<b>Land Use</b>	<b>Minimum Requirements</b>
Single Family Per Living Unit (Attached or Detached)	2
Duplex & Triplex Per Living Unit	2
Multi-Family Per One Bedroom Unit	1.5
Per Two or More Bedroom Units	2
Mobile Home Per Living Unit	2
Mobile Home Guest Parking (Per Living Unit in Park)	0.25
Recreation Vehicles (Per Living Unit/Vehicle)	1
Boarding and Rooming Houses Per Bedroom	1
Plus Resident Manager	1
Farm Worker Housing Per Living Unit	1.5
<b>GROUP CARE FACILITIES</b>	
Care for Life Facilities Per 2 Staff Members of Largest Working Shift	1
Per 4 Boarding Units	1
Child Care/ Day Nursery/Adult Day Care Per Employee	1
Plus Loading Space Per Student or Adult	0.2
Convalescent & Nursing Home Per Bed	2
Group Living Facility (Family Care, Group Home) Per Bedroom	1
<b>LODGING</b>	
Bed & Breakfast Per Room	1
Plus Owner	2
Hotel/Motel Per Room	1
Plus Manager	1
Plus Restaurant per Seat	0.2

**Note:** For Care for Life Facilities whose residents do not have automobiles, and would normally not have automobiles, and also have access to public transportation and neighborhood services (such as shopping, employment, medical, etc.), the Planning and Zoning Commission may waive the parking requirements for the boarding rooms provided at least one (1) visitor space per eight (8) boarding rooms is available.

**Table 6.05.09.01.A.  
Off-Street Parking Requirements**

<b>OFFICE/FINANCIAL/MEDICAL FACILITIES/CLUBS</b>	
<b>Land Use</b>	<b>Minimum Requirements</b>
Bank/Financial Institution Per 1,000 Square Feet Gross Floor Area Plus Queuing Lanes for any Drive-Thru Windows in Accordance with Section 6.05.08	3
Clubs & Lodges Per 5 Seats; Fixed Seating in Main Assembly Room Per Each 50 Square Feet Floor Area; Non-Fixed Seating in Principal Place of Assembly	1 1
Funeral Home Per Permanent Seat in the Main Chapel Plus Per 50 Square Feet of Assembly Room Area Plus for Each Commercial Funeral Home Vehicle Plus for Each Family Residing on the Premises Plus for Each Employee	0.25 1 1 1 1
Hospital Per Bed	2
Office less than 3,000 Square Feet Gross Floor Area Per 1,000 Square Feet Gross Floor Area	3
Offices & Professional Buildings greater than 3,000 Square Feet Gross Floor Area Per 1,000 Square Feet Gross Floor Area	4.5
<b>PERSONAL SERVICES</b>	
Barber & Beauty Shops/Nail Salons/Spas Per Chair Plus Per Employee	2 1
Dry Cleaner Drop-Off/Pickup per 200 Square Feet Gross Floor Area Plus Queuing Lanes for any Drive-Thru Windows in Accordance with Section 6.05.08	1
Laundromat Per 100 Square Feet Gross Floor Area	1
Other Personal Uses; Per 300 Square Feet Gross Floor Area	1

**Table 6.05.09.01.A.  
Off-Street Parking Requirements**

<b>RETAIL COMMERCIAL</b>	
<b>Land Use</b>	<b>Minimum Requirements</b>
Auto Sales and Repair Per Each 2 Employees for Largest Shift	1
Plus 2 spaces per 300 Square Feet of Repair or Maintenance Space	1
Auto, Truck & Boat Sales and Leasing Per 400 Square Feet Gross Floor Area	1
Automobile Service Station Per Gas Pump	2
Plus Each Grease Rack or Similar Facility	3
Bars, Lounges, Taverns, Nightclubs, Dance Halls Per 75 Square Feet Gross Floor Area	1
Car Wash Full Service	1 per employee, minimum of 5 spaces
Self-Service	2 per stall
Convenience Store With Gas Pumps (Per 1,000 Square Feet Gross Floor Area)	8
Without Gas Pumps (Per 1,000 Square Feet Gross Floor Area)	5
Equipment Sales and Rental Per 300 Square Feet of Sales Area	1
Flea Market and Farmers Market Per Stand	1.5
Plus Loading Space Adjacent to Stand	1
Furniture Store Per 1,000 Square Feet Gross Floor Area	1.5
General Retail Sales Per 1,000 Square Feet Gross Floor Area	4
Kennel Per 300 Square Feet Gross Floor Area	1
Mini-Warehousing/Self Storage Per 25 Storage Cubicles	1
Plus Per 300 Square Feet Gross Floor Area Manager's Office	1
Marine, Manufactured Housing, & RV Sales, Rental and Service Per 400 Square Feet Gross Floor Area	1
Nurseries and Garden Centers Per 150 Square Feet Gross Floor Area	1
Restaurant, Fast Food with Drive-In Per Seat	0.5
Plus Queuing Lanes for any Drive-Thru Windows in accordance with Section 6.05.08	
Restaurant, Table Service Per Seat	0.4
Restaurant with Lounge Per Seat	0.5
Shopping Center Per 1,000 Square Feet Gross Leasable Area	5
Stables and Riding Academies	Site Specific Determination
Supermarket and Discount Store Per 1,000 Square Feet Gross Leasable Area	3.5
Veterinary Clinics, Hospitals, Pet Services & Animal Shelter Per 1,000 Square Feet Gross Floor Area	3.5

**Table 6.05.09.01.A.  
Off-Street Parking Requirements**

<b>INDUSTRIAL</b>	
<b>Land Use</b>	<b>Minimum Requirements</b>
Airports and Aviation Uses	Site Specific Determination
Industrial Park with Offices Per 1,000 Square Feet Gross Floor Area	1.8
Light Industry Per 1,000 Square Feet Gross Floor Area	1.8
Manufacturing, Industrial with no Retail Trade Per each 4 employees on the largest working shift Plus per each company vehicle operating from the premises	3 1
Manufacturing, Industrial with Retail Business on Premises Per each 3 employees Plus per each 250 Square Feet devoted to retail sales and service	2 1
Passenger Transportation (e.g., bus terminals, train depots) Plus space per transportation operations employee Plus per 100 Square Feet of passenger arrival and departure area	5 1.1 1
Warehouse and Distribution Centers Per 1,000 Square Feet Gross Floor Area	0.4
Wholesaling Per each 2 employees	1
<b>CULTURAL AND EDUCATIONAL</b>	
Cultural Facility Per 1,000 Square Feet Gross Floor Area	3.5
Elementary and Middle Schools Per classroom	1.5
Senior High School Per classroom	10
College, Jr. College, University, Seminary Per student	1
Dormitories, Fraternities, Sororities Per 2 beds	1
Vocational, Technical and Trade Schools Per classroom and administrative office	5
Religious Establishments Per 5 Seats; Fixed Seating in Main Assembly Room Per Each 50 Square Feet Floor Area; Non-Fixed Seating in Principal Place of Assembly	1 1

**Table 6.05.09.01.A.  
Off-Street Parking Requirements**

<b>RECREATIONAL</b>	
<b>Land Use</b>	<b>Minimum Requirements</b>
Bowling Alley Per lane	4
Golf Courses Per hole Plus required parking for other uses (e.g., retail pro shop, etc.)	1
Miniature Golf Course Per hole Plus required parking for other uses (e.g., office/shop)	3
Driving Range Per tee Plus required parking for other uses (e.g., office/shop)	1
Indoor Commercial Per 70 Square Feet Gross Floor Area	1
Outdoor Commercial (per 3 person capacity)	1

**B. Off-Street Parking for the Physically Disabled.**

This section shall apply to all new construction requiring off-street parking, and existing development with nonconforming parking facilities, if the change of use triggers a change in occupancy or square footage by ten percent (10%) or more. All zoning districts, with the exception of residential properties requiring 25 or fewer parking spaces, shall comply with the requirements of the following table.

**Table 6.05.09.01.B.  
Off-Street Parking Requirements for the Physically Disabled**

<b>Total Parking Spaces in Lot</b>	<b>Required Minimum Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

1. Parking spaces for persons with disabilities shall comply with Florida Statutes Chapter 553.5041
2. Each parking space shall be no less than twelve (12) feet wide.

3. Parking access aisles shall be no less than five (5) feet wide and must be part of an accessible route to the building or facility. In accordance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG), access aisles shall be placed adjacent to accessible parking spaces; however, two (2) accessible parking spaces may share a common access aisle. The access aisle shall be striped diagonally to designate it as a no-parking zone.
  4. Parallel parking spaces shall be located either at the beginning or end of a block or adjacent to entrances. Curbs adjacent to such spaces shall be of a height which will not interfere with the opening and closing of motor vehicle doors.
  5. Curb ramps shall be located outside of the disabled parking spaces and access aisles.
- C. Exceptions to Off-street Parking Space Requirements.

1. Central Business District.

The Central Business District (CBD) is a compact area designed for pedestrian movement and therefore properties within this District are exempt from the parking provision requirements.

2. Tree Preservation.

- a. The City may require, or an applicant may request, the substitution of existing mature, healthy, exceptional tree specimens for required parking provided that:
  1. Such trees are of a hardwood and/or deciduous variety and a minimum of eight (8) inches DBH (diameter at breast height).
  2. Such trees are free of disease or insects.
  3. Such trees are preserved in accordance with acceptable preservation practices as identified in Section 6.04.05.02.
  4. Provided not more than one (1) required parking space is lost for each five (5) required parking spaces.
- b. The applicant shall indicate on a site plan the location of all required parking spaces and outline those spaces that will not be paved in order to preserve trees.
- c. Any required parking spaces lost due to the preservation of exceptional tree specimens shall not cause a nonconforming situation in regard to the parking count.
- d. Should any tree(s) preserved under this Section die subsequent to the completion of the project, the property owner may either replace the dead tree with one that is listed in the canopy tree section of this Article or provide the required parking space in

which case tree canopy requirements for the additional impervious surface area may be required.

- e. Such substitutions may be approved by the City Manager or his or her designee provided the conditions of this Section are met. In the event the City Manager or his or her designee is in doubt in granting a waiver, or if the applicant is aggrieved by the decision of the City Official, the City Official shall submit the case to the Planning and Zoning Commission for a decision.

#### **Section 6.05.09.02. Off-Street Loading Requirements.**

Off-street loading spaces shall be provided in accordance with the following standards:

- A. Every hotel, hospital, institution, commercial or industrial building or similar use shall be provided with one loading space for each ten thousand (10,000) square feet or more of floor area adjacent to the principal building. The free movement of vehicles and pedestrians over a sidewalk, street or alley shall not be impaired.
- B. Retail operations, wholesale operations, and industrial operations, with a gross floor area of less than ten thousand (10,000) square feet shall provide sufficient space for loading and unloading operations in order that the free movement of vehicles and pedestrians over a sidewalk, street or alley shall not be impaired.
- C. Every off-street loading and unloading space shall have access to a public street or alley, either directly or through an off-street parking area without interfering with designated parking stalls, dumpster locations, or aiseways, and shall have the following minimum dimensions:
  - 1. Length: 40 feet
  - 2. Width: 12 feet
  - 3. Overhead Clearance: 14 feet
- D. Manufactured home and recreational vehicle sales establishments shall provide adequate space off the public right-of-way for the maneuvering of manufactured homes and recreational vehicles into position on the property without blocking traffic on the abutting street or road.

#### **Section 6.05.09.03. Design Standards for Off-Street Parking and Loading Areas.**

- A. Location.

All required off-street parking spaces shall be located on the same parcel as the use which they serve. If required vehicle parking or storage space cannot be reasonably provided on the same lot with the principal use, such space may be provided on other off-street property provided this property is within four hundred (400) feet of the principal use and greater than thirty (30) feet in length and provided that such property is under the same ownership or control as the principal use. No curb cut may be constructed closer than twenty (20) feet to another curb cut. Where curbs

do not presently exist, these limitations shall be observed at such time as curbs may be installed.

1. Parking spaces required in this Section shall in no part exist upon, and no portion of any vehicle shall overhang, the right-of-way of any public road, street, alley, or walkway.
2. There shall be no off-street parking in the front yards of single-family residences and duplexes, except as normally exist in driveways.
3. Parking spaces for all dwellings, including apartments, townhouses, and condominiums shall be located on the same lot with the main building.
4. Parking requirements for two (2) or more uses, of the same or different types, may be provided by the establishment of the required number of spaces for each use in a common parking area.

**B. Size.**

1. Standard and compact parking spaces for varying parking lot designs shall be sized according to Table 6.05.09.03 below.
2. Parallel parking spaces shall be a minimum of nine (9) feet wide and twenty-four (24) feet long and have twelve (12) foot wide aisles whether single or double loaded. Parallel spaces shall only be used where continuous traffic circulation exists or will be provided.
3. Tandem parking spaces must be a minimum of nine (9) feet wide and twenty (20) feet long.
4. A standard motorcycle parking space shall be four (4) feet wide and nine (9) feet long.
5. The length of one or more of the loading spaces shall be increased up to fifty-five (55) feet, if full-length tractor-trailers must be accommodated.

**Table 6.05.09.03.**

**Parking Stall Design Standards**

Parking Angle (Degrees)	Stall Width (Feet)	Stall Depth (Feet)	Aisle Width (Feet)	Distance Perpendicular To & From Edge of Aisle to Parking Stall (Feet)
30	9.0	19.0	12.0	18.0
45	9.0	19.0	14.0	20.0
60	9.0	19.0	18.0	21.0
75	9.0	19.0	22.0	21.0
90	9.0	19.0	24.0	



6. Parking lot aisleway systems shall be designed to accommodate access for firefighting and emergency vehicles. Projects with one (1) to two (2) story buildings shall provide major aisleways with a minimum of thirty-two (32) foot outside radius curves. Projects with three (3) or more story buildings shall provide major aisleways with a minimum of forty-two (42) foot outside radius curves. A thirteen (13) foot and six (6) inch minimum clearance shall be required along these major aisleways. In addition, there shall be a maximum length of three hundred (300) feet from a turnaround or intersection if no eighty (80) foot minimum diameter turnaround is provided at the end.

C. Layout

1. Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient, to allow the free flow of all anticipated traffic, and to provide for all related appurtenances such as stormwater areas, landscaping, refuse containers, lights and signs.
2. The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces. Each off-street parking space shall open directly onto an aisle from a circulation aisleway system entirely on site, or from a driveway that, except for single-family and two-family residences, is not a public street.
3. Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family or two-family residence may be counted as meeting the parking space requirements for the dwelling unit, provided it is at least twenty (20) feet in length.
4. Dead-end parking areas using ninety degree (90°) angle parking are discouraged, but when site conditions dictate that they must be used, they shall be designed with a twenty-four (24) foot wide by six (6) foot deep back-up maneuvering area.
5. Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.
6. Required off-street parking areas, except for single-family and duplexes, shall be designed to prohibit vehicles from backing out onto a public right-of-way.
7. No parking space shall be located so as to block access by emergency vehicles.

D. Required Parking Lot Improvements.

Any off-street parking lot serving any use other than dwellings of two units per building or less shall meet the following requirements for off-street parking lot improvements:

1. The parking area shall be buffered and canopy provided pursuant to Sections 6.04.06 and 6.04.07 of this Article.

2. For all retail sales and services, business services, and professional services serving the general public and having access to and abutting a paved street, the off-street parking area shall be provided with a hard surface of all-weather pavement and shall be so graded and drained as to provide for the adequate runoff and disposal of surface water, and shall be constructed in accordance with engineering design and construction standards adopted by the City of Frostproof.
3. Where lighting facilities are provided for the parking area, they shall be designed and installed so as to direct the light away from any contiguous residential property.
4. All automobile and truck parking, loading and unloading spaces and access thereto shall be surfaced in a stable manner.

#### **Section 6.05.09.04. Construction Standards.**

All required off-street vehicular use and loading areas shall have stabilized surfaces maintained in a smooth, well graded condition, and shall not result in warpage, erosion, dust, run-off or other substandard conditions which could adversely impact the vehicular use or loading area, adjacent properties or rights-of-way. All vehicular use and loading areas shall be designed and constructed in accordance with the engineering standards adopted by the City of Frostproof. The use of environmentally friendly materials is encouraged.

### **Section 6.06.00. Utilities.**

#### **Section 6.06.01. Requirements for All Developments.**

Utility easements shall not be less than fifteen (15) feet wide or seven and one half (7½) feet wide on each side of a lot. The following basic utilities are required for all developments subject to the criteria listed herein:

##### **A. Water and Wastewater.**

Every principal use and every lot within a newly platted subdivision shall be served by central potable water and wastewater. Water and wastewater facilities shall be designed and constructed consistent with the City's "Water and Wastewater Utility Specifications and Documentation Requirements" manual.

##### **B. Stormwater and Stormwater Management.**

Where a lot is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and having a width adequate for its purpose, access and maintenance. Parallel streets or parkways may be required in connection therein.

##### **C. Fire Hydrants.**

All developments served by a central water system shall include a system of fire hydrants consistent with design standards adopted by the City of Frostproof.

D. Electricity, Communication and Community Television.

Every principal use and every lot within a subdivision shall have available to it a source of electric power, telephone and community television adequate to accommodate the reasonable needs of every lot within the subdivision, and which shall be placed underground, except as follows:

1. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes, and meter cabinets; and
2. Poles supporting only street lights; and
3. Lots abutting existing easements or public rights-of-way where overhead electric, telephone, or cable television distribution supply lines and service connections have previously been installed may be supplied with such services from the utility's overhead facilities, provided the service connection to the site or lot is placed underground.
4. Upon written application of the owner or subdivider, the City Council may, by resolution, waive or modify any provisions for underground requirements.

E. Illumination.

All streets, driveways, sidewalks, bikeways, parking lots and other common areas and facilities in developments shall provide illumination meeting design standards adopted by the City of Frostproof.

The City encourages the use of energy efficient street lighting and traffic signal devices when possible. Such devices may include, but are not limited to LED (light emitting diode) bulbs. Energy efficient devices and design layout may reduce energy consumption, reduce light trespass and reduce greenhouse carbon dioxide emissions.

**Section 6.06.02. Solid Waste and Dumpster Pads.**

All commercial developments shall have adequate solid waste collection areas with adequate access and egress, independent of parking and loading facilities. Dumpster areas shall be screened to completely shield dumpsters from view of public roads, public rights-of-way, and residential areas. The screening material shall be one hundred percent (100%) opaque and shall be of similar material or color as the principal structure. The entry doors to the dumpster area must be no more than fifty percent (50%) opaque. Screening shall include fencing, retaining walls, plant material, or a combination thereof. Vegetative planting shall provide a living visual screen of adequate height (no less than five (5) feet at planting) and density to accomplish effective screening. The City may administratively grant a waiver from this Section, if it is determined that screening is physically infeasible. Any change in use, change in business, or replacement of a dumpster will require compliance with the Code.

Temporary construction dumpsters shall be exempt from the requirements of this Section provided an active building permit is in effect for the property on which the construction dumpster is located.

### **Section 6.06.03. Utility Easements.**

When a developer installs or causes the installation of water, wastewater, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

### **Section 6.07.00. Stormwater Management.**

#### **Section 6.07.01. Applicability.**

The requirements established within this Section shall apply under the following conditions:

- A. Construction of a structure or alteration of a site. This shall mean any on-site activity which will result in the creation of a surface water management system, the abandonment or alteration of an existing surface water management system, the building, assembling, expansion, land clearing, or re-contouring of the property, and the erection of buildings or other structures, or any part thereof (Rule 40D-4.021, FAC);
- B. Alteration to the rate, volume, and quality characteristics of stormwater runoff occurring upon a site. Alteration shall mean any activity resulting in substantial expansion or change of a surface water management system that will increase or decrease the discharge of the system, increase pollutant loading, change the point or points of discharge, or intrude into or otherwise adversely impact wetlands by rim ditching, draining, filling or excavation. Routine custodial maintenance and repairs shall not constitute alterations (Rule 40D-4.021, FAC); or
- C. Increase in the amount of impervious surface area upon a site.

#### **Section 6.07.02. Purpose and Intent.**

The purpose and intent of this Section is to establish standards for the provision of stormwater management. The City Council of the City of Frostproof has determined that stormwater management is critical to the public health, safety and welfare and that uncontrolled drainage and development of land has a significant adverse impact upon the quantity and quality of the waters of the community. For these reasons the City Council finds it is necessary to impose reasonable restrictions to control stormwater runoff and to conserve and improve the quality of the water resources of the City.

#### **Section 6.07.03. State Agency Permitting.**

The Southwest Florida Water Management District (SWFWMD) and the Florida Department of Environmental Protection (FDEP) have an operating agreement that identifies which agency will process permits for different types of projects. Generally, the SWFWMD processes residential and commercial developments, while the FDEP processes power plants, wastewater treatment plants and single-family home projects. These agencies regulate water quality and are responsible for issuing surface water

management system permits which ensure that new development properly treats stormwater runoff to remove pollutants, protects wetlands and floodplains and reduces the risk of flooding. Rule 40D-4.041, Florida Administrative Code, and amendments thereto, provide conditions for which a permit is required by the SWFWMD. Rule 40D-4.051, Florida Administrative Code, and amendments thereto, provides for activities which are exempt from SWFWMD permitting.

#### **Section 6.07.03.01. Emergency Exemption to Permitting.**

These regulations shall not be construed to prevent any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to, fire and hazards resulting from violent storms or hurricanes or when the property is in imminent peril and obtaining a permit is impractical. A report of any emergency action shall be made to the City Building Official, the SWFWMD and/or the FDEP as applicable, by the owner or person in control of the property on which the emergency action was taken as soon as practicable, but no more than ten (10) days following such action. All activities, nevertheless, are to be accomplished in a manner which prevents flooding of adjacent sites and roadways by stormwater runoff.

#### **Section 6.07.04. Stormwater Management Plans and Certificates of Occupancy.**

##### **A. Stormwater Management Plan Requirements.**

1. Plan submission shall meet the requirements of Section 10.03.00 of this Code.
2. If the development activity is regulated by the SWFWMD, subject to Rule 40D-4.041 or Rule 40D-4.051, Florida Administrative Code (FAC), or the FDEP, the person proposing development or redevelopment in the City shall submit to the City, the stormwater management plan/permit or permit exemption as part of, or attached to, the site plans for the proposed development;
3. The applicant shall provide any additional stormwater related information to the city's engineer if he or she finds it necessary for the proper review of the proposed activity;
4. The plan shall contain a certification that it was prepared by a professional engineer registered in the State of Florida and that the project complies with the terms of the permit;
5. The filing of an application for a permit shall constitute a grant and consent by the property owner for enforcement officials to enter and inspect the project to ensure compliance with the requirements of this Code.
6. The applicant shall be required to adhere strictly to the plan as approved. Any changes or amendments to the plan must be approved in writing by the agency issuing the permit and by the City.

7. Approval of the stormwater management plan is required prior to obtaining a City building or development permit.

B. Certificate of Occupancy.

- A Certificate of Occupancy may be withheld by the City in cases where it can be shown that the owner/developer has not completed construction consistent with the permit.

**Section 6.07.05. Performance Criteria.**

- A. All stormwater management systems shall be designed to meet a level of service which accommodates a storm with a 24-hour, 25-year frequency as established by the FDOT rainfall charts.
- B. Peak post-development runoff rates shall not exceed peak pre-development runoff rates.
- C. Detention structures shall be designed to release runoff to the downstream drainage system over a period of time so as not to exceed the capacity of the existing downstream drainage system. The peak rate of discharge from a site after development or redevelopment shall approximate the peak rate of discharge from the site prior to development or redevelopment as computed for a 24-hour, 25-year frequency storm.
- D. The volume of runoff from a site after development or redevelopment shall approximate the volume of runoff from the site prior to the development or redevelopment and shall not exceed the latter volume by more than ten percent (10%) for a 25-year, 24-hour storm unless the intent of this recharge provision will be met through detention of the difference between said volumes, in which case said volume difference may be released over not less than a 24-hour, nor greater than a 72-hour, period of time.
- E. Runoff from higher adjacent or upstream lands shall be considered, and a provision for conveyance of such runoff shall be included in the drainage plan. The drainage system shall not adversely impact downstream owners or adjacent lands.
- F. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands or reduce the natural retention or filtering capabilities of wetlands.
- G. Structural controls and other Best Management Practices (BMP's) used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the original design or performance criteria. Operation and maintenance shall be done so as to ensure the treatment of stormwater, or reduction in pollutants in stormwater discharges, consistent with appropriate federal, state or water management district rules or permit requirements.
- H. Runoff shall be treated to remove oil and floatable solids before discharge from the site.

#### **Section 6.07.06. System Design Standards.**

- A. The design, construction, and performance of all stormwater management systems shall comply with the provisions of Chapter 62-25 (Stormwater Discharge) and Chapter 63-302 (Surface Water Quality) of the Florida Administrative Code (FAC); the requirements of the Southwest Florida Water Management District (SWFWMD), Rules 40D-4 (Individual Resource Permits), 40D-40 (Standard General Environmental Resource Permits) and 40D-400 (Environmental Resource Permit) of the Florida Administrative Code (FAC); the Florida Department of Environmental Protection's (FDEP's) Best Management Practices, and Chapter 373 (Management and Storage of Surface Waters) of the Florida Statutes. Physical structures shall be constructed consistent with Florida Department of Transportation (FDOT) standards.
- B. The design and construction of the proposed stormwater management system shall be certified as meeting the requirements of this Section by a professional engineer registered in the State of Florida.
- C. In phased developments, stormwater systems for each integrated phase shall be independently functional unless specific development provisions are approved by the City.
- D. To the maximum extent practicable, natural vegetation shall be used as a component of drainage design. The manipulation of the water table shall not be so drastic as to endanger the natural vegetation beneficial to water quality.
- E. The proposed stormwater management system shall be designed to accommodate the stormwater that originates within the development and stormwater that flows onto or across the development from adjacent lands.
- F. No surface water may be channeled or directed into a sanitary wastewater system.
- G. All man-made components within a stormwater management system shall be easily accessible for maintenance by streets, public rights-of-way or access easements.
- H. Dredging, clearing of vegetation, deepening, widening, straightening, stabilizing or otherwise altering natural surface waters shall be minimized.
- I. Natural surface waters shall not be used as sediment traps during or after development.
- J. A twenty-five (25) foot wide vegetated buffer shall be retained or created along the shores, banks or edges of all natural or man-made surface waters to prevent erosion and provide filtration of stormwater runoff.
- K. Retention areas shall be designed to prevent or discourage the breeding and hatching of mosquitoes.

#### **Section 6.07.07. Intergovernmental Coordination of Approval.**

Prior to development plan approval by the City, the stormwater management plan shall be reviewed and its approval documented by all other governmental authorities having jurisdiction. Approval by such authorities shall be a mandatory requirement prior to obtaining a building permit from the city. Government agencies which may have authority include:

- A. Florida Department of Transportation (FDOT);
- B. Southwest Florida Water Management District (SWFWMD);
- C. Florida Department of Environmental Protection (FDEP);
- D. Polk County Board of County Commissioners (BOCC);
- E. Army Corp of Engineers (ACOE); and
- F. The Environmental Protection Agency (EPA).

#### **Section 6.07.08. Dedication or Maintenance of Stormwater Management Systems.**

The landowner shall be an acceptable entity and shall be responsible for the operation and maintenance of the stormwater management system from the time construction begins until the stormwater management system is dedicated to and accepted by another acceptable entity. All stormwater management systems shall be operated and maintained by one of the following entities:

- A. The City of Frostproof.
- B. Polk County, if the stormwater management system approved under this Code shall function as an integral part of a County-maintained stormwater management system, as determined by the County Engineer.
- C. An active water control and/or drainage district created pursuant to Chapter 298, Florida Statutes, or Community Development District created pursuant to Chapter 190, Florida Statutes, or Special Assessment District created pursuant to Chapter 170, Florida Statutes.
- D. A State or Federal agency.
- E. An officially franchised, licensed or approved communication, water, wastewater, electrical or other public utility.
- F. The property owner or developer if:
  - 1. Written proof is submitted in the appropriate form by either letter or resolution, that a governmental entity or such other acceptable entity, as set forth in paragraphs A-D above, will accept the operation and maintenance of the stormwater management and discharge facility at a time certain in the future.



2. A bond or other assurance of continued financial capacity to operate and maintain the system is submitted.
- G. For-profit or non-profit corporations including homeowners' associations, property owners' associations, condominium owners associations or master associations if:
1. The owner or developer submits documents constituting legal capacity and a binding legal obligation between the entity and the City affirmatively taking responsibility for the operation and maintenance of the stormwater management facility.
  2. The association has sufficient powers, reflected in its organizational or operational documents, to operate and maintain the stormwater management system as permitted by the City; and it has the power to establish rules and regulations, assess members, contract for services and exist perpetually, with the Articles of Incorporation providing that if the association is dissolved, the stormwater management system will be maintained by an acceptable entity as described under this Section.
  3. If a project is to be constructed in phases, and subsequent phases will use the same stormwater management facilities as the initial phase or phases, the operation and maintenance entity shall have the ability to accept responsibility for the operation and maintenance of the stormwater management systems of future phases of the project.
  4. In phased developments that have an integrated stormwater management system, but employ independent operation and maintenance entities for different phases, such entities, either separately or collectively, shall have the responsibility and authority to operate and maintain the stormwater management system for the entire project. That authority shall include cross easements for stormwater management and the authority and ability of each entity to enter and maintain all facilities, should any entity fail to maintain a portion of the stormwater management system within the project.

#### **Section 6.08.00. Subdivisions.**

##### **Section 6.08.01. Planning Standards.**

- A. Subdivision design shall be consistent with the goals, objectives and policies of the City as defined in the Comprehensive Plan and with adopted policies guiding the physical development or redevelopment of properties within the City. In addition:
1. Where a proposed park, playground, school or other public use shown in the Comprehensive Plan is located in whole or in part in a subdivision, the Planning and Zoning Commission may require the dedication or reservation of such area within the subdivision. However, in no event shall the developer be required to dedicate more than ten percent (10%) of the gross area of the proposed subdivision.
  2. Where deemed essential by the Planning and Zoning Commission, upon consideration of the particular type of development proposed in the subdivision, and especially in large scale planned unit developments not anticipated in the Comprehensive Plan, the Planning and Zoning Commission may require the dedication or reservation of such other areas or sites of a

character, extent and location suitable to meet the needs created by such development for schools, parks and other neighborhood purposes. However, in no event shall the developer be required to dedicate more than ten percent (10%) of the gross area of the proposed subdivision.

3. The developer of any subdivision or PUD shall provide for open space equal to twenty-five percent (25%) of the site including required front and back yards, landscape areas and other required buffers. A minimum of fifteen percent (15%) of the existing vegetation on site shall be preserved and may be included in the required open space.
- B. Subdivision lot design shall be consistent with zoning district regulations and all general provisions pertaining thereto. In addition:
1. All lots shall front upon a public street;
  2. Double frontage lots are to be avoided if possible;
  3. Where land is subdivided into larger parcels than ordinary for building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further subdivision;
  4. The size, shape, and orientation of non-residential lots shall be appropriate for the type of development and use contemplated;
  5. Property lines at street intersections shall be rounded with a minimum radius of ten (10) feet or of a greater radius where the City's engineer deems it necessary for proper intersection design. The engineer may permit comparable cut-offs or chords in place of rounded corners;
  6. All lots fronting a curve shall have a minimum width at the front lot line of sufficient width to provide the required lot width at the building line. Corner lots shall be fifteen percent (15%) greater in width and area than interior lots;
  7. Side lot lines shall be substantially at right angles or radial to street lines. In the general layout of subdivisions, consideration shall be given to orienting lots with respect to sun angles and prevailing winds;
- C. The proposed street layout shall promote public convenience and safety:
1. Right-of-way widths shall be designed based on the expected functional classifications as defined in the Traffic Circulation Element of the Frostproof Comprehensive Plan and as specified in Section 6.05.02;
  2. Where subdivisions are bordered by public right-of-way, additional right-of-way may need to be dedicated so as to meet minimum widths specified in the Comprehensive Plan;
  3. No partial right-of-way shall be accepted along subdivision boundaries;
  4. Where dedicated right-of-way is extended to an adjoining property or street, there shall be no reserved strips affording private control of future access. The City may require public reserved strips where such reservations promote the public health and safety and implement the Comprehensive Plan;

5. No subdivision shall be approved without access to at least one (1) off-site public right-of-way having a minimum width of fifty (50) feet;
  6. Corner lots in all subdivisions shall contain a buildable area comparable to that provided in all other lots in the subdivision;
- D. All subdivisions shall provide sidewalks in accordance with the following standards:
1. Sidewalks shall be provided on both sides of all internal streets, whether public or private. The sidewalks on building lots must be installed prior to the issuance of a Certificate of Occupancy for that lot. Where a common lot(s) abuts an internal street, the sidewalk shall be installed by the developer prior to approval of the final plat;
  2. Sidewalks located on internal streets shall be a minimum of four (4) feet in width. Where a subdivision abuts an adjoining collector or arterial roadway, the developer shall also install a minimum five (5) foot sidewalk along the subdivision's frontage;
- E. Except where alleys are provided for the purpose of access and utility placement, easements no less than ten (10) feet in width or at least fifteen (15) feet in width if designed to accommodate two (2) or more underground utilities, shall be dedicated for the installation of underground utilities by the City or franchised utility providers.
- F. Easements for watercourses or drainage ways traversing a subdivision shall be of a width sufficient to convey the volume of stormwater projected to be generated by a twenty-five (25) year storm event. Such easements shall be approved by the City;
- G. Designation of private streets and sidewalks shall require approval by the City Council. Maintenance and upkeep for such streets, sidewalks and other common facilities, including drainage pipes, inlets, ponds, and street signs, shall be identified and provided for by a maintenance agreement, easement agreement, or other similar agreement as approved by the City Attorney. A street designated as private shall provide access for emergency or public service, e.g. Fire Safety, EMS, police, or utilities;
- H. The developer shall guarantee the materials and workmanship of pavement, curb and gutter, sidewalks, water system, wastewater (sewage) system and the stormwater management system in the subdivision for a period of five (5) years after final acceptance by the city's engineer. A bond shall be required for the maintenance and repair requirements to cover faulty plans, materials or workmanship. The bond shall be effective for a period of five (5) years after the issuance of a certificate of completion by the City and shall be in an amount equal to twenty-five percent (25%) of the cost of all required improvements;
- I. If at the time of application for Final Plat approval all improvements are not satisfactorily installed, the subdivider shall post a bond in an amount estimated as sufficient to secure to the City the satisfactory construction, installation and dedication of all required improvements. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period

within which required improvements must be completed shall be specified by the City Council as part of the approval action on the Final Plat and shall be incorporated in the bond and shall not in any event exceed two years from date of final City approval. The City Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the City Attorney.

#### **Section 6.08.02. Engineering Standards.**

- A. All subdivision improvements required under these regulations shall be constructed in accordance with utility/engineering and Fire Department standards adopted by the City Council. Water and wastewater connections shall be provided for each lot and all sanitary and storm wastewaters shall be of sufficient size to provide for future extension. Where improvements are required to be designed to serve more extensive areas outside the subdivision boundaries, the City may participate in the cost of facilities with water/wastewater impact fee credits to the extent that such participation reflects the goals and policies set out in the Capital Improvements Element of the City of Frostproof Comprehensive Plan.
- B. Roads, streets and sidewalks shall be designed and constructed in accordance with the subsections contained within Section 6.05.00 of this Article and with engineering standards adopted by the City.
- C. A traffic study shall be required to determine existing and future level of service and road improvements that may be required of the developer. Traffic studies shall be performed at the developer's expense.
- D. Surface drainage improvements shall be designed by a State registered professional engineer proficient in this field and constructed in accordance with standard specifications as set forth in the subsections contained within Section 6.07.00 of this Article, the engineering standards adopted by the City and the provisions of other regulatory agencies.
- E. A looped water distribution system shall be designed by a State registered professional engineer proficient in this field and constructed in accordance with applicable standard specifications adopted by the City including the City's "Water and Wastewater Utility Specifications and Documentation Requirements" manual. Water mains shall be sized and installed in such a manner as to provide all subdivision lots with domestic and fire protection water flow.
- F. A sanitary sewage collection and transmission system shall be designed by a State registered professional engineer and constructed in accordance with the applicable standard specifications adopted by the City including the City's "Water and Wastewater Utility Specifications and Documentation Requirements" manual.
- G. All new developments located within the City of Frostproof utility service area shall be required to connect to and utilize the reclaimed/reuse water system if a reclaimed/reuse water main is located within five hundred (500) feet of the proposed development. System design and construction shall be in accordance with engineering standards adopted by the City.
- H. Street identification signs shall be provided and erected at the developer's expense in accordance with Section 6.05.04 of this Article and standard specifications adopted by the City.

- I. Traffic signs shall be installed in conformance with Section 6.05.04 of this Article and standard specifications and uniform traffic-control standards adopted by the City.
- J. Street lighting shall be installed within all new subdivisions in accordance with the following minimum standards:
  - 1. A lighting plan must be submitted to the City for review at the time the site plan is submitted. Upon approval, the plan will be stamped and signed by the City's engineer. The City encourages the use of energy efficient street lighting and traffic signal devices when possible.
  - 2. All street lighting shall be installed to comply with the latest edition of the National Electric Code, as adopted by the State of Florida, and the City of Frostproof technical standards.
  - 3. Subdivision street lighting shall be installed at a ration of one (1) light per three hundred (300) linear feet of street pavement and lights shall also be installed at road intersections.
  - 4. The City may approve lighting installations at a ratio greater than that required or the City may approve decorative fixtures as long as their installation meets the intent of this Article. Lighting installed at a greater ratio or the use of decorative fixtures shall be maintained at the expense of the developer or homeowners' association.
- K. The developer/subdivider shall cause a registered surveyor to install permanent reference monuments in accordance with Chapter 177, F.S., plus two (2) or more permanent bench marks as determined by the City Engineer.
- L. The developer/subdivider shall cause a registered surveyor to place a permanent control point within the subdivision in accordance with Chapter 177, F.S. The location shall be coordinated with the City Engineer.
- M. Upon completion of all public improvements and before acceptance by the City, the developer's engineer shall submit electronic copies of all public improvements "as-builts," including but not limited to roads, storm drainage, water and wastewater; and a one (1) year maintenance guarantee.

#### **Section 6.09.00. Cluster/Zero Lot Line Development.**

The purpose of this Section is to encourage creative residential design of attached or detached single-family construction in the City, where consistent with the Comprehensive Plan. The design and siting of cluster and zero lot line single-family development presents an alternative to conventional house siting practices (e.g., where four (4) yards are required).

This Section applies to single-family residential units, each constructed on an individual lot of record, and may include single family attached, detached, or semi-detached dwellings. Examples of housing types include cluster houses, patio homes, garden homes, townhouses, zero lot line homes, and z-lot development housing types, subject to special platting requirements and performance and design criteria.

Cluster and zero lot line single-family developments are a permitted use in the R-1c and R-1d zoning districts, subject to the approval and design standards established in this Section; or may be approved as a Planned Unit Development (PUD) subject to the provisions thereof.

#### **Section 6.09.01. Cluster/Zero Lot Line Subdivisions.**

Approval or denial of the clustering concept at a particular location shall be based on consistency with the Comprehensive Plan, compatibility with surrounding land uses, and compliance with the following requirements:

**A. Density.**

**1. Gross Density.**

The gross density of the subdivision shall be consistent with the density requirements of the property's Comprehensive Plan Future Land Use designation. Gross density shall be calculated based on the total (gross) acreage within the perimeter of the property to be developed and shall include all platted residential lots, roads, stormwater management facilities, utility sites and all other common property, regardless of whether such facilities will ultimately be dedicated to the City. The area located within the development's boundaries, which lies within State or Federal jurisdictional wetlands, lakes or streams, or within other water bodies may be credited as gross acreage, where said acreage comprises twenty-five percent (25%) or less of the development area. Any such acreage in excess of twenty-five percent (25%) may not be credited for the purpose of determining the gross density.

**2. Density Transfer.**

For lands containing existing wetlands or other endangered or rare species of vegetation or animal life, as detailed in the City's Conservation Element of the Comprehensive Plan, a density transfer may be allowed. Such density transfer shall be equal to the dwelling unit total per acre lost in exchange for conservation easements. These developments are subject to the approval of the City Council.

**B. Project Size.**

There is no minimum or maximum project size.

**C. Minimum Lot Area.**

No type of group housing dwelling unit shall be located on a site containing an area of less than ten thousand (10,000) square feet and having a width of less than one hundred (100) feet at the building line. Each lot within a group housing development shall have a width of at least sixteen (16) feet at the building line and shall contain a minimum area of two thousand (2,000) square feet provided that the average lot area for any group housing development building shall not be less than two thousand four hundred (2,400) square feet. Lot lines shall be located at the centerline of common walls.

D. Platting.

A cluster or zero lot line development of three (3) or more lots shall be required to be platted as a subdivision in accordance with the procedures and requirements set forth in Section 6.08.00, Articles 10 and 11 of this Code, and Florida Statutes Chapter 177. Prior to submitting the final subdivision plat for approval, City staff shall verify that the plat includes a notation indicating the ownership and maintenance responsibility for the open space tract, including all recreation facilities, existing or planned. No open space tracts or associated facilities shall be dedicated to the City of Frostproof, unless specifically accepted by the City Council.

E. Living Area.

Each living unit within all types of group housing shall contain a minimum living area of seven hundred and fifty (750) square feet.

F. Open Space.

A cluster or zero lot line development project comprising five (5) or more acres shall be required to provide no less than ten percent (10%) of the total project area as park and recreational uses for the occupants of the project. Open space shall primarily consist of undisturbed natural land, with passive or low-intensity recreation facilities. Such park and recreational land shall be provided as common property under the management of a homeowners' association and may include playing fields, sport courts (indoor or outdoor), recreation buildings, open areas for passive or low intensity recreation use, picnic areas, nature trails, boardwalks, boat ramps, water bodies, and swimming pools.

No residential, commercial, industrial, or public institutional use shall be permitted within an amenity tract. Where natural features are being preserved, open space tracts may include wooded areas, wetlands and floodplains. However, lands not in their natural state may be used for recreational purposes and shall be free of waste or debris, dangerous or hazardous materials, and all structures not related to the property's designated use. Open space tracts may include stormwater management or utility sites and facilities. Water bodies may be included, but shall not count toward the minimum land area for an open space tract.

G. Internal Streets.

Where internal streets are to be retained in private ownership, a security gate or other form of barrier to restrict access may be installed. However, the developer or homeowners' association shall be responsible for providing access to emergency vehicles into and within the project when necessary.

H. Parking Spaces.

Each required parking space may either be on the lot it serves or may be provided in common parking areas so long as such parking area is not more than one hundred (100) feet by the most direct pedestrian route from the door of the dwelling unit which it is intended to serve. Parking in excess of two (2) spaces per unit may be provided as "overflow" parking areas for boats, trailers, and motor homes. Parking facilities shall be provided at a rate of two (2) parking spaces per dwelling unit.

I. Lot Coverage.

No dwelling unit shall occupy an area greater than sixty percent (60%) of the site on which it is located.

J. Height.

No building shall exceed the height restriction of the zoning district in which it is located, pursuant to Article 5 of this Code.

K. Structural Setbacks along Project Perimeter.

A perimeter setback of twenty-five (25) feet shall be required along the perimeter of the project boundaries.

L. Project Perimeter Landscape Buffer Yard Requirement.

Perimeter landscape buffer yards shall be provided for the project consistent with Section 6.04.07 of this Code.

M. Yards/Building Setbacks.

1. Front Yard:

The front yard shall be on the side facing the street or driveway that provides access to the dwelling unit and shall have a depth of at least twenty (20) feet as measured from the property line to the structure.

2. Rear Yard:

The rear yard shall be on the opposite side of the front yard and shall have a depth of at least twenty (20) feet from and street or property line.

3. Side Yards:

- a. Single-family attached: Zero (0) feet.
- b. Single family detached: Zero (0) feet, subject to building separation requirements set forth herein.
- c. Abutting public street: Twenty (20) feet.

N. Building Separation, Principal Structures.

1. Single-Family Attached: Fifteen (15) feet between principal buildings or building groups.
2. Single-Family Detached: Subject to compliance with fire-resistance rating standards for walls and roofs as set forth in the City's adopted Building Code.
3. No more than twelve (12) attached units in a row may be constructed in any one (1) group.
4. Accessory structures may be located on the lot line with a zero setback from the property line provided that a minimum of five (5) feet is maintained from all structures on all adjoining lots.



O. Building Envelope and Maintenance Easements.

No structures shall be placed outside the designated building envelope. No windows, doors, air conditioning units, or other openings or projections of any kind shall be permitted where the structure meets the side lot line (zero side yard setbacks). Structures on abutting lots may share a common zero lot line, and may be structurally joined by a common fire wall or by porches, garages or privacy fence/wall. For each unit constructed along a side lot line, an easement five (5) feet in width shall be created on the neighboring property. The purpose of this easement is to permit maintenance and repair of the exterior portion of the structure or structures bordering the zero-side yard. All maintenance easements shall be shown on the final plat, along with an indication of the lot to which each easement is assigned.

P. Fire Codes and Common Walls.

The arrangement of buildings shall be such that access of firefighting equipment is maintained, as certified in writing by the Fire Chief of the City. Common walls and fire walls shall comply with the Florida Building Code.

Q. Common Areas.

The location of all common property shall be identified on the site plan and a description of the manner or method by which such properties shall be maintained after platting shall be provided.

R. Deed Restrictions.

Where common areas and facilities are provided, there shall be deed restrictions covering cooperative maintenance of the same.

S. Development Modifications.

The City Building Official has authority to issue building permits for either all or part of the development provided that final plans conform to an approved site plan. The City may subsequently administratively approve minor changes to the development concept that do not involve increases in density, additional points of access to existing roads, substantial rearrangement of lots, or alter stormwater design.

**Section 6.10.00. Mobile Home Park Development Standards.**

Mobile home dwellings are intended to be confined to properly approved mobile home parks. Permitted uses within the mobile home park include park management offices, recreation facilities, swimming pools and laundry facilities intended for the exclusive use of park residents.

- A. The mobile home park shall be located on a well drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- B. Each mobile home park shall be permitted to display one identifying sign along each street frontage allowing entrance into the park. Such sign shall contain only the name and address of the mobile home park and may be lighted by indirect lighting only. Any

regulations regarding park operation established by the owner or manager shall be conspicuously posted for review by all residents of the park.

- C. Up to six (6) dwelling units per acre are allowed within a park.
- D. There shall be at least two (2) paved off-street parking spaces for each mobile home space, which shall be on the same site as the mobile home served and may be located in the rear or side yard of the mobile home space.
- E. Each park shall establish and maintain an automobile parking area for the use of guests at a rate of one (1) space for every four (4) mobile home sites.
- F. Access roads within a mobile home park shall be paved with a width of not less than twenty (20) feet. Where access roads are paved to a width of thirty-two (32) feet or more, the required guest parking area shall be waived.
- G. Sole vehicular access shall not be by alley, and all dead-end roadways shall include adequate vehicular turning space such as a cul-de-sac.
- H. There shall be a front yard building setback of twenty (20) feet from all access roads within the mobile home park.
- I. There shall be at least fifteen (15) foot clearance between mobile homes, provided however, mobile homes parked end to end shall have a clearance not less than thirty (30) feet.
- J. No mobile home shall be located closer than fifteen (15) feet from any building within the mobile home park.
- K. The number of required, paved, off-street parking spaces is provided in Table 6.05.09.01.A. Said spaces shall be on the same site as the mobile home served and may be located in the home's rear or side yard space.
- L. Each mobile home space shall be provided with a paved patio of at least one hundred twenty (120) square feet.
- M. Each mobile home space shall be connected to a public water line at least six (6) inches in diameter or to a water system approved by the City Manager, or his or her designee.
- N. Each mobile home space shall be provided with a connection to a sanitary wastewater line or to a wastewater system approved by the City Manager or his or her designee.
- O. Storm drainage lines and curbs and gutters shall be provided on all streets in compliance with City Codes and all applicable requirements of agencies having jurisdiction.
- P. A park and recreation area, totaling a minimum of one hundred and fifty (150) square feet for each mobile home space, shall be provided.
- Q. Streets, areas at the entrance to buildings used by occupants at night, and walkways shall be lighted.
- R. All development standards established for mobile homes spaces shall also be applicable to spaces designed and intended for recreational vehicles. The number of spaces designed for

recreational vehicles shall not exceed twenty percent (20%) of the total dwelling unit capacity of the park.

- S. Mobile homes must be skirted within thirty (30) days of siting.
- T. A park shall be equipped at all times with fire extinguishing equipment in good working order of the type, size and number recommended by the fire department.
- U. All mobile homes shall meet the standards provided in the definition of "Manufactured Housing, Mobile Home" in Article 2.

**Section 6.11.00. Commercial and Industrial Performance Standards Governing Waste and Emissions.**

**Section 6.11.01. General Provisions.**

All uses shall conform to the standards of performance described within Section 6.11.02 below and shall be constructed, maintained and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazard or glare. Within one hundred (100) feet of a residential district, all processes and storage, except for vehicle parking, shall be in completely closed buildings. Processes and storage located at a greater distance shall be effectively screened by a solid wall or fence at least six (6) feet in height. Where other ordinances or regulations (whether Federal, State, or local) may be adopted hereinafter impose greater restrictions than those specified herein, compliance with such other ordinances and regulations is mandatory.

**Section 6.11.02. Specific Standards.**

**A. Vibration.**

There shall be no perceptible earth vibration. All stamping machines, punch presses, press brakes, hot forgings, steam board hammers, or similar devices shall be placed on shock-absorbing mountings and on suitable reinforced concrete footings. No machine shall be loaded beyond the capacity prescribed by the manufacturer.

**B. Noise.**

Every use shall be so operated as to comply with the maximum performance standards governing noise described below. Objectionable noises due to intermittence, beat frequency or shrillness shall be muffled or eliminated so as not to become a nuisance to adjacent uses. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association.

**Table 6.11.02.  
Maximum Permitted Sound Levels In Decibels**

Receiving Land Use	Decibels (dBA)
Residential and Farm Residences	50
Commercial	70
Farm Land	70
Industrial	70

**References:**

- 1) *"Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety", Table 4, March 1974; Prepared by the United States Environmental Protection Agency, Office of Noise Abatement and Control, and;*
- 2) *"Guidelines for Community Noise", Table 4.1, Guideline Values for Community Noise in Specific Environments, 1999; Prepared by WHO (World Health Organization).*

**C. Smoke.**

There shall be no emission of visible smoke, dust, dirt, fly ash or any particulate matter from any pipes, vents or other openings, or from any other sources, into the air. All fuel shall be either smokeless in nature or shall be used so as to prevent any emission of visible smoke, fly ash, or cinders into the air.

**D. Dust and Dirt.**

Every use shall be so operated as to prevent the emission into the air of dust or other solid matter that may cause damage to property and health of persons or animals at or beyond the lot line of the property on which the use is located. Emissions must comply with applicable Florida Department of Environmental Protection (FDEP) rules.

**E. Industrial Sewage and Waste.**

Every use shall be so operated as to prevent the discharge of any waste into any stream, lake or into the ground, which will be dangerous or discomforting to persons or animals or which will damage plants or crops beyond the lot line of the property on which the use is located. Industries shall comply with Florida Department of Environmental Protection (FDEP) rules.

**F. Sewage.**

There shall be no discharge at any point of liquid or solid waste into any public sewage disposal system which will overload such system or create detrimental effects in the flow and treatment of public sewage. There shall be no discharge of industrial wastes into any private sewage disposal system, stream, or into the ground of a kind or nature which would contaminate any water supply or otherwise

cause the emission of dangerous or objectionable elements or conditions. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

G. Hazardous Wastes.

The handling and discharge of all hazardous waste shall follow all applicable standards established by the County health department, State legislature and the U.S. Congress. Appropriate City officials shall review all procedures involving the handling and discharge of all hazardous waste to ensure that it does not create any safety or health problems.

H. Odor.

There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive, obnoxious, or unpleasant beyond the property line of the lot on which the principal use is located. Any process, including the preparation of food, which may involve the creation and emission of such odors, shall be provided with both a primary and a secondary safeguard system so that odor control may be maintained in the event of failure of the primary safeguard system.

The Clean Air Act, last amended in 1990, required the Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards (NAAQS) for widespread pollutants from numerous and diverse sources considered harmful to public health and the environment. The Clean Air Act established two types of national air quality standards. Primary standards set limits to protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against visibility impairment, damage to animals, crops, vegetation, and buildings. EPA has set NAAQS for six principal pollutants, which are called "criteria" pollutants. These include carbon monoxide, lead, particulate matter, nitrogen dioxide, ozone and sulfur dioxide.

The State of Florida has adopted the standards for ambient air quality as established in the Environmental Protection Agency (EPA) National Ambient Air Quality Standards, (Title 40 of the Code of Federal Regulations, Part 50). These standards are hereby adopted and applicable to properties within the City limits of Frostproof.

I. Fumes, Vapors and Gases.

There shall be no emission of any fumes, vapors, or gases of a noxious, toxic or corrosive nature which can cause any damage or irritation to health, animals, vegetation or to any form of property.

J. Glare.

Every use shall be so operated as to prevent the emission of glare of such intensity as to be readily perceptible at any point on the lot line of the property on which the use is located. Buffering may provide a means of meeting this standard.

K. Fire and Safety Hazard.

Each use shall be operated so as to minimize the danger from fire and explosion. The specific regulations to be met are set forth in the building code and the fire prevention code of the City.

L. Heat, Cold, Dampness or Movement of Air.

Activities which shall produce any adverse effects on the temperature, motion, or humidity of the atmosphere beyond the lot line shall not be permitted.

M. Radioactive Emission.

There shall be no radiation emitted from radioactive materials or by-products that produce a dangerous level of radioactive emissions at any point. Radiation limitations shall not exceed quantities established as safe by the U.S. Bureau of Standards.

N. Electromagnetic Interference.

For the purpose of this Section, electromagnetic interference shall be defined as disturbances of an electromagnetic nature which are generated by the use of electrical equipment other than planned and intentional sources of electromagnetic energy, which would interfere with the proper operation of electromagnetic receptors of quality and proper design.

1. Compliance with FCC Regulations.

No person shall operate or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Further, such operation in compliance with the Federal Communications Commission regulations shall be unlawful if such radiation causes an abnormal degradation in the performance of other electromagnetic receptors or radiators of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation, conducted energy in power or telephone systems or harmonic content.

2. Evaluation of Performance.

The determination of abnormal degradation in performance and of good quality and proper design shall be made in accordance with good engineering practices as defined in the principles and standards of the Institute of Electrical and Electronics Engineers and the Consumer Electronics Association. In case of any conflict between the latest standards and principles of the above groups, the most stringent shall apply.

Recognizing the special nature of many of the operations that may be conducted in connection with research and educational activities, it shall be unlawful for any person, firm, or corporation to operate or cause to be

operated, to maintain or cause to be maintained, any planned or intentional source of electromagnetic energy, the radiated power from which exceeds 1,000 watts.

## **Section 6.12.00. Personal Wireless Service (PWS) Facilities Regulations.**

### **Section 6.12.01. Purpose.**

The purpose of this Section is to provide for the siting, performance, and construction standards, and general regulations governing Personal Wireless Service (PWS) Facilities; and to:

- A. Protect the public health, safety, and welfare, residential areas and land uses, and other adjacent properties, from potential adverse impacts of communication towers and antennas; and
- B. Minimize adverse visual impacts of communication towers and antennas through appropriate design, siting, and landscape screening; and
- C. Accommodate the growing need for communication towers and antennas, while promoting and encouraging co-location of antennas on new and existing towers as a primary option rather than construction of additional single-use towers.

### **Section 6.12.02. Definitions.**

For the purposes of this Article, the following terms and words shall have the following meanings:

- A. **ANTENNA (PWS ANTENNA):** A device for sending or receiving radio signals used by Personal Wireless Services. This shall include multiple antennas arranged in a set or array that function as a single unit.
- B. **ANTENNA MOUNT (MOUNT):** Any supporting structure used to hold a PWS antenna at a desired height.
- C. **CO-LOCATION:** The use of a single structure or mount to support the antennas of more than one PWS provider.
- D. **EQUIPMENT SHELTER:** Any support building or cabinet which houses the electronics, backup power and other equipment associated with the operation of a PWS antenna.
- E. **FAA:** Federal Aviation Administration.
- F. **FCC:** Federal Communications Commission.
- G. **GROUND-MOUNTED FACILITY:** A free-standing antenna mount constructed upon the ground. Utility pole-mounted facilities shall not be considered ground-mounted facilities. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- H. **LOCATION:** The geographic location of a PWS facility within the City of Frostproof.

- I. **PERSONAL WIRELESS SERVICES (PWS):** Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- J. **PERSONAL WIRELESS SERVICE (PWS) FACILITIES:** Facilities for the provision of personal wireless services.
- K. **PERSONAL WIRELESS SERVICE (PWS) PROVIDER:** A company authorized by the FCC to operate a personal wireless services system. A PWS carrier.
- L. **PUBLIC VIEW:** Viewed at ground level from a public street, a place where the public is admitted for general use, or residential use. A PWS facility shall not be considered to be in the public view if seventy-five percent (75) or more of the mount is concealed or obscured from view.
- M. **SITING:** The positioning of a PWS facility on a particular parcel of land.
- N. **STRUCTURE-MOUNTED FACILITY:** An antenna mount attached to or upon any commercial, industrial, office, or institutional structure, or any multi-family structure of three (3) or more stories. This shall include buildings, water tanks, private light poles, light poles at publicly owned athletic facilities or other structures not originally designed as PWS antenna mounts. PWS facilities shall not be mounted on single family structures, two family structures or on multi-family structures less than three (3) stories. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- O. **UTILITY POLE-MOUNTED FACILITY:** An antenna mount attached to or upon a publicly owned electric transmission or distribution pole, street light, traffic signal, or similar facility located within a public right-of-way or utility easement. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- P. **VISUALLY OBTRUSIVE STRUCTURES:** Physical structures which due to their height, shape, design, reflectivity, color, or lighting, are noticeably undesirable and tend to detract from the character, scale or attractiveness of surrounding land uses.

### **Section 6.12.03. General Provisions.**

#### **Section 6.12.03.01. Procedures for Establishment.**

If permitted by right or as a conditional use in a district, PWS facilities shall be established subject to the development standards generally applicable to the district as well as to the specific standards set forth in this Article.

#### **Section 6.12.03.02. General Standards.**

##### **A. Compatibility.**

It is the intent of this Article to encourage the location, siting and design of PWS facilities in a manner which limits their visual impact on the public view and to ensure their compatibility with surrounding land uses.



B. Color.

PWS facilities shall be of a color or colors selected to blend into the surrounding environment. Where visible against the sky, facilities shall be galvanized or of gray or similar color to minimize visibility, except where contrasting color is required for public safety purposes or by the FCC or FAA.

C. Lighting.

PWS facilities shall not be artificially lighted except as required for public safety purposes or by the FCC or FAA. Required lighting shall be shielded and/or directed to not project onto residential districts.

D. Signage.

No signage shall be allowed on any PWS facility except as required for public safety purposes or by the FCC or FAA.

E. Secure Design.

All parts of PWS facilities shall maintain a minimum separation of ten (10) feet from any overhead utility lines. PWS mounts shall have removable climbing pegs or shall otherwise be designed to render them unclimbable by unauthorized persons or shall be provided with a suitable security barrier. PWS equipment shelters shall be of a vandal-resistant design or shall be provided with a suitable security barrier.

**Section 6.12.04. Standards for Structure-Mounted Facilities.**

**Section 6.12.04.01. General.**

- A. Structure-Mounted PWS facilities shall be permitted as accessory uses in all zoning districts.
- B. Structure-Mounted PWS facilities are facilities attached to or upon any commercial, industrial, office, or institutional structure, or any multi-family structure of three (3) or more stories. This shall include buildings, water tanks, private light poles, light poles at publicly owned athletic facilities or other structures not originally designed as PWS antenna mounts. PWS facilities shall not be mounted on single family structures, two family structures or on multi-family structures less than three (3) stories in height. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- C. Placement of a PWS facility on a legally non-conforming structure shall not be considered an expansion of the non-conforming structure.
- D. PWS facilities shall not project into a required setback more than the maximum projection permitted in the zoning districts in which the facilities are located.
- E. Structure-Mounted PWS facilities shall be located and designed to be accessible to authorized persons only.

#### **Section 6.12.04.02. Maximum Height.**

- A. Structure-Mounted PWS facilities may extend above the roofline or highest point of the structure on which they are mounted a maximum of twenty (20) feet, subject to the height limitations of the Polk County Airport Zoning Regulations and Section 7.03.02 Development Standards for Military Influence Planning Areas.
- B. The height of a rooftop installation shall be measured from the finish level of the portion of the roof on which it is mounted.
- C. This Section shall not apply if the facility is incorporated into a steeple, bell tower, or similar architectural feature of a church, school or institution, subject to the height limitations of the Polk County Airport Zoning Regulations.

#### **Section 6.12.04.03. Visual Compatibility.**

- A. To the greatest practical extent, structure-mounted PWS facilities shall be placed on the structure out of public view. When this is not practical, the use of enclosures or screens made of fiberglass or other material pervious to radio signals is encouraged to conceal the facility from public view in a manner that is compatible with the scale, color, and architectural character of the structure.
- B. When it is necessary to place the facility in public view, to the greatest practical extent, it shall be integrated into the structure in a manner that is compatible with the scale, color, and architectural character of the structure. When use of a pole or mast antenna mount is necessary, the use of cross-polarized (dual-polarized) antennas or similar designs that reduce the visual obtrusiveness of the facility is encouraged.
- C. To the greatest practical extent, equipment shelters associated with structure-mounted PWS facilities shall be located inside the existing structure, or concealed from public view, or made compatible with the scale, color, and architectural character of the structure.

#### **Section 6.12.05. Standards for Ground-Mounted Facilities.**

##### **Section 6.12.05.01. General.**

- A. Ground-Mounted PWS facilities shall be permitted by right in the CG, I-1, I-2 and P zoning districts.
- B. Ground-Mounted PWS facilities may be permitted as Conditional Uses in the AG, CO, CN and all Residential zoning districts. A ground-mounted PWS facility may be permitted in a residential district as a conditional use only if it is located on a parcel containing a non-residential land use such as a golf course, parking lot, cemetery, church, school, electric utility substation or on a vacant parcel of fifty (50) acres or more.
- C. The determination as to whether a ground-mounted PWS facility is permitted by right or as a conditional use in the PUD zoning district

classification shall be based on the conventional zoning district which most closely approximates the use or uses permitted in the particular PUD district.

- D. Ground-Mounted facilities are free-standing facilities constructed upon the ground. Utility pole-mounted facilities shall not be considered ground-mounted facilities. The ground-mounted facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- E. The use of existing structures as antenna mounts shall be preferred to the construction of new ground-mounted facilities. An applicant for a new ground-mounted facility shall submit a report inventorying the availability of existing structures, including utility poles, within the applicant's search area which may serve as alternatives to the proposed ground-mounted facility. The applicant must demonstrate that the proposed facility cannot reasonably be accommodated on such existing structures due to one or more of the following factors:
  - 1. The structure provides insufficient height to allow the applicant's facility to function reasonably in parity with similar facilities.
  - 2. The structure provides insufficient structural strength to support the applicant's antenna and related equipment.
  - 3. The structure provides insufficient space to allow the applicant's antenna to function effectively and reasonably in parity with similar equipment.
  - 4. Use of the structure would result in electromagnetic interference that cannot reasonably be corrected.
  - 5. The structure is unavailable for lease under a reasonable leasing agreement.
  - 6. Use of the structure would create a greater visual impact on surrounding land uses than the proposed alternative or otherwise would be less in keeping with the goals, objectives, intent, preferences, purposes, criteria or standards of this Article, the Comprehensive Plan and Land Development Code.
  - 7. Other limiting factors.
- F. Ground-Mounted PWS facilities may be located on zoning lots containing other principal uses.
- G. Ground-Mounted PWS facilities shall not be permitted in Historic Districts or in the CBD.
- H. A ground-mounted PWS facility shall be separated from any residential lot line a minimum of two (2) feet horizontally for each one (1) foot in facility height.

- I. A ground-mounted PWS facility shall be separated from arterial streets and collector streets, a minimum of two (2) feet horizontally for each one (1) foot in facility height.
- J. Ground-Mounted PWS facilities shall be of the monopole type unless the applicant can demonstrate that another type of mount would be less visually obtrusive.
- K. Ground-Mounted PWS facilities shall observe the minimum setback requirements for principal structures of the respective zoning districts.
- L. Ground-Mounted PWS facilities shall be considered a non-residential use for purposes of determining if a buffer fence or wall is required.
- M. Ground-Mounted PWS facilities shall be accessible by service vehicles.

**Section 6.12.05.02. Maximum Height.**

- A. Ground-Mounted PWS facilities shall observe the following maximum heights in the zoning district and Future Land Use Intensity Area in which they are located, subject to the height limitations of the Polk County Airport Zoning Regulations and Section 7.03.02 Development Standards for Military Influence Planning Areas:
- B.

**Table 6.12.05.02.  
Maximum Height of PWS Facilities by Zoning District**

<b>ZONING DISTRICT</b>	<b>MAXIMUM HEIGHT</b>
Agriculture, All Residential Districts, Commercial Office and Commercial Neighborhood	75'
Central Business District, Commercial General & Industrial Districts	120'
Public District	200'

- C. The maximum heights established by this Section shall be the vertical distance of a PWS facility measured from the average elevation of the finished grade within twenty (20) feet of the facility to the highest point of the completed facility including antennas, platforms, or other attachments.

**Section 6.12.05.03. Horizontal Separation.**

- A. Ground-mounted PWS facilities shall maintain the following minimum horizontal separations from existing ground-mounted PWS facilities:

**Table 6.12.05.03.  
Horizontal Separation Requirements for PWS Facilities**

<b>HEIGHT OF EXISTING FACILITY</b>	<b>HEIGHT OF PROPOSED FACILITY</b>		
	<b>BELOW 75'</b>	<b>75'-120'</b>	<b>ABOVE 120'</b>
<b>BELOW 75'</b>	500'	700'	900'
<b>75'-120'</b>	700'	900'	1200'
<b>ABOVE 120'</b>	900'	1200'	1500'

- B. Horizontal separation distances shall be measured from the base of the mount and shall apply irrespective of jurisdictional boundaries.
- C. In the event that an existing PWS facility is non-conforming as to height on the date of adoption of this Article, for the purpose of determining the horizontal separation requirement for a proposed facility, the height of the existing facility shall be the maximum height allowed at that location under section 6.12.05.02, rather than the actual height of the existing facility.

**Section 6.12.05.04. Visual Compatibility.**

- A. To the greatest practical extent, ground-mounted PWS facilities shall be sited where they are concealed from public view by other objects such as trees or buildings.
- B. When it is necessary to site the facility in public view, to the greatest practical extent it shall be designed to limit visual impact on surrounding land uses. The use of cross-polarized (dual-polarized) antennas or similar designs that reduce the visual obtrusiveness of the facility is encouraged.
- C. To the greatest practical extent, equipment shelters associated with ground-mounted PWS facilities shall be concealed from public view or shall be buffered to be compatible with surrounding land uses.

**Section 6.12.05.05. Co-Location.**

- A. Ground-mounted PWS facilities shall be designed to accommodate the following number of users:

**Table 6.12.05.05.  
Ground-Mounted PWS Facilities Height & Co-location Requirements**

<b>MOUNT HEIGHT</b>	<b>NUMBER OF USERS</b>
BELOW 75'	Single User
75'-120'	Two Users
ABOVE 120'	Three or More Users

- B. As proof that a proposed facility can accommodate co-location, a registered professional engineer shall certify that the mount has been designed for a loading capacity to support two (2) or more users.
- C. The modification or reconstruction of an existing single-user, ground-mounted PWS facility to accommodate the co-location of one (1) or more additional users shall be permitted to a maximum of twenty (20) feet over the height of the original facility without requiring new or additional conditional use approval, or additional horizontal separation, provided that the modification or reconstruction shall not change the type of mount except that any type of mount may be reconstructed as a monopole. The height change may only occur one (1) time per mount and shall be subject to the height limitations of the Polk County Airport Zoning Regulations.

#### **Section 6.12.05.06. Additional Standards for Lake Views.**

Conditional use consideration shall be required for any ground-mounted PWS facility proposed to be located within two thousand (2,000) feet of the water line and within public view of the shores of area lakes. This standard shall not apply if the proposed facility is located in an industrial zoning district.

#### **Section 6.12.06. Standards for Utility Pole-Mounted Facilities.**

##### **Section 6.12.06.01. General.**

- A. Utility pole-mounted PWS facilities shall be permitted as accessory uses in all zoning districts.
- B. Utility pole-mounted PWS facilities are facilities attached to or upon a publicly owned electric transmission or distribution pole, street light, traffic signal, or similar facility located within a public right-of-way or utility easement. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.
- C. Utility pole-mounted PWS facilities or extensions on utility poles to accommodate the mounting of PWS antennas shall be of the monopole type.
- D. Equipment shelters associated with utility pole-mounted PWS facilities which are located outside of the public right-of-way shall meet the setbacks for accessory structures for the zoning districts in which the equipment shelters are located.

##### **Section 6.12.06.02. Maximum Height.**

Utility pole-mounted PWS facilities may extend a maximum of twenty (20) feet above the top of the original utility pole notwithstanding the maximum heights for ground-mounted facilities established by Section 6.12.05.02, subject to the height limitations of the Polk County Airport Zoning Regulations and Section 7.03.02 Development Standards for Military Influence Planning Areas.

##### **Section 6.12.06.03. Horizontal Separation.**

Minimum horizontal separation between utility pole-mounted PWS facilities shall be determined by the location of the existing utility poles.

##### **Section 6.12.06.04. Visual Compatibility.**

- A. To the greatest practical extent, utility pole-mounted PWS facilities shall be sited where they are concealed from public view by other objects such as trees or buildings.
- B. When it is necessary to site the facility in public view, to the greatest practical extent it shall be designed to limit visual impact on surrounding

land uses. The use of cross-polarized (dual-polarized) antennas or similar designs that reduce the visual obtrusiveness of the facility is encouraged.

- C. Equipment shelters associated with utility pole-mounted PWS facilities which are located within the public right-of-way shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes normally located within the right-of-way. To the greatest practical extent, equipment shelters associated with utility pole-mounted PWS facilities which are located outside of the public right-of-way shall be concealed from public view or shall be architecturally designed or buffered to be compatible with surrounding land uses.

#### **Section 6.12.07. Standards for PWS Facilities as Conditional Uses.**

It is the intent of the City Council to set forth standards for review, approval, approval with conditions, or disapproval, of exceptions to the placement or construction of PWS facilities as permitted by right and the regulations which control the placement or construction of such facilities as contained in this Article. These standards are instituted to provide an opportunity to place or construct a PWS facility, which under usual circumstances, could be detrimental to other land uses and normally could not be permitted. A Conditional Use Approval may allow a PWS Facility under circumstances particular to the proposed location and subject to conditions which provide protection to adjacent land uses, protect the attractiveness, health, safety and property values of the community, avoid the proliferation of visually obtrusive structures, and which promotes the development of an advanced wireless communication infrastructure.

- A. Exceptions to the standards for the placement or construction of PWS facilities shall be considered as Conditional Uses. The conditional use procedure may be considered for the following:
  - 1. Requests for ground-mounted PWS facilities proposed to be located in residential zoning districts as specified in Section 6.12.05.01.B and within two thousand (2000) feet of lakes as specified in Section 6.12.05.06.
  - 2. Requests for exceptions to specific standards established in this Article for maximum height; horizontal separation; separation from residential districts, limited-access highways (including frontage roads), arterial streets and highways and collector streets; and alternatives to the monopole type mount.
- B. In addition to the standards for conditional use review set forth in Section 11.04.04 of this Code and prior to approving any PWS facility as a conditional use, the City Council shall find, based on competent and substantial evidence, that the proposed facility is located, sited and designed to be compatible with the character of the general area in which it is located, avoids the proliferation of visually obtrusive structures, and promotes the development of an advanced wireless communication infrastructure.
- C. In determining whether to grant a conditional use pursuant to this Section, the City Council shall consider the following factors:
  - 1. The height and visual obtrusiveness of the facility;
  - 2. The degree of visibility from the public view;

3. The proximity of the facility to residential structures and residential district boundaries;
  4. The character of the uses and structures on adjacent and nearby properties;
  5. The character of the land, including topography and tree coverage;
  6. The design of the facility with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
  7. The degree to which the facility reduces the proliferation of visually obtrusive structures through co-location.
  8. Competent evidence that reasonable alternatives to the proposed conditional use do not exist.
- D. In addition to the information required on an application for approval of a PWS facility as a conditional use, an applicant may be required to submit information sufficient to evaluate the visual impact of the proposed facility. This may include, but shall not necessarily be limited to photo simulations, photo montage or other techniques to illustrate how the facility will appear from public view.

#### **Section 6.12.08. Administration.**

##### **Section 6.12.08.01. Building Permit Required.**

- A. It shall be unlawful for any property owner, contractor or PWS provider to erect, construct, alter or relocate within the City any PWS facility without first obtaining a permit from the Building Division and making payment of required fees.
- B. For each PWS facility, the following information shall be submitted in addition to the information required for APPLICATIONS FOR BUILDING PERMITS:
  1. Legal description. Including parent tract and any leased parcel.
  2. Site plan. Indicating the location, type, height and setbacks of the proposed facility including mounts, foundations, equipment shelters, cable runs, security barriers, access points, buffers and landscaping, property lines and easements, and existing structures. Also, separation distances as required from residential uses, arterial streets and collector streets, and existing ground-mounted PWS facilities for new ground-mounted facilities.
  3. Front and side elevations. Indicating color and finish of exposed parts, visual screens or enclosures, buffer treatments and lighting. Also, the color, finish and material of the building or structure on which the facility is mounted for structure-mounted facilities.
  4. Existing Structures Report. (For new ground-mounted facilities only). A report inventorying the availability of existing structures, including utility poles, within the applicant's search area which may serve as



alternatives to the proposed ground-mounted facility. The report shall evaluate why the proposed facility cannot reasonably be accommodated on such existing structures.

5. Co-Location Statement. A statement of intent that co-locators will be permitted in cases where facilities are required or proposed to accommodate more than one provider. The positions of anticipated co-locator antennas on the mount and the space provided for co-locator equipment shelters shall be shown on all site plans and elevations.

#### **Section 6.12.08.02. Retention of Technical Experts.**

The City shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for PWS facilities and to charge a reasonable cost for such services to the applicant.

#### **Section 6.12.08.03. Period of Validity.**

- A. A PWS facility that has received conditional use approval or a building permit shall be considered an existing PWS facility as long as such approval is valid and has not expired.
- B. A conditional use approval or building permit which has been granted for a PWS facility shall cease to be valid if construction of the facility has not commenced within six (6) months of the approval or permit. In the event construction has not commenced within six (6) months, a request for an extension of the building permit may be considered by the Chief Building Official, or if the facility was approved by Conditional Use, a request for an extension of the Conditional Use Approval may be considered by the City Council.

#### **Section 6.12.08.04. Abandonment.**

In the event that the use of any PWS facility is discontinued for a period of one hundred eighty (180) consecutive days, the facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City Manager, or his or her designee, who shall have the right to request documentation and/or affidavits from the facility owner/operator regarding the active use of the facility. The owner/operator of the facility shall have one hundred eighty (180) days from the date of abandonment to: (1) reactivate the use of the facility or transfer the facility to another owner/operator who makes actual use of the facility, or (2) dismantle and remove the facility. At the earlier of one hundred eighty one (181) days from the date of abandonment without reactivation, or upon completion of dismantling and removal, any approval for the facility shall automatically expire. If the owner/operator of a facility files a notice of intent to cease operations with the FCC, a copy shall be provided to the City.

#### **Section 6.13.00. Tiny Homes.**

This Section shall apply to tiny homes used as single dwelling units and lodging accommodations. Where a conflict exists between this section and another section in this Code, this section shall apply.

### **Section 6.13.01. General Standards and Requirements.**

#### **A. *Structure Foundation.***

All tiny homes shall be constructed upon permanent foundations (*e.g.*, poured footers, stem walls and poured piers or engineered slabs) as would a traditional site-built single-family home. Such foundations shall be certified by a registered professional structural engineer as a condition of securing a building permit and Certificate of Occupancy approval.

#### **B. *Minimum Living Space.***

All tiny homes shall have a minimum living space of two hundred and fifty (250) square feet and shall meet all living and habitable space requirements in accordance with Section 3.16.00.

#### **C. *Habitable Space Requirement.***

All tiny homes shall be constructed to include a habitable sleeping area, lavatory, and a bathtub or shower stall in each unit.

#### **D. *Porches.***

Every tiny home shall be constructed with at least one (1) covered porch containing a minimum area of forty-nine (49) square feet.

#### **E. *Certificate of Occupancy Required.***

No tiny home constructed on a property may be occupied as a dwelling unit or for any other purpose until a Certificate of Occupancy has been granted by the Building Official or designee authorizing commencement of the tiny home for such use.

#### **F. *Maintenance.***

All common areas, including community buildings, common sidewalks & pathways, and other common buildings or facilities, shall be kept and maintained in a clean and orderly manner, free of any condition that will menace the health of any occupant or the public, or constitute a nuisance. The owner of the property or other legal entity (*i.e.*, a homeowners' association) shall be responsible for such maintenance and upkeep.

### **Section 6.13.02. Tiny Home Subdivisions.**

Whenever any subdivision of land is proposed, and prior to any site improvements, including the installation of public or private utilities, stormwater management facilities, building construction, or paving, the developer, or his or her authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with subdivision platting requirements in Section 10.08.00 and as required in this section.

#### **Section 6.13.02.01. Applicability and General Development Design Standards for All Tiny Home Subdivisions.**

A. *Zoning Requirements.*

Tiny home subdivisions are permitted only on property zoned Planned Unit Development (PUD).

B. *Subdivision Type.*

Depending on the size and intensity of the tiny home subdivision, developments may be categorized as either a *Major Tiny Home Subdivision* or a *Minor Tiny Home Subdivision*.

1. **Major Tiny Home Subdivision.** Constitutes a subdivision of land into three (3) or more lots, parcels, tracts, tiers, blocks, sites, units or any other division of land, whether improved or unimproved and includes the establishment of new streets and required infrastructure. Subdivision of land requires review and recommendation by the City's Planning and Zoning Board and Approval by the City Council in accordance with Section 10.08.00.
2. **Minor Tiny Home Subdivision.** Constitutes a subdivision of land containing not more than four (4) lots abutting upon an existing dedicated street with permanent pavement and other required infrastructure improvements. A minor subdivision may be approved administratively by the Development Review Committee in accordance with submission requirements of a minor subdivision plat in Section 10.08.04.

C. *Minimum lot area.*

The minimum lot area within a tiny home subdivision shall be one thousand (1,000) square feet.

D. *Minimum lot width.*

The minimum lot width within a tiny home subdivision shall be twenty (20) feet.

E. *Functional Space.*

In addition to the requirements in Section 6.13.01, every tiny home shall be constructed to include a kitchen with cooking and eating space within the unit.

F. *Ownership of Common Areas and Community Buildings.*

1. **Ownership.** Common open space areas, community buildings and common parking areas shall be owned and maintained commonly by the residents of the subdivision through a condominium association, a homeowners' association, or a similar mechanism. Common areas and community buildings shall not be dedicated to the City of Frostproof.
2. **Property Maintenance.** A centralized property management entity shall be created to enforce the restrictions contained herein and said entity shall be responsible for maintaining common open space areas,

landscaping and buffer yards, common parking areas, sidewalks, pathways and trails, common signage, common irrigation, common waste disposal areas and other common areas within the property.

#### **Section 6.13.02.02. Major Tiny Home Subdivision.**

Major Tiny Home Subdivisions shall be developed in accordance with the applicability and general requirements for tiny homes, tiny home subdivisions, and the standards provided in this section.

##### **Section 6.13.02.02.01. Development Design Standards.**

###### **A. Setbacks.**

1. *Perimeter Subdivision Building Setbacks.* All tiny homes and community building(s) shall be setback a minimum of fifteen (15) feet from any perimeter property line of a tiny home subdivision.
2. *Interior Property Line Setbacks.* Tiny homes shall be setback a minimum of five (5) feet from any interior property line, provided, however, projections of architectural features (*e.g.*, awnings, eaves, canopies) and mechanical equipment (*i.e.*, air conditioning unit) may extend into building setback areas in accordance with Section 5.02.00.
3. *Setbacks Abutting a Roadway.* Where abutting a roadway, tiny homes shall be setback a minimum of fifteen (15) feet.

###### **B. Tiny Home Lot Arrangement.**

Each tiny home lot shall abut a centralized principal common open space area on at least one side.

###### **C. Primary Entryway.**

Each tiny home shall have a primary entryway with a covered porch, which shall be oriented toward a centralized principal common open space area.

###### **D. Common Areas and Open Space Amenities.**

At a minimum, the following common area amenities, all of which shall be completed and made operational prior to the issuance of the initial Certificate of Occupancy (CO) for the first tiny home, shall be required.

1. Common open space area shall be provided and shown on the Master Development Plan as part of the PUD zoning of the property.
2. Common open space area shall be provided at a ratio of not less than four hundred (400) square feet of open space per each tiny home lot.

3. Tiny home lots shall surround a centralized principal common open space area.
4. Principal common open space areas must be centrally located within a subdivision. Additional common open space area, not directly part of a centralized principal common open space area may account for up to twenty-five percent (25%) of the total common open space requirement.
5. Common open space areas shall include usable public spaces such as lawns, gardens, patios, plazas or scenic viewing areas. Common tables, chairs and benches are encouraged with all homes having access.
6. A system of interior paved sidewalks & pathways and paved or unpaved trails shall interconnect all common open space areas, each tiny home, parking areas and sidewalks abutting any public streets bordering the subdivision.
7. Paved sidewalks and pathways shall be at least five (5) feet in width.
8. Calculations of common open space areas shall not include storm water detention/retention areas, wetlands, streams, floodways, parking areas, yard areas within individual-lot building setbacks, private open spaces, driveways or required landscaped buffer areas.
9. Community buildings, such as clubhouses providing community access and services for residents and guests are permitted on site. The maximum building height for community buildings shall be no more than thirty (30) feet.
10. Swimming pools, playgrounds, courts and other recreational amenities on site, may be calculated as part of the total common open space requirement.

E. *Parking Requirements and Roadway Surfacing.*

1. *Location of parking.* Parking spaces may be established on individual lots or within common parking areas.
2. *Number of Parking Spaces.* Parking spaces shall be provided at a ratio of not less than two (2) parking spaces for each tiny home unit.
3. *Number of Guest Parking Spaces.* A minimum of 0.25 guest parking spaces, rounded up to the next whole number, shall be provided for each tiny home unit. Guest parking may be co-located within a driveway on an individual lot or can be established in a common parking area.
4. *Handicap Parking Spaces.* Where guest parking is provided within common parking areas, handicap parking spaces shall

be provided at a ratio of not less than one (1) handicap parking space for each twenty-five (25) guest parking spaces. Any additional parking areas established to accommodate parking requirements for community buildings or common recreation areas shall also provide one (1) handicap parking space for each twenty-five (25) spaces established.

5. *Parking Surface.* All designated parking areas shall be constructed of a stabilized, paved asphalt, concrete, permeable or other surface material, as approved by the City Engineer or designee. Crushed shell, compacted clay and other similar materials shall not suffice as a permitted parking surface material. All handicap parking spaces shall be paved.
6. *Fire Lanes.* All designated fire lanes shall be paved and engineered to City standards to accommodate the weight of a fire truck and associated apparatus. Said paving system shall be approved by the City Engineer or designee.

F. *Landscaping.*

Landscaping requirements for Major Tiny Home Subdivisions shall respect the general landscape requirements in Section 6.04.00 of this Code, except as expressly supplemented or modified in this section.

1. A minimum of a "Type B" landscape buffer yard shall be established around the perimeter of all Major Tiny Home Subdivisions. See Section 6.04.07 for buffer yard requirements. Additional buffering standards may apply to mitigate impacts between incompatible or potentially incompatible land uses.
2. A minimum of two (2) small/understory trees shall be planted for each tiny home unit. Such trees shall be planted on the lot of the unit they serve. See Table 6.04.07.07.A for list of small/understory trees.
3. Canopy cover for common parking areas and paved pedestrian ways shall be established in accordance with vehicular use areas and interior landscaping requirements established in Section 6.04.06.01.
4. Canopy and/or small/understory trees shall be planted in common open space areas in an amount equal to thirty percent (30%) coverage over the total common open space requirement. See Table 6.04.06.02 for list of canopy trees and Table 6.04.07.07.A for list of small/understory trees.
5. Prior to issuance of the first Certificate of Occupancy for any building constructed on the property (whether a tiny home or other building), applicable buffer yard standards shall be met.

G. *Utilities.*

1. Major Tiny Home Subdivisions shall only be permitted in areas served by public water and wastewater.
2. All water, natural gas, electricity, and any other metered utility service serving a tiny home lot shall be separately metered from the utilities serving all other lots. Metered utilities providing service to common areas of the property may be served through a single meter.

**Section 6.13.02.03. Minor Tiny Home Subdivision.**

Minor Tiny Home Subdivisions shall be developed in accordance with the applicability and general requirements for tiny homes, tiny home subdivisions, and the standards provided in this section.

**Section 6.13.02.03.01. Development Design Standards.**

A. *Setbacks.*

1. *Interior Property Line Setbacks.* Tiny homes shall be setback a minimum of five (5) feet from any interior property line, provided, however, projections of architectural features (*e.g.*, awnings, eaves, canopies) and mechanical equipment (*i.e.*, air conditioning unit) may extend into building setback areas in accordance with Section 5.02.00.
2. *Setbacks Abutting a Roadway.* Where abutting a roadway, tiny homes shall be setback a minimum of fifteen (15) feet.

B. *Common Open Space Standards.*

Where common open space is utilized in a Minor Tiny Home Subdivision, standards as provided in Section 6.13.02.02.01.D. shall apply.

C. *Parking Requirements and Roadway Surfacing.*

1. *Location of parking.* Parking spaces may be established on individual lots or within common parking areas.
2. *Number of Parking Spaces.* Parking spaces shall be provided at a ratio of not less than two (2) parking spaces for each tiny home unit.
3. *Number of Guest Parking Spaces.* Where guest parking spaces are provided, a minimum of 0.25 spaces, rounded up to the next whole number, shall be provided for each tiny home unit. Guest parking may be co-located within a driveway on an individual lot or can be established in a common parking area.
4. *Handicap Parking Spaces.* Where guest parking is provided within common parking areas, handicap parking spaces shall be

provided at a ratio of not less than one (1) handicap parking space for each twenty-five (25) guest parking spaces. Any additional parking areas established to accommodate parking requirements for community buildings or common recreation areas shall also provide one (1) handicap parking space for each twenty-five (25) spaces established.

5. *Parking Surface.* All designated parking areas shall be constructed of a stabilized, paved asphalt, concrete, permeable or other surface material, as approved by the City Engineer or designee. Crushed shell, compacted clay and other similar materials shall not suffice as a permitted parking surface material. All handicap parking spaces shall be paved.
6. *Fire Lanes.* All designated fire lanes shall be paved and engineered to City standards to accommodate the weight of a fire truck and associated apparatus. Said paving system shall be approved by the City Engineer or designee.

#### *D. Landscaping.*

Landscaping requirements for Minor Tiny Home Subdivisions shall respect the general landscape requirements in Section 6.04.00 of this Code, except as expressly supplemented or modified in this section.

1. A minimum of two (2) small/understory trees shall be planted for each tiny home unit. Such trees shall be planted on the lot of the unit they serve. See Table 6.04.07.07.A for list of small/understory trees.
2. Canopy cover for common parking areas and paved pedestrian ways shall be established in accordance with vehicular use areas and interior landscaping requirements established in Section 6.04.06.01.
3. Landscape buffering standards may apply to mitigate impacts between incompatible or potentially incompatible land uses.

#### *E. Utilities.*

1. Minor Tiny Home Subdivisions shall respect the City's requirements for water/wastewater connections and Health Department standards for lot size requirements if utilizing an on-site wastewater system.
2. All water, natural gas, electricity, and any other metered utility service serving a tiny home lot shall be separately metered from the utilities serving all other lots. Metered utilities providing service to any common areas of the property may be served through a single meter.



### **Section 6.13.03. Tiny Home Lodging.**

Tiny home lodging shall be developed in accordance with the applicability and general requirements for tiny homes and the standards provided in this section.

#### **Section 6.13.03.01. Development Design Standards and General Requirements.**

##### *A. Zoning Requirements.*

Tiny home lodging is permitted only on property zoned Planned Unit Development (PUD).

##### *B. Perimeter Property Line Setbacks.*

All tiny homes shall be setback a minimum of ten (10) feet from any property line with the exception that greater setbacks may be required to accommodate landscape buffer requirements. Projections of architectural features (*e.g.*, awnings, eaves, canopies) and mechanical equipment (*i.e.*, air conditioning unit) may extend into building setback areas in accordance with Section 5.02.00.

##### *C. Internal Separation Requirements.*

All tiny homes shall be separated from each other and other buildings or structures a minimum of ten (10) feet or as otherwise directed by the City's Building and/or Fire Official.

##### *D. Tiny Home Lot Arrangement.*

Each tiny home shall abut a common open space area on at least one side.

##### *E. Common Areas and Open Space Amenities.*

At a minimum, the following common area amenities are required, all of which shall be completed and made operational prior to the issuance of the initial Certificate of Occupancy (CO) for the first tiny home.

1. Common open space area shall be provided and shown on the Master Development Plan as part of the PUD zoning of the property.
2. Common open space area shall be provided at a ratio of not less than four hundred (400) square feet of open space per each tiny home unit established on the development site.
3. Common open space area shall include usable public spaces such as lawns, gardens, patios, plazas or scenic viewing areas. Common tables, chairs and benches are encouraged.
4. A system of interior paved sidewalks & pathways shall interconnect all common open space areas, each tiny home, parking areas and sidewalks abutting any public streets bordering the development site.
5. Paved sidewalks and pathways shall be at least five (5) feet in width.

6. Calculations of common open space areas shall not include storm water detention/retention areas, wetlands, streams, floodways, parking areas or required landscaped buffer areas.
7. Swimming pools, playgrounds, courts and other recreational amenities on site, may be calculated as part of the total common open space requirement.
8. General retail, business, and personal service uses intended to serve the daily shopping and business needs of the PUD and surrounding community are permitted on site.

F. *Parking Requirements and Roadway Surfacing.*

1. *Parking Space Requirements.*

The number of required parking spaces is provided in Table 6.05.09.01.A, under Hotel/Motel Lodging.

2. *Parking Surface.*

All designated parking areas shall be constructed of a stabilized, paved asphalt, concrete, permeable or other surface material, as approved by the City Engineer or designee. Crushed shell, compacted clay and other similar materials shall not suffice as a permitted parking surface material. All handicap parking spaces shall be paved.

3. *Fire Lanes.*

All designated fire lanes shall be paved and engineered to City standards to accommodate the weight of a fire truck and associated apparatus. Said paving system shall be approved by the City Engineer or designee.

G. *Landscaping.*

Landscaping requirements for Tiny Home Lodging shall respect the general landscape requirements in Section 6.04.00 of this Code.

H. *Utilities and Services.*

1. Tiny Home Lodging shall only be permitted in areas served by public water and waste water.
2. Dumpsters and dumpster enclosures for solid waste collection shall be provided on site in accordance with Section 6.06.02.

# *City of Frostproof*



Unified Land Development Code

## Article 7

**ARTICLE 7.**  
**PLANNED DEVELOPMENTS AND OVERLAY DISTRICTS**

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## **ARTICLE 7.**

### **PLANNED DEVELOPMENTS AND OVERLAY DISTRICTS**

#### **Section 7.01.00. Planned Unit Development (PUD).**

The Planned Unit Development District (PUD) is established to provide for well-planned and orderly development in the City of Frostproof and to operate as an overlay district with the base zoning establishing the parameters for permitted uses and intensity of development. The general intention of a PUD is to:

- A. Promote flexibility in development design and provide maximum opportunity for application of innovative concepts of site planning.
  - 1. Unique and innovative design techniques shall be discussed between the applicant and staff at a pre-application meeting.
  - 2. Applicants shall use at least one (1) unique/innovative design technique within their development. Examples of unique/innovative design techniques may include, but are not limited to the following: clustered lot layout, boulevard/landscaped entrances and streets, recreational facilities, natural resource/lakefront preservation, multiple vehicle and pedestrian connections to adjoining developments, various housing types, and mixed uses where permitted by the Comprehensive Plan.
- B. Provide a means by which to vary from the uniform requirements of other districts in order to respond to special circumstances and site characteristics.
- C. Reduce energy costs through a more efficient use of land design and smaller networks of utilities and streets than is possible through application of other zoning districts.
- D. Allow diversification of uses, structures and open spaces in a manner compatible with existing and permitted land uses on abutting properties by coordinating architectural styles, building forms and building relationships.

All land within a PUD shall be under the ownership of one legal entity, either by deed, agreement for deed, or contract for purchase. Applicants shall present either an opinion of title by an attorney licensed in Florida or a certification by an abstract or title company authorized to do business in Florida that, at the time of application, unified ownership of the entire area within the proposed PUD is vested in the applicant or contract seller. Unified ownership shall thereafter be maintained until the recording of the overall development plan or final plat. Articles 10 and 11 of this Code identify the requirements and procedures for PUD application, plan submittal and review.

Lot area, setbacks or common areas, height, density/intensity, and other development regulations applicable to individual lots within a PUD shall be established by the governing PUD ordinance and the overall development plan. However, in all residential districts, the site shall be a minimum of five (5) acres with a dedicated public thoroughfare. All PUD's shall provide a minimum of twenty-five percent (25%) of the total project area to open space and vegetation cover shall equal, at minimum, fifteen percent (15%) of the site.

Mixed use residential PUD's are allowed to include commercial uses, to serve the existing and proposed residential community, and public facilities. The commercial uses shall not exceed more than ten percent (10%) of the land area and public facilities shall not exceed five percent (5%) of the total land area. A maximum of seven and one half percent (7½%) of the development may be allowed for commercial land uses for PUD's of less than fifty (50) dwelling units.

Mixed use commercial PUD's are allowed to include residential development, including multi-family. Such residential uses may be located above, or may adjoin, the commercial use. There is no limitation to the amount of residential units, except the density shall not exceed twelve (12) dwelling units per acre.

The City Council may require that the project be developed as a PUD due to the housing product being offered, site topography, vehicular access, recreation and commercial needs in the area or other areas of concern that can best be mitigated through the design flexibility offered by PUD zoning.

Where there are conflicts between these special PUD provisions and other regulations in this Code, these special regulations shall apply. Where no standard is designated in the PUD, the appropriate regulations set forth in other sections of this Code shall apply. In a unique situation where no standard is specified, the City Council shall determine the appropriate standard.

All requests for a PUD shall be processed as a rezoning request consistent with the requirements of Article 11 of this Code.

#### **Section 7.02.00. Equestrian District Overlay.**

The "E", Equestrian Overlay District is established as a supplemental district which may be attached to a PUD zoning district. The district may be formed or initiated by the submission of a rezoning application to the City by a developer or property owner(s) in accordance with the provisions of Article 11 of this Code. The establishment of such a district may also be initiated by the Planning and Zoning Commission or the City Council in accordance with Article 11, rezoning procedures.

##### **Section 7.02.01. Definitions.**

**BEST MANAGEMENT PRACTICE (BMP):** For purposes of this Overlay District, a practice or combination of practices determined by coordinating agencies, based on research, field-testing, and expert review, to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality in agricultural and urban discharges. Best Management Practices for agricultural discharges shall reflect a balance between water quality improvements and agricultural productivity. (*Source: Water Quality/Quantity Best Management Practices for Florida Equine, Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, December 9, 2008*).

**COMMERCIAL EQUESTRIAN FACILITY:** Profit motivated equine operations which include, but are not limited to, equine ranches, boarding stables, riding schools, arenas and equine exhibition facilities, and any barns, stables, corrals, and paddocks associated with, or accessory to, the facility use.

**CORRAL:** A small fenced-in enclosure with high, wooden fences, suitable for holding equine. Synonymous with the term "pen".

**EQUINE:** Belonging to the family equidae which includes ponies, horses, donkeys, and mules.

**PADDOCK:** A fenced area, usually near a stable, used chiefly for grazing horses.

**PASTURE:** Land devoted to the production of indigenous or introduced forages for harvest by grazing. An equine pasture shall provide: 1) palatable vegetative forages with few weeds, free of poisonous plants, junk, and loose / barbed wire, 2) dense sod for solid footing, and 3) well drained soil with a good water supply at all times.

**PASTURE, MANAGED:** A pasture where the existing grass is replaced and planted in an improved pasture grass with an established fertilizer application plan based on soil sample analysis recommendations and a weed management plan.

**STABLE:** Also referred to as a barn. A building in which equine are kept. Most commonly means a building that is divided into separate stalls for individual animals.

**STALL:** A compartment for one domestic animal in a barn or stable.

#### **Section 7.02.02. "E" Equestrian District Overlay Minimum Size.**

An equine keeping district shall be a minimum of 20 acres and all lots or parcels of property contained within its boundaries shall be contiguous. The boundaries of said district shall be drawn so as to coincide as nearly as practicable with street alignments or other clearly discernible topographic features.

#### **Section 7.02.03. "E" Equestrian District Overlay Requirements and Conditions.**

Upon the establishment of such "E" district, the following conditions shall apply:

- A. Equine shall be maintained within an enclosure, meeting the requirements of Section 7.02.04 *or* Section 7.02.05, if a commercial facility;
- B. No stable or paddock shall be located within fifteen (15) feet of the owner's residence, nor closer than fifty (50) feet from any Overlay District perimeter boundary line;
- C. If deemed necessary to protect adjoining lots not a part of the district, more stringent regulations may be imposed on the lots on the periphery of the district;
- D. The Planning and Zoning Commission may recommend, and the City Council may require, any additional conditions deemed necessary to protect the health, safety and welfare of all residents in the area;
- E. All stables, corrals and yards shall be maintained in a clean and sanitary condition;
- F. All animal droppings and food scraps shall either 1) be removed from the premises at least once a week or more frequently to prevent unsanitary conditions *or* 2) be properly composted (to kill any parasite or parasite larvae) and recycled as fertilizer on the premises. All animal food, except hay and straw, shall be stored in containers which offer protection against rodents;

- G. No person shall keep or store any fertilizing material except in containers, bins or rooms which are fly-tight, dust-proof and ventilated in such a manner as to prevent the fertilizer material from becoming a harbor for rodents or a breeding place for flies;
- H. All equine facilities shall participate in the Florida Equine Water Quality Best Management Practices (BMP) Program through the Florida Department of Agriculture and Consumer Services (FDACS) / the Florida Department of Environmental Protection (FDEP);
- I. Any equine presently being maintained at a location, prior to the adoption of this Code, may continue to be so maintained, in accordance with these rules concerning animal care and sanitation. If the equine are not allowed within the zoning district in which they are presently located, the property is subject to Section 3.07.01, Nonconforming Uses, whereby discontinuation of the use, under the terms of Section 3.07.01, shall require the property to be rezoned to a zoning district which allows equine or the property would need to be designated an Equestrian District in order to reestablish the use, of keeping equine, at that location.

#### **Section 7.02.04. Equestrian Facilities.**

The following general requirements for equine management and facilities shall apply to all zoning districts allowing equine, unless specified otherwise herein.

##### **Section 7.02.04.01. Sizing of Pastures.**

Pastured areas used as a main food source for equine need to be sized to accommodate forage consumption by the equine and to allow for a re-growth and recovery period. Best Management Practices shall be observed when sizing pastures, however, grazing/pasture land shall, at a minimum, meet one of the following requirements:

- A. Equine shall be provided a minimum of two (2) acres of managed pasture land per animal, along with supplemental hay and grain; or
- B. Equine shall be provided a minimum six (6) acres of unmanaged pasture land per animal, along with supplemental hay and grain.

##### **Section 7.02.04.02. Shelter.**

Animals shall be provided with the proper housing or shelter which fits the specific needs of the animal that will inhabit the space.

Equine, at a minimum, shall be provided free choice protection or constructed shelter from direct rays of the sun, from wind, and from inclement weather. Natural or constructed shelters shall be of sufficient size to provide necessary protection and adequate space for each animal to lie down and move its head freely. Constructed shelters shall be structurally sound, free of injurious matter, maintained in good repair, and ventilated. Ninety (90) to one hundred fifty (150) square feet shall be provided for each equine when constructing a run-in shelter and open sheds shall face away from prevailing winds.



#### **Section 7.02.04.03. Barns and Facilities.**

Barn stalls shall be a minimum 12'x12' per animal and shall be kept clean. Floor surfaces shall be kept dry enough to prevent animals from standing or lying on wet surface for prolonged periods.

#### **Section 7.02.05. Commercial Equestrian Facilities.**

A commercial facility shall consist of at least 10 acres and no building, paddock or corral shall be located closer than 200' to a property line. Other provisions pertaining to pastures and shelter, as provided in Sections 7.02.04.01. and 7.02.04.02, shall be applicable.

##### **Section 7.02.05.01. Commercial Barns and Facilities.**

Barn stalls shall be a minimum 12'x12' per animal and shall be kept clean. Floor surfaces shall be kept dry enough to prevent animals from standing or lying on wet surface for prolonged periods. Barn interiors shall be equipped with working fire extinguishers every thirty (30) feet and a monitoring system that will sound an alarm. A fire safety system shall also include a ceiling sprinkler system.

##### **Section 7.02.05.02. Exercise Areas.**

Equine exercise areas shall consist of at least one thousand (1,000) square feet per animal.

#### **Section 7.03.00 Military Influence Planning Area (MIPA) Overlay District**

The Avon Park Air Force Range (APAFR), located east of Frostproof in southeast Polk County, is a training facility serving all branches of the military, the National Guard and some civilian organizations, such as the South Florida Community College Law Enforcement Academy.

The Military Influence Planning Areas (MIPA) Overlay District is established to ensure that land uses and activities are compatible with the operations of the APAFR, in order to protect the health and safety of residents and to preserve the mission of the APAFR. This Section contains the development standards and criteria applicable within the MIPA Overlay. Where there is conflict between the Overlay standards and other regulations of this Code, the overlay standards shall be followed.

##### **Section 7.03.01. Applicability**

The MIPA overlay standards shall apply to the areas of Frostproof located within Military Influence Planning Area I (MIPA-I) and Military Influence Planning Area III (MIPA-III) as shown on the Official Zoning Map of the City of Frostproof.

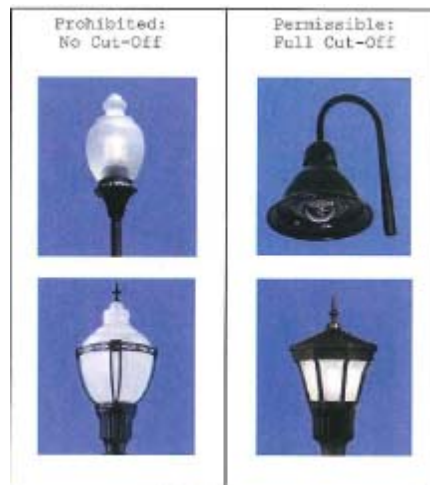
##### **Section 7.03.02 Development Standards for Military Influence Planning Areas**

Development within the MIPA Overlay shall be consistent with the following criteria:

1. MIPA-1: Redevelopment and new development within MIPA-1 shall be consistent with the following:

- a. Proposed structures shall comply with the Maximum Structure Height as established in Table 5.02.01 (Residential Development Standards) and Table 5.02.02 (Commercial and Industrial Development Standards) for each land use district. Any structure taller than 50 feet will require a variance in compliance with Section 11.06.00 of this Code. A variance to the height requires an evaluation by the Board of Zoning Appeals to determine if it will have a negative impact on the operations within the APAFR restricted air space;
- b. The location of landfills shall be prohibited because these activities may induce aircraft bird strike hazard;
- c. Street and parking lot lighting will be required to comply with the following:
  - Street Light fixtures shall be limited to 16 feet in height, unless otherwise further restricted in this Code.
  - Parking lot lighting fixtures shall be limited to 24 feet in height.
  - All lighting shall be fully shielded with cut-off, non-glare fixtures directed only onto the subject site (see Figure 7.03.02.01). Non-shielded fixtures without cut-offs are prohibited.

Figure 7.03.02.01 Street Lighting



- d. Non-residential Development Lighting
  - Electrical reflectors, spotlights, floodlights and other sources of illumination may be used to illuminate buildings, landscaping, signs, Parking and loading areas, on any property provided the illumination is cast downward and the fixtures focus the illumination only onto the aforementioned features and prevent illumination upon adjacent properties or any public right-of-way.

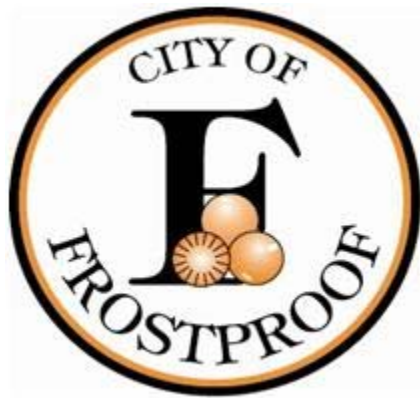
- All lighting shall be fully shielded with cut-off, non-glare fixtures directed only onto the subject site (see Figure 7.03.02.01.
- e. Sign Lighting
- Sign lighting shall be downward projecting or backlit. Lighting attached to signage shall be projected directly at the sign and downward using light shields, hoods, and cut-off type fixtures.
- f. Lighting Curfew
- After closing hours and until sunrise, businesses shall turn off any unnecessary lights (those not associated with safety and security)
  - Businesses open 24 hours shall reduce the illumination by 30% after 11 pm and sunrise.
- g. Prohibited light sources
- Mercury vapor lamps and fixtures;
  - Any illumination patterns common to aviation (similar to runway guidance lighting, flood lights above horizontal plane, etc.) when used on buildings or surrounding.
  - Laser source light when projected above the eaves of structures.
  - Searchlights or laser source lighting used for advertising or entertainment purposes.
- h. Lighting exempt from these regulations:
- Residential lighting in swimming pools and other residential water features governed by Article 680 of the National Electrical Code;
  - Exit signs and other illumination required by building codes.
  - Lighting for stairs and ramps, as required by the building code.
  - Holiday lighting for no more than thirty (30) days per year.
  - Existing ballpark, field lighting, or other sporting venue lighting approved prior to the adoption of this section.
  - Low voltage landscape lighting, but such lighting should be shielded in such a way as to eliminate glare and light upwards onto adjacent properties.

2. MIPA-1 and MIPA-III:

- a. The City shall, in writing, inform all applicants of proposed development within the Military Influence Planning Areas of potential noise nuisance and of sound-level reduction (SLR) standards that could be implemented to mitigate nuisances caused by recurring overflight and other military training activities.

- b. Consistent with applicable law, all development within the Military Influence Planning Areas shall be subject to the City's development review procedures.

# *City of Frostproof*



Unified Land Development Code

## Article 8

## ARTICLE 8.

### SIGNS

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## **ARTICLE 8.**

### **SIGNS**

#### **Section 8.01.00. Generally.**

These sign regulations are intended to complement the requirements of the Building and Electrical Code adopted by the City. Wherever there is inconsistency between these regulations and the Building or Electrical Code, the more stringent requirements shall apply.

#### **Section 8.02.00. Purpose, Intent, and Scope.**

It is the purpose of this article to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to reach the secondary effects that may adversely impact aesthetics and safety.

In order to preserve promote the city as a desirable community in which to live, vacation and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the city is a highly contributive means by which to achieve this desired end. These sign regulations have been prepared with the intent of enhancing the visual environment of the City and promoting its continued well-being, and are intended to:

- A. Encourage the effective use of signs as a means of communication in the City;
- B. Maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
- C. Improve pedestrian and traffic safety;
- D. Minimize the possible adverse effect of signs on nearby public and private property;
- E. Foster the integration of signage with architectural and landscape designs;
- F. Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- G. Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- H. Encourage and allow signs that are appropriate to the zoning district in which they are located and consistent with the category of use and function to which they pertain;
- I. Curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business;
- J. Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- K. Categorize signs based upon the function that they serve and tailor the regulation of signs based upon their function;

- L. Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;
- M. Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;
- N. Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- O. Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the City;
- P. Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;
- Q. Protect property values by precluding, to the maximum extent possible, sign-types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- R. Protect property values by ensuring that sign-types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;
- S. Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of this City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its resort community, as well as for its major subdivisions, shopping centers and industrial parks; and
- T. Enable the fair and consistent enforcement of these sign regulations.

**Section 8.02.01. Substitution of Non-Commercial Speech for Commercial Speech.**

Notwithstanding anything contained in this Article or Code to the contrary, any sign erected pursuant to the provisions of this Article or Code may, at the option of the owner, contain a non-commercial message in lieu of a commercial message and the non-commercial copy may be substituted at any time in place of the commercial copy. The non-commercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to non-commercial messages, or from one non-commercial message to another non-commercial message, as frequently as desired by the owner of the sign, provided that the size, height, setback and other dimensional criteria contained in this Article and Code have been satisfied. No sign shall obstruct the area of clear visibility, consistent with Section 5.05.00 of this Code.

#### **Section 8.02.02. Content Neutrality as to Sign Message (Viewpoint).**

Notwithstanding anything in this Article or Code to the contrary, no sign or sign structure shall be subject to any limitation based upon the content (viewpoint) of the message contained on such sign or displayed on such sign structure.

#### **Section 8.03.00. Definitions.**

The word "shall" is mandatory and the word "may" is permissive.

#### **ABANDONED SIGN:**

- a. Any sign face which advertises a business no longer conducted, or product no longer sold at the location at which the sign is located. In making the determination that a sign advertises a product no longer being sold or business no longer conducted on the site, the Building Official or Code Enforcement Officer shall consider the existence or absence of a current business tax receipt, utility service deposit or account, use of the premises, and relocation of the business. (*Amended Ord. 2011-08*)
- b. Only temporary window signs may be used within the window of a business no longer located on the site in which the business had been conducted, for the purpose of advertising for a period not to exceed one hundred eighty (180) days, the relocation of that business. Such temporary signs shall not exceed twenty-five percent (25%) coverage of any single or individual pane of window surface. Said signs may also be allowed at adjacent businesses, with the approval of the property owner or the business owner occupying the adjacent building, if the sign cannot be posted on-site. (*Amended Ord. 2011-08*)
- c. Any sign structure which has not been used for business purposes for one hundred eighty (180) days. (*Ord. 2011-08*)

**ANIMATED SIGN:** A sign depicting action, motion, light, or color changes through electrical or mechanical means. An animated sign shall not be considered a flashing sign if the cyclical period between on-off phases of illumination is three (3) seconds or more.

**AWNING:** Any structure made of cloth or metal, which is supported by an open metal framework, and which is temporarily or permanently attached to, and extends from, an exterior wall or any other exterior portion of a building. Awning signs shall be treated as wall signs and shall be included in the calculation for the maximum allowable wall sign area. *(Amended Ord. 2011-08)*

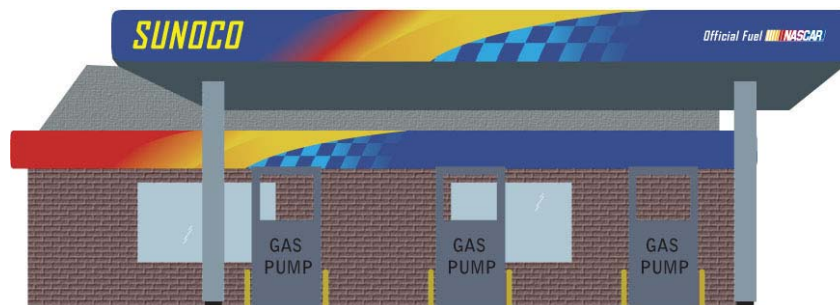


**BANNER:** Any sign with characters, letters, illustrations, or ornamentation applied to cloth, paper, or plastic fabric of any kind. *(Amended Ord. 2011-08)*

**BENCH SIGN:** Any sign imprinted upon a public service bench which displays advertising. Bench signs shall be permitted, provided the signs are located only on benches which are placed according to agreements approved by the City Council and subject to the conditions expressed therein. *(Ord. 2011-08)*

**BILLBOARD:** A sign, also referred to as a poster panel, advertising a product or service, including entertainment, whose product or service is not available for sale or performance at the place where the sign is located.

**CANOPY, STRUCTURAL:** Any roof-like structure, open on at least three (3) sides, utilized as protection from the rain or sun, such as over gasoline pumps, and may be either of a rigid or non-rigid material, collapsible, removable or of permanent rigid construction. Canopy signs shall be treated as wall signs and shall be included in the calculation for the maximum allowable wall sign area. Canopy signs may be located on any side of the canopy. *(Amended Ord. 2011-08)*



**CHANGEABLE COPY SIGN, MANUAL:** Any sign with copy that can be manually changed, rearranged, or altered without changing the face of the sign. (*Ord. 2011-08*)

**Example of Letter Changeable Copy Sign**



**CHANGEABLE COPY SIGN, ELECTRONIC:** *See Electronic Message Center Sign.*

**CHANNEL LETTER SIGN:** Channel letter signs are fabricated three-dimensional letters that may accommodate a light source. (*Ord. 2011-08*)



**CLUBS, COMMUNITY/FRATERNAL:** Buildings, facilities and property owned and operated by a corporation or association of persons for social or recreational purposes, including those organized chiefly to promote friendship and welfare among its members, to include facilities and service for providing entertainment, in addition to food and drink for consumption by individual members and their invited guests; but not operated primarily for profit or to render a service that is customarily carried on as a business. The term when used herein shall also mean lodge, fraternal order, or society.

**CONSTRUCTION SIGN:** A sign announcing and identifying the construction project scheduled or underway on the site where the sign is located.

**DIRECTIONAL SIGN:** Any sign used to indicate the direction to entrances, exits, parking areas, restrooms, or other non-business related facilities on the site.

**DIRECTORY SIGN:** A sign which gives the names and locations of businesses or individuals located in the building or complex where it is located.

**DISSOLVE:** A mode of message transition on an Electronic Message Center Sign accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

**DOUBLE-FACED SIGN:** A sign with two (2) faces which are no more than three (3) feet apart at their furthest point, and which describe an internal angle between face planes extended or no more than thirty (30) degrees.

**ELECTRONIC MESSAGE CENTER SIGN (EMC):** A variable-message sign that changes at regular intervals via a computer-controlled interface or some other electronic means of changing copy.

**FADE:** A mode of message transition on an Electronic Message Center Sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**FLASHING:** A pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated for the purpose of drawing attention to the sign.

**FOOT CANDLE:** A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot, and originally defined with reference to a standardized candle burning at one (1) foot from a given surface. Foot candle can be measured by means of an illuminance meter.

**FRAME:** A complete, static display screen on an Electronic Message Center Sign.

**FRAME EFFECT:** A visual effect on an Electronic Message Center Sign applied to a single frame to attract the attention of viewers.

**FREESTANDING SIGN:** A permanent sign that is set firmly in or upon the ground surface and is not attached to any building or other structure. Freestanding signs include, but are not limited to, ground-mounted, monument, or pole signs. (*Amended Ord. 2011-08*)

**FRONT FOOT, PROPERTY:** Each foot or major portion thereof, measured along the public right-of-way where the subject property abuts said right-of-way.

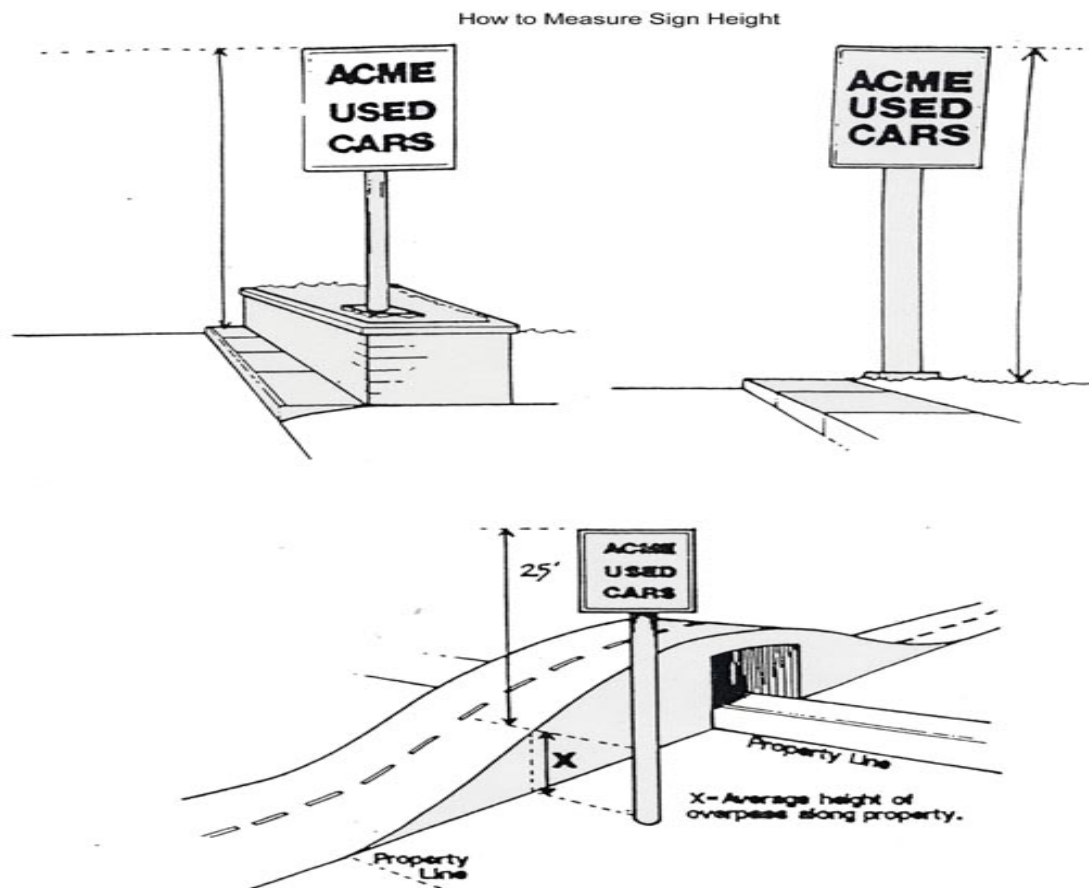
**FRONT FOOT BUILDING:** Each foot or major portion thereof, measured along the main entry side of a building.

**GRADE ELEVATION:** The final elevation of the ground surface after development excluding berms or landscape treatment specifically designed to raise the height of the sign.

**GROUND SIGN:** A freestanding sign permanently attached to or supported by the ground by a continuous base or two (2) or more support posts at the outside edge, not attached to any structure. If supported by posts, the bottom of the sign shall be located no more than three feet six inches (3'6") above the finished grade elevation of the site. Ground signs shall not exceed six (6) feet in total height, consistent with the definition for "Height of Sign" included in this Section. (*Ord. 2011-08*)



**HEIGHT OF SIGN:** The vertical distance measured between the top of a sign structure and the finished grade elevation, or the average elevation of the abutting roadway, nearest the base of the sign to the highest point on the sign. (*Amended Ord. 2011-08*)



**IDENTIFICATION SIGN:** A sign that indicates the name and type of business or service, or the name of the development located on the site where the sign is located which may include street address, phone number, and graphic of business logo.

**ILLUMINANCE:** The amount of light falling upon a real or imaginary surface, commonly called "light level" or "illumination". Measured in foot candles (lumens/square foot) in the English system, and lux (lumens/square meter) in the SI (meter) system.

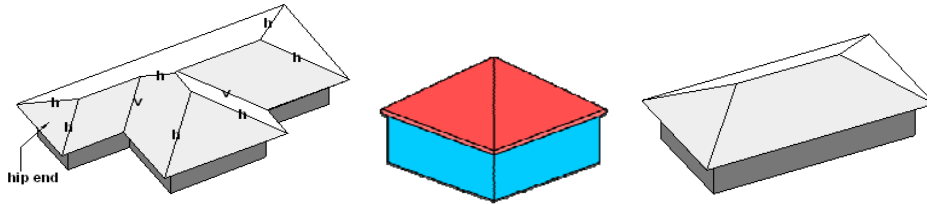
**ILLUMINATED SIGN:** A sign that uses artificial light, either internal or external to the sign faces, to draw attention to the sign or otherwise increase its visibility.

**INSTRUCTIONAL SIGN:** A sign conveying non-advertising information relating to the use of the premises, including such signs as no parking, no trespassing and warning signs.

**INTERNALLY ILLUMINATED SIGN:** A sign that uses artificial light from behind the sign face to increase its visibility.

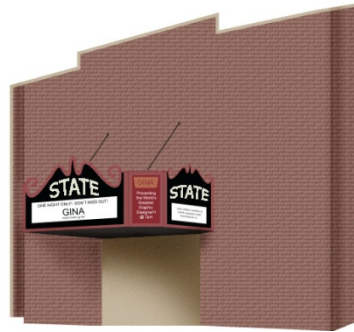


**HIP ROOF:** A type of roof where all sides slope downwards to the walls, usually with a fairly gentle slope. A square hip roof is shaped like a pyramid. Hip roofs on rectangular houses will have two triangular sides and two trapezoidal ones. A hip roof on a rectangular plan has four faces. They are almost always at the same pitch or slope, which makes them symmetrical about the centerlines. Hip roofs have a consistent level fascia. (*Ord. 2011-08*)



**LUMEN:** A measurement of the total amount of visible light emitted by a source.

**MARQUEE:** A permanent canopy structure, often of metal and glass, projecting out over the entrance to a large building such as a hotel or theater; a sign usually over the entrance of a theater or arena that displays the names of featured attractions and principal performers. Marquee signs shall be treated as wall signs and shall be included in the calculation for the maximum allowable wall sign area. (*Amended Ord. 2011-08*)



**MEMBERSHIP SIGN:** A sign identifying affiliations such as: travel clubs, business association, credit card company, or civic club or any other membership association.

**MEMORIAL SIGN:** A permanent sign, plaque, inscription or similar group of symbols recording historical data relating to the construction of the building to which it is affixed.

**MONUMENT SIGN:** A freestanding sign, with a solid base, designed with a continuous structural element of approximately the same dimension from the ground to the top of the sign. Monument signs shall be allowed where ground signs and pole signs are allowed and may be constructed up to a height consistent with pole sign regulations as provided in Table 8.09.01 of this Article. (*Ord. 2011-08*)



**MULTIPLE FRONTAGE PROPERTY:** A lot or parcel that is contiguous to more than one public right-of-way being either a corner lot or a through lot.

**MULTI-USE COMPLEX:** Any development of two (2) or more business or industrial uses that are under common land ownership or that share common property frontage.

**NEON SIGN:** A sign with tubing that is internally illuminated by neon or other electrically charged gas.

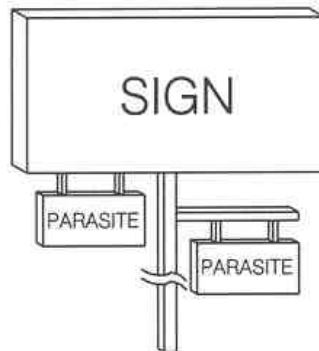
**NON-CONFORMING SIGN:** A sign erected in the City before the adoption of this Article that does not conform to the requirements of this Article.

**OFF-SITE ADVERTISING SIGN:** Any sign which directs attention to a business, commodity, service, product or activity not conducted, sold, offered or available on the premises where such sign is located or to which it is affixed.

**ON-SITE SIGN:** A sign that identifies or advertises only goods, services, facilities, events or attractions available on the premises where the sign is located.

**PARAPET:** A wall-like barrier at the edge of a roof, terrace, balcony or other structure. Where extending above a roof, it may simply be the portion of an exterior wall that continues above the line of the roof surface, or may be a continuation of a vertical feature beneath the roof such as a fire wall or party wall. Signs on parapets shall be treated as wall signs and shall be included in the calculation for the maximum allowable wall sign area. (*Ord. 2011-08*)

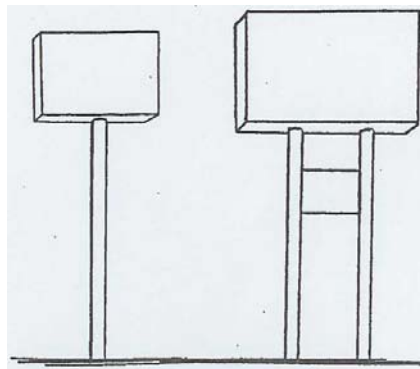
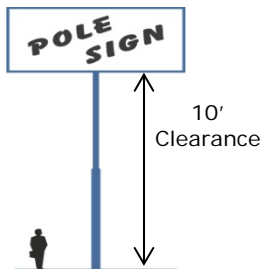
**PARASITE SIGN:** Any sign not exempted by this Article, for which no permit has been issued, and which is attached to another sign. (*Amended Ord. 2011-08*)



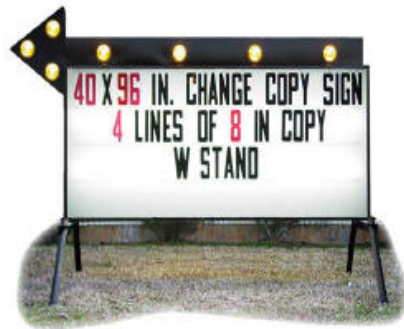
**PENNANT OR STREAMER:** Any flag-like piece of cloth, plastic or paper attached to any staff, cord, building or other structure that hangs loosely for the purpose of attracting attention to its site.

**PERMITTED SIGN:** All signs needing a permit under this Article.

**POLE SIGN:** A freestanding sign, other than a ground or monument sign, which is mounted on free standing poles or other supports and embedded in the ground. (*Ord. 2011-08*)



**PORTABLE SIGN:** A sign that has no permanent attachment to a building or to the ground by means of a footing, including but not limited to, an A-frame sign, a sign with its own wheels designed to be pulled, a sign towed on a trailer or similar device, ~~or~~ hot air or gas filled balloons, trash receptacles, and similar sidewalk appliances which display advertising copy and sidewalk signs. Portable road side signs shall not exceed 4' x 8' and may be double faced. *(See also definition of "Sidewalk Signs" for more examples of portable signs). (Amended Ord. 2011-08)*



**Example of a Portable Roadside Sign  
With Changeable Copy (may also be on wheels)**



**Example Portable Sign**

**PREMISES:** The lot or lots, plots, portions or parcels of land considered as a unit for a single development or activity.

**PROJECTED SIGN:** A sign supported by a wall of a building, projected away from that wall twelve (12) inches or more, and designed with a face or faces reading at a ninety degree (90°) angle to that wall.

**PUBLIC:** Includes buildings, structures, lands and facilities that are owned, leased, or operated by a public body, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings. Also includes educational systems or facilities, parks and recreation systems or facilities and public health systems or facilities, transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, stormwater management systems or facilities, and potable water systems or facilities. *(Ord. 2011-08)*

**REAL ESTATE SIGN:** A sign erected by the owner, or his agent, advertising the real property where the sign is located for sale, lease, or rent.

**ROOF SIGN:** A sign painted on or affixed to the roof of a building and primarily supported by that roof structure. (*Amended Ord. 2011-08*)

**Example of Roof Sign**



**SANDWICH BOARD:** A freestanding, portable sign with two (2) surface areas for display.

**SETBACK:** The setbacks for signs specified in this Article shall be measure horizontally from the vertical place of the property line or right-of-way line to the closest point of the sign.

**SCROLL:** A mode of message transition on an Electronic Message Center Sign where the message appears to move vertically or horizontally across the display surface.

**SHOPPING CENTER:** A group of commercial establishments built primarily for retailing purposes on common property planned, developed, owned or managed as a unit with common off-street parking provided on the same site.

**SIDEWALK SIGN:** A self-supporting, portable sign designed to be placed upon a public or private sidewalk, plaza, courtyard or other area where pedestrians walk or gather. Includes sandwich boards and A-Frame signs. Sidewalk signs shall not exceed fifty inches (50") in height and thirty-four inches (34") in width (measurements are inclusive of the frame structure *and* the message board). (Ord. 2011-08)



**Example of an A-Frame Sign/  
Sandwich Board With Changeable  
Copy**

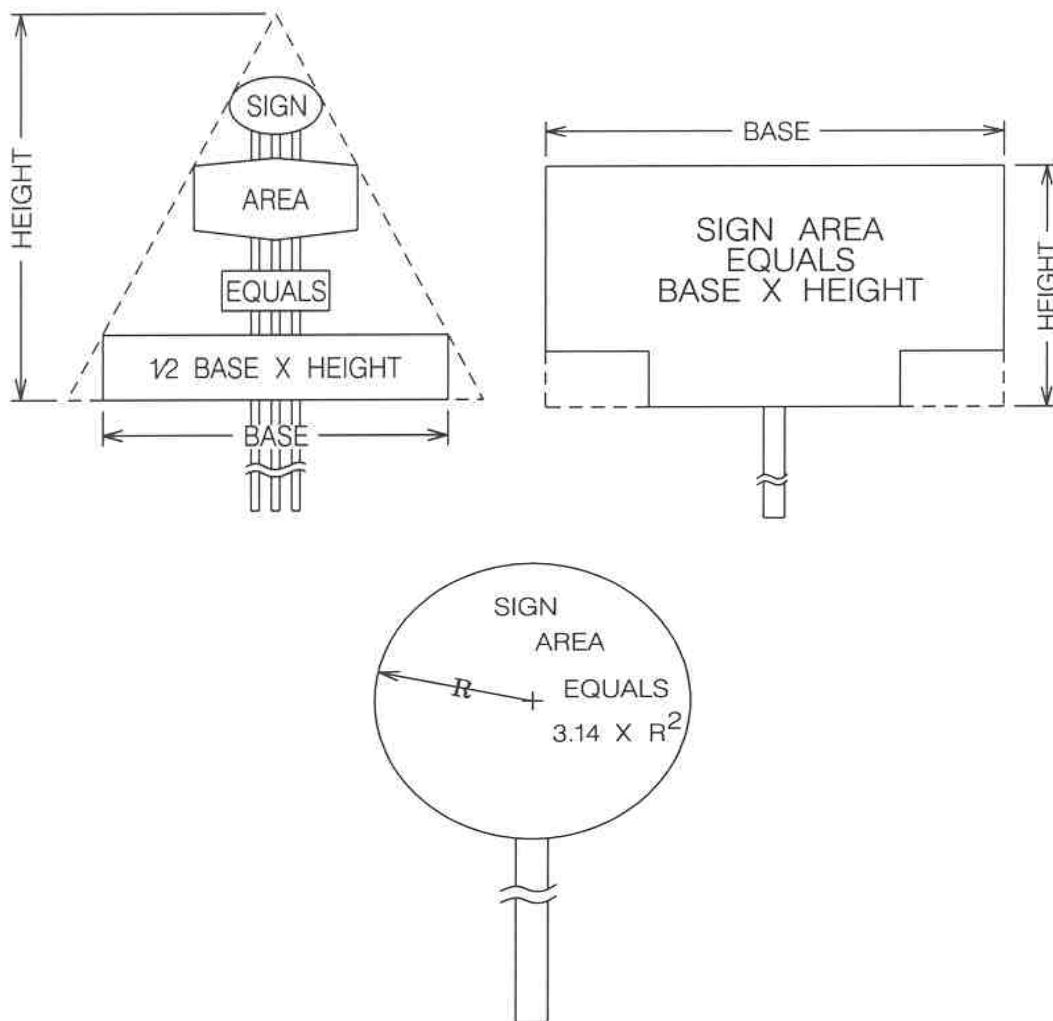


**Examples of Sidewalk Signs**



**SIGN:** Any letters, numbers, symbols, graphic, pictures, or figures or combination thereof which are erected, constructed, placed, painted, tethered or attached to a structure or the ground, which identify, advertise or direct attention to a product, business, institution, place, person or event. When not modified by the terms "structure" or "face", the term "sign" shall include all parts of the sign and its supporting structure.

**SIGN, AREA:** The total surface of a sign including the background and frame but not structural supporting elements outside of its frame. Where a sign is composed of skeleton letters, characters, or symbols applied to a background which is not a structural part of the sign, the area of the sign shall be the smallest rectangle, triangle, or circle which will include the display. Where a sign has two or more faces the area of all faces shall be included in determining the area of the sign, except where two such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area. A double-faced sign with an angle shall be regarded and calculated as two signs. See the definition of "Window Sign, Permanent" for window sign area calculation requirements. (*Amended Ord. 2011-08*)



**SIGN, FACE:** The plane area which is defined as sign area.

**SIGN, STRUCTURE:** The uprights, supports, braces and framework supporting a sign.

**SKELETON SIGN:** A skeleton sign (also called a pin mounted letter sign) is made of letters that are either cut out, cast, molded, or fabricated in materials such as metal, aluminum, brass or plastic and mounted or bracketed to a vertical surface. (*Ord. 2011-08*)



**SNIFE SIGN:** Any sign of any size, made of any material, including paper, cardboard, wood and metal, when such sign is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, fences or other objects. Directional signs, directory signs, and real estate signs ("For Sale", "Auction", "For Lease") attached to fences are exempt from this definition; directional signs and directory signs shall comply with all the requirements as provided in the definition for such signs and with Section 8.05.00. D., Exempt Signs. Real estate signs shall comply with Section 8.15.00 of this Article. (*Ord. 2011-08*)

**STATIC IMAGE:** An image that does not contain or display movement, or the appearance or optical illusion of movement during the static display period, of any part of the sign structure, design, or pictorial segment of the sign.

**STOP WORK ORDER:** Upon notice from the Building Official, work on any system that is being done contrary to the provisions of these regulations or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

**TEMPORARY SIGN:** A sign erected for two (2) weeks or less to advertise or identify transitory events unless specifically permitted for a longer period by this Article.

**TRANSITION:** A visual effect used on an Electronic Message Center Sign to change from one message to another.



**TRAVEL:** A mode of message transition on an Electronic Message Center Sign where the message appears to move horizontally across the display surface.

**TYPEFACE:** A set of one or more fonts, in one or more sizes, designed with a coordinated, consistent, stylistic visual unity, appearance or style. A typeface usually comprises an alphabet of letters, numerals, and punctuation marks; it may also include symbols, or consist entirely of them. *(Ord. 2011-08)*

**UNDER-CANOPY SIGN:** A sign painted on or attached to the underside of a canopy, awning or marquee.

**WALL SIGN:** An on-premises sign applied to or mounted on a wall, the display surface of which does not extend more than eighteen (18) inches from the surface of the wall, and does not extend above the roof line, parapet, marquee or mansard, whichever forms the top line of the building silhouette. *(Amended Ord. 2011-08)*

**WINDOW SIGN, PERMANENT:** A permanent sign affixed to, suspended behind, or painted on either face of a window or glass door that reads to the exterior of the building of a business, which shall not cover more than thirty percent (30%) of any single or individual pane of window surface. *(Amended Ord. 2011-08)*

- A. When individual lettering, including skeleton letters, characters, logos, figures or symbols, are mounted and/or painted directly on a window, the area of the sign shall be the smallest rectangle, triangle, or circle which encompasses all of the letters, logos, figures, and symbols. *(Ord. 2011-08)*
- B. If the sign, as computed in A. above, does not have any distinguishing border, panel or background, and any blank areas comprise more than 10 percent (10%) of the sign area, the sign area may be calculated by measuring the smallest rectangle, triangle, or circle which encompasses all of the letters, logos, figures, and symbols on a line-by-line basis. *(Ord. 2011-08)*

**WINDOW SIGN, TEMPORARY:** An interior sign which is not permanently affixed to or painted on the face of a window or glass door that reads to the exterior of the building of a business located on the ground floor. Temporary window signs shall not cover more than 25 percent (25%) of any single or individual pane of window surface. *(Ord. 2011-08)*

#### **Section 8.04.00. Sign Permits.**

It shall be unlawful for any person to erect, construct, alter or relocate within the incorporated areas of the City of Frostproof, Florida, any sign without having first obtained a permit, except as provided for in this Article.

The erection, repair or painting of all signs requiring permits under this Article shall be done by and permitted to the property owner or lessee, or to a sign contractor, general contractor or building contractor licensed within Polk County.

#### **Section 8.04.01. Application for a Permit.**

All applications for permits under this Section shall be filed by either a contractor licensed to erect signs in Polk County, or the owner of the property where the sign is to be located, or his or her authorized agent. Any sign over thirty-two (32) square feet shall require a sealed set of

drawings and calculations by an engineer licensed in Florida. Such application shall include the following:

- A. Name, address and telephone number of owner(s) of property;
- B. Name, address and telephone number of licensed sign company erecting the sign;
- C. The street address or legal description of the property upon which the proposed sign is to be located;
- D. The height, size, shape and exact location of the proposed sign in relation to other buildings, facilities, signs, and existing trees located on the site;
- E. Notarized signature of the owner of the property indicating permission to erect the proposed sign;
- F. A plan, sketch, blueprint, or similar presentation drawn to scale, showing the sign and all pertinent structural details, wind pressure requirements, and materials in accordance with the requirements of the Florida Building Code adopted by the City of Frostproof;
- G. A statement verifying the height, size, shape and exact location of existing signage on the premises.

#### **Section 8.04.02. Issuance of Permit.**

Upon receipt of an application for a sign permit, the City Building Official, or his or her designee shall review the plans, specifications and other data relating to such sign, and if considered necessary, inspect the premises upon which the sign is proposed to be erected. Plan review shall be completed within thirty (30) calendar days of receipt of a complete application and application fee, and a sign permit shall be issued if the sign is found in compliance with this Article and all other applicable State and City laws.

#### **Section 8.04.03. Permit Fees.**

Permit fees under this Article shall be established by resolution by the City Council.

#### **Section 8.04.04. Penalties.**

In addition to other penalties provided by this Article, or other City ordinances generally, a permit fee of triple the amount specified, not to exceed \$250.00 per day, shall be required if work has commenced without a permit.

#### **Section 8.04.05. Expiration of Permit.**

Any permit issued under this Sign Code shall expire six (6) months after the date of issuance unless a permit extension is granted by the City Building Official. Sign permits submitted simultaneous with a building permit application for new building construction shall run concurrently with the expiration date of the new construction building permit.

#### **Section 8.05.00. Exempt Signs.**

The following signs are exempt from the permitting requirements of this Sign Code, but must still meet applicable construction standards and obtain electrical permits if required by the City Electrical Code.

- A. Signs, banners, pennants, streamers and flags of a non-commercial nature, and in the public interest, erected by the City or approved by the City Council to designate historic districts, business districts, parks, or streetscape projects, or to publicize special events.
- B. Nameplate or occupant identification signs of four (4) square feet or less.
- C. Warning signs and safety signs of four (4) square feet or less which may include "No Trespassing", "No Dumping", "No Parking", "Bad Dog", and similar warning message signs.
- D. Directional or informational signs (including hospital emergency room signs) or institutional or group notices of a public or semi-public nature. Directional signs to assist on-site vehicular traffic flow shall be low-profile signs not to exceed three (3) feet in height above grade and four (4) square feet of surface area, with the legend to be affixed thereon limited to arrows and the words enter or exit, etc., as appropriate. Directional signs and directory signs may be placed on fences as follows: Up to two (2) directional signs per street frontage per business are allowed to be placed on fences when the sign is associated with, and serves the purposes of the business on-site and does not exceed four (4) square feet. Directional signs and directory signs shall comply with the visibility clearance requirements as set forth in Section 5.05.00 of the Land Development Code. (*Amended Ord. 2011-08*)
- E. Governmental signs for traffic control, street designation, direction to public facilities, and any public sign deemed necessary by a public official in the performance of his or her public duty, or as approved by the City Council, Polk County Board of County Commissioners or FDOT.
- F. Memorial signs or tablets when cut into any masonry surface or constructed of a non-combustible material.
- G. Flags; insignia, related to the business; and holiday decorations, customarily associated with any national, religious or local holiday.
- H. Temporary window signs (see Section 8.03.00 of this Article for definition of "Window Sign, Temporary". (*Amended Ord. 2011-08*))
- I. Credit card or membership signs of two (2) square feet or less, limited to one of each different organization for each street frontage. (*Amended Ord. 2011-08*)
- J. A maximum of two (2) menu boards or price lists for drive-thru facilities of no more than thirty-six (36) square feet each. Such signs shall be located adjacent to, or oriented toward, the drive-thru area.
- K. Graphics and trademarks on vending machines, gas pumps and other machinery customarily used for sales outside of buildings.
- L. Real estate, financial institution, political campaign signs and construction signs consistent with the Sections contained under Section 8.15.00 of this Article.
- M. Standard-sized menus mounted at the entrances of restaurants.
- N. Signs required by federal, state or county law.
- O. Contractor and subcontractor signs of no more than twelve (12) square feet limited to one (1) sign per contractor per site.
- P. Signs carried by a person.

- Q. Street address signs and residential mailboxes. For each parcel within the city, one attached wall street address sign may be displayed. For parcels in residential use, the street address sign shall not exceed two (2) square feet in sign area. For each parcel in non-residential use, the street address sign shall not exceed four (4) square feet in sign area. In addition to street address signs, a residential mailbox with the address of the property affixed to it such that the address is no larger than one side of the mailbox shall be allowed for each residence in the city.
- R. Standard size restaurant menus, mounted at the entrances of restaurants, typically measuring 8 ½" x 11", 8 ½" x 14", 11" x 14", or 11" x 17". Outdoor menu displays shall be located within a weatherproof outdoor menu case that shall either be wall mounted or freestanding. *(Ord. 2011-08)*
- S. Public or semi-public athletic field signs which indicate sponsorship of the teams or announce or relate to activities that occur therein, provided:
  - 1. Such signs shall be affixed, placed, or installed on the athletic field fencing and facing the field, and;
  - 2. Such signs shall only be affixed to scoreboards, buildings, or structures facing the field.*(Ord. 2011-08)*
- T. Painted window panes, for a period not to exceed seven (7) consecutive days, that promote a special on-site event or community wide event. *(Ord. 2011-08)*

#### **Section 8.05.01. Central Business District.**

The Central Business District (CBD) zoning district is exempt from certain sign regulations due to the unique and historic quality of this district and the unique arrangements of the buildings along the downtown streets. *(Ord. 2011-08)*

##### **Section 8.05.01.01. Central Business District.**

Signs erected in the Central Business District, the boundaries as defined in Section 4.03.06.02, Article 4, may project into the public right-of-way, under the following conditions:

- A. A temporary sign, located on public property, shall be allowed if the sign will not constitute a traffic hazard, or nuisance. *(Amended Ord. 2011-08)*
- B. A sidewalk sign may be displayed only in front of the business which it advertises and may not be displayed at any other off-premises site. No more than one (1) sidewalk sign may be displayed per principal ground-floor retail business use frontage during hours of operation of the business and must be removed at the close of business each day. *(Amended Ord. 2011-08)*
- C. A sidewalk sign shall not exceed fifty (50) inches in height and thirty-four (34) inches in width consistent with the definition of "Sidewalk Sign" as contained in Section 8.03.00 of this Article. *(Amended Ord. 2011-08)*

- D. A sidewalk sign may not impede or restrict the flow of pedestrian traffic. *(Amended Ord. 2011-08)*
- E. Sidewalk signs shall only be placed where there is eight (8) feet of clear passageway width, with no obstructions, on a sidewalk or pedestrian walkway. *(Ord. 2011-08)*
- F. Sidewalk signs shall not block or restrict pedestrian movement and when the sign is in place, there shall be a minimum of five (5) feet clear sidewalk or walkway width for pedestrian travel and otherwise shall comply with the Americans with Disabilities Act (ADA) requirements. *(Ord. 2011-08)*
- G. Sidewalk signs may not be placed in the driving lanes of a public street, or any portion of the street pavement, or in parking stalls on the public right-of-way. *(Ord. 2011-08)*
- H. Sidewalk signs shall not be placed within two (2) feet of the face of any curb when abutting parallel parking spaces. *(Ord. 2011-08)*
- I. Sidewalk signs shall not be placed where they interfere with any exit, fire hydrant, parking meter, bus stop, loading zone, bicycle rack, sidewalk ramp, wheelchair ramp, or similar public facility. *(Ord. 2011-08)*
- J. Sidewalk signs shall not be attached to any tree, light pole, fire hydrant, street furniture or similar fixed object. *(Ord. 2011-08)*
- K. Sidewalk signs shall be constructed of durable, weather-resistant materials such as wood, steel, aluminum and PVC. The use of cardboard, paper, fabric and non-rigid materials is prohibited. *(Ord. 2011-08)*
- L. The maximum number of sides for a sidewalk sign shall be two (2). *(Ord. 2011-08)*
- M. Sidewalk signs must be readily portable but stable, able to withstand modest wind speeds and accidental contact from pedestrians. *(Ord. 2011-08)*
- N. Sidewalk signs may consist of changeable copy signs, chalkboard surfaces and dry erase marker board surfaces (e.g., white boards). All signs shall be legible. *(Ord. 2011-08)*
- O. Parasite signs or other attachments are prohibited. *(Ord. 2011-08)*
- P. Sidewalk signs shall not be displayed during severe weather watches or warnings. *(Ord. 2011-08)*
- Q. Sidewalk signs located along S.R. 17 shall be subject to FDOT procedures. *(Ord. 2011-08)*
- R. Sidewalk signs in use as of the effective date of this Section that do not conform to the above standards and conditions shall be removed and their use discontinued within thirty (30) days of the effective date of this Section. *(Ord. 2011-08)*

**Section 8.05.01.02. Encroachment Agreement. *(Amended Ord. 2011-08)***

An encroachment agreement, on a form provided by the City, shall be executed to indemnify, hold harmless and defend the city from and against any and all claims or suits for property damage or loss and/or personal injury that may arise out of, or in connection with, directly or indirectly, the erection of the sign in the public right-of-way.

**Section 8.05.01.03. Awnings and Similar Structures.** *(Amended Ord. 2011-08)*

In this district, a property owner may erect or repair awnings or similar structures over public property provided that such awnings meet all existing building code requirements for construction, are at least eight (8) feet in height above the existing sidewalk, and do not exceed or extend beyond a vertical line extending upward from a point thirty-six (36) inches inside the existing curb line.

**Section 8.05.01.04. Off-Site Electronic Message Center Signs.**

- A. Off-site electronic message center signs shall be permitted within the Central Business District subject to the following conditions:
1. Such signs shall require a sign permit.
  2. Such signs shall operate in accordance with all applicable provisions of this Article pertaining to electronic message center signs.
  3. Such signs shall have a minimum separation distance between other off-premise electronic message center signs of 2,000 linear feet.
  4. Such signs shall not exceed 128 square feet in area and the maximum sign height shall be 16 feet.
  5. For properties located along the state highway, electronic signs shall comply with state sign and permitting requirements.

**Section 8.06.00. Prohibited Signs.**

It shall be unlawful to erect or maintain any sign described as follows:

- A. No commercial sign shall be located within fifty (50) feet of any residentially zoned property, except signs allowed by Conditional Use consistent with the Conditional Use sections contained under Section 11.04.04 of this Code.
- B. Any sign which constitutes a traffic hazard or a detriment to traffic safety as determined by the City Manager, or his or her designee, by reason of the sign's size, location, movement, content, coloring or intensity of illumination. Any sign which obstructs the vision between pedestrians and vehicles using the public right-of-way, including, but not restricted to, those not meeting the visibility standards in Section 5.05.00 of this Code. Specifically prohibited are signs using:
1. Lights or illuminations that flash, move, rotate, blink, flicker or vary in intensity or color, except electronic message center signs operating in compliance with this Article.
  2. Bare incandescent bulbs in excess of eleven (11) watts.
  3. Words and traffic control symbols so as to interfere with, mislead, or confuse traffic such as "stop", "look", "caution", "danger", or "slow".

- C. Any signs attached to trees, traffic control devices or utility poles.
- D. Signs attached to or painted on vehicles which are not regularly used in and driven during the business day as part of the advertised business and which are obviously parked in such a way as to advertise to the passing motorist or pedestrian.
- E. No sign, except those placed by an authorized governmental agency, shall be placed on the public right-of-way, except as otherwise provided in Section 8.05.01.
- F. Signs made of combustible materials that are attached to or located within twenty (20) feet of fire escapes or firefighting equipment.
- G. Roof signs.
- H. Abandoned signs.
- I. Signs containing any statement, word, character or illustration of an obscene nature.
- J. Any other signs that are not specifically permitted or exempted by this Article.
- K. Parasite signs. (*Ord. 2011-08*)
- L. Snipe signs, with the exception of directional signs, directory signs and real estate signs ("For Sale", "Auction", "For Lease") which may be attached to fences (see definition of snipe sign). Real estate signs shall also comply with Section 8.15.00 of this Article. (*Ord. 2011-08*)

#### **Section 8.07.00. Multiple Frontage Properties.**

If a site or property has frontage on multiple streets, each frontage shall be allowed one freestanding sign as long as the total sign square footage and all other requirements provided in Table 8.09.01B are met. Placement of signs shall be discretionary, however no freestanding sign on one (1) right-of-way may be closer than one hundred (100) feet to a sign on another right-of-way, measured as the sum of distances measured continuously along the rights-of-way through a common point or points. *(Amended Ord. 2011-08)*

#### **Section 8.08.00. Construction and Maintenance Standards.**

All permitted signs shall be constructed and maintained in accordance with the following standards, and no Certificate of Occupancy shall be issued for a building unless signs have conformed to these standards.

- A. All signs shall be constructed and maintained in accordance with the provisions and requirements of the Florida Building Code, as adopted by the City of Frostproof, the National Electrical Code, or the currently prevailing Electrical Code, and all other applicable codes, ordinances or requirements.
- B. With the exception of signs consisting of a chalkboard surface or dry erase marker board (whiteboard), all copy shall be commercially produced or consist of professionally lettered typeface. All copy shall be maintained and legible. *(Amended Ord. 2011-08)*
- C. Signs shall be maintained.
- D. Damaged faces or structural members shall be repaired, replaced, or removed within thirty (30) calendar days unless given a time extension by the City Manager, or his or her designee. If said faces or structural members become insecure or in danger of falling, in disrepair or deteriorated, or otherwise unsafe in the opinion of the Code Enforcement Officer or the City Building Official they shall be removed in accordance with the requirements of Section 8.17.02 of this Article. *(Amended Ord. 2011-08)*
- E. Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.

#### **Section 8.09.00. On-Site Sign Requirements By Zoning District. *(Amended Ord. 2011-08)***

On-site sign requirements are determined by the zoning district in which a business or development site is located. The total maximum sign area square footage allowed per site comprises any permitted, permanent sign constructed or erected on a development site or building; this includes, in aggregate, freestanding signs, wall and permanent window signs, projected signs (see Section 8.09.04 of this Article), canopy and awning signs and marquees (treated as wall signs), and under canopy/awning signs (see Section 8.10.03 of this Article).

See Section 8.10.00 (Multi-Use Complex and Shopping Center), Section 8.11.00 (Industrial and Commercial Business Parks), Section 8.13.00 (Residential Uses and Section) and 8.14.00 (Public and Semi-Public Uses) of this Article for any additional requirements that apply to these particular land uses.

Except as otherwise provided within this Article, on-site, advertising signs shall meet the following requirements:



### Section 8.09.01. Freestanding Signs.

The total square footage of signage allowed for each development site, may be used to construct or erect any permitted sign, except that each development site may construct or erect only one freestanding sign, with the exception of properties having multiple road frontages. Freestanding signs shall meet the requirements provided in Table 8.09.01. See Section 8.07.00 of this Article for signage requirements for properties having multiple road frontages. (Amended Ord. 2011-08)

**Table 8.09.01**  
**On-Site Sign Requirements by Zoning District**

<b>Zoning District</b>	<b>Total Maximum Sign Area Square Footage Allowed Per Site</b>	<b>Number of Signs Allowed Per Street Frontage<sup>1</sup></b>	<b>Maximum Sign Area Square Footage Allowed For Ground Sign<sup>2</sup></b>	<b>Maximum Height Allowed for Ground Sign</b>	<b>Minimum Setback for Ground Sign<sup>3</sup></b>	<b>Maximum Sign Area Square Footage Allowed For Wall Sign<sup>4</sup></b>
<b>Residential (R)</b> For Single or Multi-Family Residential Complex	24	1	24	6'	10'	24
<b>Residential (R)</b> Subdivision Signs	24	1	24	6'	10' <sup>5</sup>	24

(Ord. 2011-08)

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<sup>1</sup> One ground sign **or** one wall sign shall be allowed for each main entrance on a public right-of-way.

<sup>2</sup> The wall sign maximum area of twenty-four (24) square feet may be divided into two (2) equal graphic statements of twelve (12) square feet.

<sup>3</sup> Minimum setback from a property line shall be ten (10) feet except signs located within fifty (50) feet of a driveway or right-of-way street intersection, in which case the setback shall be twenty (20). Setbacks shall be measured from the leading edge of the sign. Signs shall comply with the visibility clearance requirements as set forth in Section 5.05.00 of the Land Development Code.

<sup>4</sup> The wall sign maximum area of twenty-four (24) square feet may be divided into two (2) equal graphic statements of twelve (12) square feet.

<sup>5</sup> See Section 8.12.00 of this Article for signs located in medians. See Section 8.13.00 B. 3. of this Article for lighting requirements.

**Table 8.09.01**  
**On-Site Sign Requirements by Zoning District (Ord. 2011-08)**

<b>Zoning District</b>	<b>Total Maximum Sign Area Square Footage Allowed Per Site</b>	<b>Number of Freestanding Signs Allowed Per Street Frontage</b>	<b>Maximum Sign Area Square Footage Allowed For Freestanding Sign</b>	<b>Maximum Height Allowed for Pole Sign</b>	<b>Minimum Clearance Required for Pole Sign</b>	<b>Minimum Setback for Freestanding Sign<sup>6</sup></b>
<b>AG<sup>7</sup></b>	24	1	24	12'	8'	10'
<b>CON<sup>8</sup></b>	24	1	24	12'	8'	10'
<b>REC<sup>9</sup></b>	24	1	24	12'	8'	10'
<b>P<sup>10</sup></b>	24	NA	NA	NA	NA	NA
<b>CO</b>	80	1	32	16'	10'	10'
<b>CN</b>	100	1	32	16'	10'	10'
<b>CBD, CG, I-1, I-2</b> 10,000 Sq. Ft. Bldg. or Less	64	1	32	16'	10'	10'
<b>CBD, CG, I-1, I-2</b> 10,001 Sq. Ft. Bldg. Up to 25,000 Sq. Ft.	96	1	48	16'	10'	10'
<b>CBD, CG, I-1, I-2</b> 25,001 Sq. Ft. Bldg. Up to 50,000 Sq. Ft.	144	1	72	16'	10'	10'
<b>CG, I-1, I-2</b> 50,001 Sq. Ft. Bldg. Up to 75,000 Sq. Ft.	192	1	96	16'	10'	10'
<b>CG, I-1, I-2</b> 75,001 Sq. Ft. Bldg. Up To 100,000 Sq. Ft. Bldg.	240	1	120	18'	10'	10'
<b>CG, I-1, I-2</b> Over 100,000 Sq. Ft.	300	1	150	20'	10'	10'

<sup>6</sup> Minimum setback from a property line shall be ten (10) feet except signs located within fifty (50) feet of a driveway or right-of-way street intersection, in which case the setback shall be twenty (20). Setbacks shall be measured from the leading edge of the sign. Signs shall comply with the visibility clearance requirements as set forth in Section 5.05.00 of the Land Development Code.

<sup>7</sup> One ground sign **or** one wall sign of no more than 24 sq. ft. shall be allowed per primary road frontage.

<sup>8</sup> One ground sign **or** one wall sign of no more than 24 sq. ft. shall be allowed per primary road frontage.

<sup>9</sup> One ground sign **or** one wall sign of no more than 24 sq. ft. shall be allowed per primary road frontage.

<sup>10</sup> One ground sign **or** one wall sign of no more than 24 sq. ft. shall be allowed per primary road frontage.

### **Section 8.09.02. Wall and Window Signs.**

One (1) fascia or wall sign per business shall be allowed except as allowed in Section 8.07.00. The maximum sign area shall be one (1) square foot per lineal building (business) front footage not to exceed the maximum size as permitted below.

Building mounted/wall signs shall be limited to two (2) signs per road frontage and shall be included in the total signage square footage allowed for the development site. The sign shall not extend above the roof line or beyond the exterior wall to which it is attached.

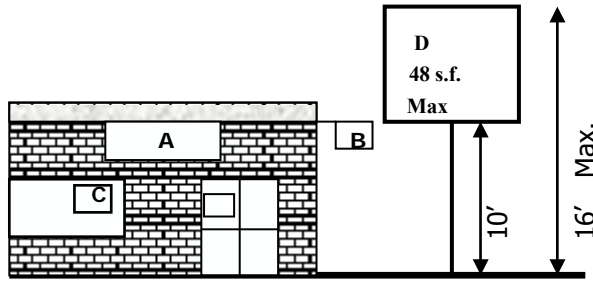
Any permanent window signs shall be counted towards the total signage square footage allowed as determined by the zoning district of the development site. Permanent window signs shall not exceed thirty percent (30%) coverage of any single or individual window pane of window surface (see definition in Section 8.03.00 of this Article for "Window Sign, Permanent" for sign area calculation requirements). Temporary window signs are allowed and shall not count against the total signage square footage allowed for the development site. Temporary window signs shall not exceed twenty-five percent (25%) coverage of any single or individual pane of window surface. (*Amended Ord. 2011-08*)

### **Section 8.09.03. Projected Signs.**

- A. Projected signs are allowed only on commercial buildings.
- B. A projected sign must have eight (8) feet of head clearance from the sidewalk and project no more than five (5) feet from the building.
- C. Only one (1) projected sign is permitted for each individual business, unless the business is on a corner and the business fronts on two (2) streets, in which case one (1) sign for each street frontage would then be allowed.
- D. No projected sign shall contain more than fifteen (15) square feet, stand no more than fifteen (15) feet high and shall not extend beyond the roof line. (*Amended Ord. 2011-08*)
- E. A projected sign shall not be used within thirty (30) feet of another projected sign, except in the Central Business District where said distance separation shall be fifteen feet (15'). (*Amended Ord. 2011-08*)
- F. A projected sign must project at a ninety (90) degree angle from the point of attachment.

### Example Individual Business

Based on a total allowable sign area of 144 square feet (for a building with a square footage up to 50,000 square feet in the CG zoning district), and erecting the maximum square footage allowable for a pole sign, which is 48 square feet, the remaining 72 square feet may be applied to other types of signage *as long as the total square footage of signage for the site does not exceed 144 sq.ft.*



***In this example:***

**A** = Wall Sign    **B** = Projected Sign<sup>11</sup>    **C** = Permanent Window Sign<sup>12</sup>    **D** = Freestanding Sign

(Ord. 2011-08)

#### **Section 8.09.04. Portable Signs.** (Amended Ord. 2011-08)

- A. Portable signs shall not be allowed as permanent signage.
- B. Portable signs shall be in use for no more than two (2) weeks at any time, and no more than four (4) times per year, except for sidewalk signs in the Central Business District, which are regulated under Section 8.05.01 of this Article.
- C. Portable signs shall not have flashing lights.

#### **Section 8.09.05. Off-Site Advertising Signs along S.R. 17, C.R. 630, C.R. 630A and U.S. Highway 27.** (Amended Ord. 2011-08)

Billboards, or off-site advertising signs, shall be allowed only on unimproved real property located within 'Commercial, General' and 'Industrial' zoning districts. One (1) off-site advertising sign per parcel shall be allowed provided that the minimum primary street frontage is one hundred (100) feet wide. Off-site advertising signs on all other county roads and local roads are expressly prohibited.

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<sup>11</sup> Not to exceed 15 square feet per Section 8.09.4.

<sup>12</sup> Shall comply with the restrictions provided in Section 8.03.00, definition of "Window Sign, Permanent".

**Section 8.09.05.01. Maximum Sign Area.** *(Amended Ord. 2011-08)*

**A. S.R. 17, C.R. 630 and C.R. 630A.**

1. The maximum allowable sign area shall be one hundred twenty-eight (128) square feet.
2. No more than two (2) sign faces shall be allowed per sign.

**B. U.S. Highway 27.**

1. The maximum allowable sign area shall be two hundred eighty-eight (288) square feet.
2. No more than two (2) sign faces shall be allowed per sign.

**Section 8.09.05.02. Maximum Sign Height.** *(Amended Ord. 2011-08)*

**A. S.R. 17, C.R. 630 and C.R. 630A.**

The maximum sign height shall be eighteen (18) feet.

**B. U.S. Highway 27.**

The maximum sign height shall be thirty (30) feet.

**Section 8.09.05.03. Minimum Setback from Property Line.** *(Amended Ord. 2011-08)*

**A. S.R. 17, C.R. 630 and C.R. 630A.**

The minimum setback from a property line to the leading edge of the sign shall be ten (10) feet except for signs located within fifty (50) feet of a driveway or right-of-way street intersection, in which case the setback shall then be twenty (20) feet.

**B. U.S. Highway 27.**

Billboards shall be set back a minimum of forty (40) feet from the highway right-of-way. No billboard shall be placed within three hundred (300) feet of the intersection with any arterial or collector road.

**Section 8.09.05.04. Minimum Spacing Requirements.** *(Amended Ord. 2011-08)*

The minimum spacing requirements shall be two thousand (2,000) feet from any billboard that is located on the same side of the roadway within the City limits.

#### Section 8.09.06. Electronic Message Center Signs (EMC).

- A. On-site electronic message center signs shall be allowed subject to compliance with all applicable requirements contained in this Article and the following standards:
1. If such signs are located within fifty (50) feet of a residence, such signs shall display static images only.
    - a. **Duration:** Such static images shall be displayed for at least three (3) seconds before instantaneously transitioning to another static image.
    - b. **Orientation:** When located within fifty (50) feet of an existing residentially-used lot in a residential zone (the residential use exists prior to issuance of a sign permit), any part of the sign, when possible, shall be oriented so that no portion of the sign face is visible from an existing or permitted principal structure on that lot.
  2. If located further than fifty (50) feet from a residential zoning district and in the CO, Commercial Office, CN, Commercial Neighborhood and mixed use zoning districts the following features and limitations shall apply:
    - a. The sign shall have a minimum display time of three (3) seconds.
    - b. The transition time between messages and/or message frames is limited to three (3) seconds and these transitions may employ fade, dissolve, and/or other transition effects.
    - c. Continuous scrolling and/or traveling, flashing, spinning, rotating and similar moving effects are prohibited.
  3. Electronic message center signs located on properties along state and county highways may be subject to state and county sign and permitting requirements.
- B. Off-site electronic message center signs shall only be allowed in the CBD, Central Business District, and along S.R. 17, C.R. 630, C.R. 630A, and U.S. 27, subject to compliance with all applicable requirements contained in this Article, including Section 8.09.05. and its subsections, which regulates signs located along S.R. 17, C.R. 630, C.R. 630A, and U.S. 27. Such signs located along these roadways may also be subject to any applicable State and county sign and permitting requirements.
- C. On-site and off-site electronic message center signs shall comply with the following standards:
1. Displays using travel and scrolling transitions and animations may be allowed in the CBD, Central Business District, the CG, Commercial General zoning district, the P, Publix zoning district, the REC, Recreation zoning district, and

the I-1 and I-2 Industrial zoning districts if located further than fifty (50) feet from a residential zoning district.

2. The use of video shall only be allowed in the CBD, Central Business District.
3. All electronic message center signs shall come equipped with automatic shut-off technology so that the display will go dark during sign malfunction.
4. All electronic message center signs shall comply with the building and Electrical Codes.
5. All electronic message center signs shall come equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions.
6. Electronic message center signs shall not be placed or illuminated so as to obscure or interfere with traffic control devices.
7. Electronic message center signs shall comply with the following operational and size limitation standards:

**Table 8.09.06 (A)**  
**Electronic Message Center Sign Operational and Sign Area Standards**  
**by Zoning District**

Zoning District Or Location	Minimum Display Time	Minimum Transition Time Between Messages or Frames	Size Limitation
			EMC as Max. % of Total Sign Area Allowed for the Sign Type on which the EMC is Placed
REC	Animation, Scrolling, Traveling Allowed.	NA	100%
P	Animation, Scrolling, Traveling Allowed.	NA	100%
CO	3 Seconds	3 Seconds	50%
CBD	Animation, Scrolling, Traveling Allowed, Video Allowed	NA	100%
CN	3 Seconds	3 Seconds	70%
CG	Animation, Scrolling, Traveling Allowed.	NA	80%
1-1	Animation, Scrolling, Traveling Allowed.	NA	80%
1-2	Animation, Scrolling, Traveling Allowed.	3 Seconds	75%
Mixed Use	3 Seconds	3 Seconds	75%

S.R.17, C.R.630, C.R.630A	8 Seconds for Off-Premise Advertising; Animation, Scrolling, Traveling Allowed for On-Premise Advertising	For Off-Premise, Shall Appear Instantaneously. For on-Premise, NA	100%*
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NOTE: \*Permissible as off-site advertising consistent with Section 8.09.05 of this Article and including any applicable State and County requirements. However, signs located along these facilities, where the property is an improved site, shall comply with the requirements of the zoning district in which the sign is located.

8. No electronic message center sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area, measured as follows:

**Table 8.09.06 (B)**

**Electronic Message Center Sign Brightness Level Standards**

Area of Sign (Sq. Ft.)	Distance Measurement (Feet)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

*For signs with an area in square feet other than those specifically listed in the table (e.g., 12 sq. ft., 400 sq. ft., etc.) the measurement distance may be calculated with the following formula: Measurement Distance =  $\sqrt{\text{Area of Sign Sq. Ft.} \times 100}$*



## **Section 8.10.00. Multi-Use Complex and Shopping Centers.**

This Section shall apply to all shopping centers and multi-use complexes located within Commercial and Industrial zoning districts.

### **Section 8.10.01. Freestanding Signs. *(Amended Ord. 2011-08)***

One (1) freestanding sign per road frontage, with a maximum of two (2) freestanding signs per site, shall be allowed in accordance with Table 8.09.01.

- A. The sign face area shall be calculated per road frontage and shall not exceed the square footage or height restrictions provided in Table 8.09.01.
- B. No more than two (2) sign faces shall be allowed per sign.
- C. Business directories are allowed as a part of the sign face square footage, but not in addition to it.
- D. Individual business directory signs shall be a minimum of twelve inches (12") in height.

### **Section 8.10.02. Wall Signs. *(Amended Ord. 2011-08)***

One (1) wall sign per business for the building frontage shall be allowed.

#### **A. Maximum Sign Area Allowed:**

For on-premises wall, canopy, awning and under awning signs on each wall facing a street, or a main shopping center or multi-use center parking lot area, the maximum sign area shall be one (1) square foot per lineal business front footage with a maximum area as follows:

- 1. Ten thousand (10,000) square foot building or less: maximum of thirty-two (32) square feet.
- 2. Over ten thousand (10,000) square foot building to twenty-five thousand (25,000) square foot building: maximum of forty-eight (48) square feet.
- 3. Over twenty-five thousand (25,000) square foot building to fifty thousand (50,000) square foot building: maximum of seventy-two (72) square feet.
- 4. Over fifty thousand (50,000) square foot building to seventy-five thousand (75,000) square foot building: maximum of ninety-six (96) square feet.
- 5. Over seventy-five thousand (75,000) square foot building to one hundred thousand (100,000) square foot building: maximum of one hundred twenty (120) square feet.
- 6. Over one hundred thousand (100,000) square foot business: maximum of one hundred fifty (150) square feet.

B. Maximum Sign Height:

The sign shall not extend above the roof line or beyond the exterior wall to which it is attached.

C. Only one (1) wall sign per property frontage shall be allowed above the first floor of any multi-use or multi-tenant building.

**Section 8.10.03. Window Advertising.** *(Amended Ord. 2011-08)*

Permanent window signs shall not exceed thirty percent (30%) coverage of any single or individual window pane of window surface for individual businesses (see Section 8.03.00 of this Article for definition of "Window Sign, Permanent" for sign area calculation requirements). Temporary window signs shall not exceed twenty-five percent (25%) coverage of any single or individual pane of window surface.

**Section 8.10.04. Projected Signs.** *(Ord. 2011-08)*

Refer to Section 8.09.03.

**Section 8.10.05. Under Canopy or Under Awning Signs.**

One (1) under canopy or under awning sign per tenant shall be permitted as follows:

A. Maximum Sign Area:

The maximum sign area shall be six (6) square feet.

B. Minimum Sign Height:

A sign must have an eight (8) foot clearance for pedestrians; however, a seven foot (7') clearance shall be allowed if the sign is comprised of pliable material.

**Section 8.11.00. Industrial and Commercial Business Parks.** *(Amended Ord. 2011-08)*

Properties which are designed and zoned to allow for industrial or commercial business parks shall be permitted signage as follows:

A. Sign Area and Use:

One (1) freestanding sign structure for each public right-of-way entrance consisting of any combination of identification or directory signage. The maximum sign area of each sign structure for each public right-of-way entrance shall be determined by applying the requirements contained in Table 8.09.01B.

B. Height and Setback Requirements:

Refer to Table 8.09.01B.

#### **Section 8.12.00. Signs within Medians.**

Subdivision and center median entrance signs are permitted in the right-of-way of monumented public streets, where median strips are used to channel traffic, providing that the Planning and Zoning Commission considers, and the City Council approves, the sign at the time of subdivision plat approval, with the condition that a revocable permit shall be issued allowing removal of the sign at no cost to the City at such time as the City may require. In addition:

- A. The community residents or the community or center association shall keep the sign in good repair and in a safe, neat, clean, and attractive condition.
- B. The sign shall be placed a minimum ten (10) feet from the end of the median strip and within the island.
- C. The sign shall be designed and placed so as not to obstruct full sight distance.

#### **Section 8.13.00. Residential Uses.**

- A. Single or Multi-Family Residential Complex:

One (1) ground or wall sign shall be permitted for each main entrance on a public right-of-way as follows:

- 1. The maximum sign area shall be twenty-four (24) square feet. The wall sign maximum area of twenty-four (24) square feet may be divided into two (2) equal graphic statements of twelve (12) square feet.
- 2. The maximum sign height shall be six (6) feet.
- 3. The minimum setback from a property line shall be ten (10) feet except signs located within fifty (50) feet of a driveway or right-of-way street intersection, in which case the setback shall then be twenty (20) feet.

B. Subdivision Signs:

1. Subdivision identification signs/walls shall be constructed of stone, brick, stucco, or other maintenance free material.
2. The maximum sign face shall not exceed twenty-four (24) square feet, which may be divided into two (2) equal graphic statements of twelve (12) square feet.
3. Any lighting shall be ground lights or lights attached to the top of the sign focused downward directly on the sign. Energy efficient lighting fixtures are encouraged when possible.
4. For signs located within medians, see Section 8.12.00.
5. Temporary subdivision signs shall be treated as construction signs under Section 8.15.01., of this Article.

**Section 8.14.00. Public and Semi-Public Uses.**

Public and semi-public uses in all applicable zoning districts, and including churches and clubs, shall be allowed one (1) ground or wall sign per primary road frontage as follows:

A. Maximum Sign Area:

The maximum sign area shall be twenty-four (24) square feet.

B. Maximum Sign Height:

The maximum sign height shall be six (6) feet.

C. Minimum Setback from Property Line:

The minimum setback from a property line shall be ten (10) feet except signs located within fifty (50) feet of a driveway or right-of-way street intersection, in which case the setback shall then be twenty (20) feet.

**Section 8.15.00. Temporary Signs.**

**Section 8.15.01. Real Estate, Financial Institution and Construction Signs.**

Real estate, financial institution, and construction signs, as defined in this Article, shall be allowed under the following conditions:

- A. One (1) non-illuminated sign of each type shall be allowed on each street frontage of the subject property only. For purposes of this Section, it is the intent that financial institution and constructions signs be allowed in conjunction with specific construction projects compliant with all the requirements contained under this Section. (*Amended Ord. 2011-08*)

B. Freestanding Signs:

1. Signs on residential, commercial and industrial properties shall be setback two (2) feet from public rights-of-way.
2. Signs shall be setback fifteen (15) feet from side property lines, or equidistant between side property lines.
3. Signs shall have a maximum height of five (5) feet in residential zoning districts and ten (10) feet in commercial and industrial zoning districts.

C. Maximum Sign Area:

**Table 8.15.01.  
Maximum Sign Area Permitted by Zoning District**

<b>Zoning District</b>	<b>Real Estate &amp; Financial Institution Signs (Square Feet)</b>	<b>Construction Signs (Square Feet)</b>
All residential zoning districts, Residential PUD	32	32
AG, CO, CN, CG, PUD	32 (side street) 64 (main entrance road)	32 (side street) 64 (main entrance road)
I-1, I-2	32 (side street) 64 (main entrance road)	32 (side street) 64 (main entrance road)

*(Amended Ord. 2011-08)*

- D. Financial signs, identifying the particular financial institution(s) providing financing for a construction project, and construction signs, identifying the construction company responsible for a construction project, shall not be erected more than thirty (30) days prior to the beginning of construction, and shall be removed within ten (10) days after issuance of a Certificate of Occupancy. Such signs shall be removed immediately if construction has not begun after sixty (60) days, or if construction is halted thereafter for a period of more than thirty (30) days.  
*(Amended Ord. 2011-08)*
- E. Subcontractor and other additional signs of twelve (12) square feet or less shall be permitted in addition to the total sign area and shall be affixed to, or immediately adjacent to the main sign structure.
- F. Real estate signs may be erected during the time the property is for sale and until seven (7) days after closing.

**Section 8.15.02. Political Campaign Signs.**

Political campaign signs or posters shall be permitted in all zoning districts subject to the following restrictions, limitations and requirements and any other applicable requirements set forth in this Article.

- A. Setbacks shall be two (2) feet from public rights-of-way.
- B. Setbacks shall be fifteen (15) feet from side property lines or equidistant between side property lines.

- C. The maximum height shall be five (5) feet in residential zoning districts and ten (10) feet in commercial and industrial zoning districts.
- D. The maximum sign area shall be six (6) square feet in residential zoning districts and thirty-two (32) square feet in agricultural, commercial and industrial zoning districts.
- E. Candidates for political office or political action groups shall pay a fee, as established by resolution by the City Council, prior to erecting their signs related to an election or referendum. Such amount shall be refunded when the candidate or political action group attests on a form provided by the City Clerk that their signs have been removed within ten (10) days after the election or referendum issue has been decided.
- F. The erection and removal of all political signs shall be the joint responsibility of the owner of the property upon which the sign is placed, the owner of such sign, and the candidate for whom such sign was placed. Each such person shall be jointly and severally liable for a violation of the terms and conditions of this Article.

**Section 8.15.03. Banners, Streamers or Pennants.**

- A. Outside banners, streamers, pennants, balloons and other moving objects shall only be allowed as temporary signs in conjunction with a grand opening of a new business, a business anniversary, or to publicize a special event.
- B. It shall be unlawful for any person to extend any banner or sign across any public street, park or other public way or property of the City without first having obtained permission from the City Manager, or his or her designee.
- C. Temporary banner signs shall not exceed fifteen (15) square feet in a residential zone and forty-eight (48) square feet in a commercial zone and may be displayed on property no more than four (4) times per year and up to a maximum of fourteen (14) days per occurrence, with a minimum of forty-five (45) days between each occurrence.

**Section 8.15.04. Miscellaneous Signs.**

Temporary signs, banners, streamers or pennants for public or private non-profit special events, or special events not related to the primary use of the property shall be permitted by the City Building Official for a period covering the duration of the event and advance publicity not to exceed a total period of two (2) weeks. Such temporary sign shall not exceed thirty-two (32) square feet for each street frontage and shall not be illuminated.

#### **Section 8.16.00. Non-Conforming Signs.**

It is the intent of this Section to allow certain non-conforming signs permitted through the Building Department before the adoption of this Article to continue until they are no longer used, or become hazardous, but not to encourage their non-conforming status. Such signs are hereby declared to be incompatible with the overall intent of this Article.

#### **Section 8.16.01. Removal of Non-Conforming Signs.**

All non-conforming and non-permitted signs, except as provided herein, shall be removed immediately or as otherwise provided under Section 8.16.00 of this Article.

#### **Section 8.16.02. Continuance of Non-Conforming Signs.**

A non-conforming sign use may be continued, subject to the following provisions:

- A. A non-conforming sign shall not be enlarged or increased in any way from its existing size at the time of the adoption of this Sign Code.
- B. Non-conforming signs or sign structures that are defined as abandoned signs under this Sign Code shall not be permitted for reuse.
- C. There may be a change of tenancy or ownership of a non-conforming sign without the loss of non-conforming status, if the property sign is not abandoned as defined in this Article.

#### **Section 8.16.03. Repairs, Maintenance and Improvements.**

Normal repairs, maintenance and improvements may be made however, the cost of such improvements made during a two (2) year period shall not exceed fifty percent (50%) of the replacement cost of the sign at the end of the two (2) year period.

#### **Section 8.16.04. Reconstruction after Catastrophe.**

If any non-conforming sign is damaged by fire, flood, explosion, collapse, wind, war, or other catastrophe to such an extent that the cost of repair and reconstruction will exceed fifty percent (50%) of the replacement cost at the time of damage, it shall not be used or reconstructed except in full conformity with the provisions of this Article.

#### **Section 8.16.05. Casual, Temporary or Illegal Use.**

The casual, temporary or illegal use of any sign shall not be sufficient to establish the existence of a non-conforming use or to create any rights in the continuance of such use.

## **Section 8.17.00. Sign Removal.**

### **Section 8.17.01. Removal of Prohibited Signs.**

- A. Prohibited signs on public property or rights-of-way shall be removed immediately and may, without notice, be removed by the City or its agent.
- B. Temporary signs and parasite signs shall be removed within forty-eight (48) hours after receipt of written notification of the Code Enforcement Officer or City Building Official.
- C. Other signs prohibited in Section 8.06.00. shall be removed by the owner, agent or person in charge of the premises, within forty-eight (48) hours after receipt of written notification by the Code Enforcement Officer or City Building Official. If the sign is not removed within this time frame, the City may remove it at the owner's expense and/or the Code Enforcement Officer may refer the violation to the City of Frostproof Code Enforcement Board and/or a Special Magistrate.

### **Section 8.17.02. Removal of Unsafe, Abandoned and/or Prohibited Signs.** *(Amended Ord. 2011-08)*

Should any sign become insecure or in danger of falling, in disrepair or deteriorated, or otherwise unsafe in the opinion of the Code Enforcement Officer or the City Building Official, the owner thereof, or person or firm maintaining it, shall upon receipt of written notification from the City Building Official or Code Enforcement Officer immediately in the case of imminent danger, or within ten (10) days in other instances, secure the sign or cause it to be placed in good repair in a manner approved by the City Building Official, or said sign shall be removed by the owner thereof. If such order is not complied with, the City may remove the sign at the expense of its owner and may place a lien for the cost thereof upon the property on which the sign was located together with any other cost incurred by the City by filing such lien. The lien may be foreclosed in the same manner provided by law for the foreclosure of mortgages and the City shall have the right to receive all costs of court including reasonable attorney fees.

When a business leaves a location, the signs pertinent to that business shall be removed by either the tenant or the landlord. If a new business will be moving in immediately, a box-type sign cabinet may be re-used by the new business operator by inserting a new "face" in the sign. A permit is required to insert this new sign face.

If a new business is not moving in within ninety (90) days of the former leaving, then one of the following shall be required until a new business rents the space:

- 1. A blank panel may be inserted to replace the sign face of the prior business;
- 2. The existing sign face may be reversed so that the blank side of the panel is showing;
- 3. A sock or boot may be used to cover the sign.

In no case shall a sign box be left with a broken or missing sign panel. In cases where totally new signs or awnings are being installed for a business, the old signs they replace shall be completely removed.



### **Section 8.17.03. Removal of Illegally Erected Signs.**

Where this Article requires sign painting or erection by a licensed contractor and such work is not performed by a licensed contractor, the owner or lessee of the property where such illegally erected sign is located shall either:

- A. Have the sign immediately removed;
- B. Have a licensed contractor secure a permit for such sign, subject to all applicable City inspections; or

If none of the above actions are completed within ten (10) days after notification by the City Building Official or Code Enforcement Officer the violation may be referred to the City of Frostproof Code Enforcement Board and/or a Special Magistrate. The Code Enforcement Board and/or a Special Magistrate may direct the City to remove the sign at the expense of its owner and may place a lien for the cost thereof upon the property on which the sign was located together with any other cost incurred by the City by filing such lien. The lien may be foreclosed in the same manner provided by law for the foreclosure of mortgages and the City shall have the right to receive all costs of court including reasonable attorney fees.

### **Section 8.18.00. Penalties for Violations of this Article.**

- A. Any violation of this Article may be enforced by the Code Enforcement Board or by Special Magistrate and violators may be ordered to pay a civil fine up to the maximum permitted by state law. Violators may also be prosecuted criminally consistent with Florida State law.
- B. No Defense to Nuisance Action:

Compliance with the requirements of this Article shall not constitute a defense to an action brought to abate a nuisance under common law under Florida Statutes.

### **Section 8.19.00. Variances and Appeals, Novelty Signs, Historic and Landmark Signs. (Amended Ord. 2011-08)**

#### **Section 8.19.01. Variances and Appeals.**

The Board of Zoning Appeals is authorized to hear and decide variances to this Article consistent with Section 11.06.00 of this Code.

The City Council is authorized to hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by any City Official in the enforcement and interpretations of this Article as regards permitting.

#### **Section 8.19.02. Novelty Signs. (Ord. 2011-08)**

- A. Any sign that is not expressly permitted, exempted or prohibited by this Article may be granted Conditional Use Approval as a Novelty sign. A Novelty sign must demonstrate the following:

1. The sign must not be injurious to the area involved or be detrimental to the public welfare.
  2. Granting approval of the sign must not circumvent a condition or the intent of a condition placed on a development by the Planning and Zoning Commission or the City Council.
  3. The sign shall not detract from the natural or scenic attributes of any area within the City.
  4. The sign must demonstrate a unique, innovative or exceedingly attractive design quality.
- B. Procedures and criteria for Conditional Uses are outlined in Section 11.04.04, and its subsections, of the Land Development Code. The applicant shall submit an application addressing Section 11.04.04.02, B, items 1-9. The applicant shall also provide sketches or drawings (to scale) showing the sign structure, and any additional information as may be deemed necessary by City staff.

**Section 8.19.03. Historic and Landmark Signs. (Ord. 2011-08)**

- A. Nonconforming on-premises signs may be considered conforming to this Article, if determined to be a historic or landmark sign subject to the terms and conditions set forth below:
1. Any person who chooses to pursue the historic or landmark designation for a nonconforming sign shall make application to the Historic Preservation Board as established by Ordinance No. 2003-09 (Chapter 5, Article XII, of the City Code of Ordinances). The Historic Preservation Commission shall conduct such investigation and inquiry as is necessary to determine that a sign is eligible for the historic or landmark designation. The Commission is not empowered to approve an increase in the degree of nonconformity of a sign when approving it for a historic or landmark designation.
  2. To be considered for designation as a historic or landmark sign by the Historic Preservation Commission, a sign shall possess the following characteristics:
    - a. The sign shall have been erected or installed prior to 1960;
    - b. The sign is a unique example of a time period or era prior to 1960;
    - c. The sign must be structurally sound or repairable;
    - d. The sign may contain neon which is characteristic of the era or period prior to 1960;
    - e. The sign shall have been designed and constructed as an integral part or feature of a structure, development or development site.
  3. Historic or landmark sign requests shall be processed in accordance with Chapter 5, Article XII, of the City Code of Ordinances.

#### **Section 8.20.00. Severability.**

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article.

#### **Section 8.20.01. Severability Where Less Speech Results.**

Without diminishing or limiting in any way the declaration of severability set forth above in Section 8.20.00, or elsewhere in this Article, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

#### **Section 8.20.02. Severability of Provisions Pertaining to Prohibited Signs.**

Without diminishing or limiting in any way the declaration of severability set forth above in Section 8.20.00, or elsewhere in this Article, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under Section 8.06.00 of this Article. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 8.06.00 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 8.06.00.

# *City of Frostproof*



Unified Land Development Code

## Article 9

**ARTICLE 9.**  
**NATURAL RESOURCE PROTECTION**

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## ARTICLE 9.

### NATURAL RESOURCE PROTECTION

#### Introduction.

It is the intent of the City Council, through the regulations of this Article, to protect, maintain and enhance the immediate and long-term health, safety and general welfare of the community by regulating land development activity that has the potential of degrading the natural resources which exist within the city. More specifically, it is the purpose of this Article to create a clear compilation of regulatory standards which implement the environmental goals, objectives and policies of the Frostproof Comprehensive Plan. Natural resources shall be protected from the adverse impacts of development through the following flood damage prevention, wetlands preservation and wellhead protection regulations. All records pertaining to the provisions of this Article shall be open for public inspection and shall be maintained in the Office of the Building Department.

#### Section 9.01.00 Flood Damage Prevention

##### Section 9.01.01 Administration

**Section 9.01.01.01 Statutory Authorization.** Chapter 166, Florida Statutes authorizes the responsibility to municipalities to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Frostproof has hereby adopted the following floodplain management regulations.

**Section 9.01.01.02 Title.** These regulations shall be known as the Floodplain Management Regulations of the City of Frostproof, hereinafter referred to as "these regulations."

**Section 9.01.01.03 Scope.** The provisions of these regulations shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

**Section 9.01.01.04 Intent.** The purposes of these regulations and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which

may increase flood damage or erosion potential;

4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
5. Minimize damage to public and private facilities and utilities;
6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events;
8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22;
9. Protect against flood damage those uses that are vulnerable to floods, including facilities which serve such uses, at the time of initial construction; and
10. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and

**Section 9.01.01.05 Coordination with the *Florida Building Code*.** These regulations are intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

**Section 9.01.01.06 Warning.** The degree of flood protection required by these regulations and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with these regulations.

**Section 9.01.01.07 Disclaimer of Liability.** These regulations shall not create liability on the part of the City of Frostproof or by any officer or employee thereof for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

## **Section 9.01.02 Applicability**

**Section 9.01.02.01 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**Section 9.01.02.02 Areas to which these regulations apply.** These regulations shall apply to all flood hazard areas within the City of Frostproof, as established in Section 9.01.02.03 of these regulations.

**Section 9.01.02.03 Basis for establishing flood hazard areas.** The Flood Insurance Study for Polk County, Florida and Incorporated Areas dated September 28, 2012, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of these regulations and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's Office at the City of Frostproof.

**Section 9.01.02.03.01 Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 9.01.05 of these regulations the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of these regulations and, as applicable, the requirements of the *Florida Building Code*.
2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**Section 9.01.02.04 Other laws.** The provisions of these regulations shall not be deemed to nullify any provisions of local, state or federal law.

**Section 9.01.02.05 Abrogation and greater restrictions.** These regulations supersede any ordinances or regulations in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between these regulations and any other ordinance or regulations, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by these regulations.

**Section 9.01.02.06 Interpretation.** In the interpretation and application of these regulations, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

### **Section 9.01.03 Duties and Powers of the Floodplain Administrator**

**Section 9.01.03.01 Designation.** The City Manager is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**Section 9.01.03.02 General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in these regulations without the granting of a variance pursuant to Section 9.01.07 of these regulations.

**Section 9.01.03.03 Applications and permits.** The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

1. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of these regulations;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;
7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with these regulations is demonstrated, or disapprove the same in the event of noncompliance; and
8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of these regulations.

**Section 9.01.03.04 Determinations for existing buildings and structures.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and these regulations is required.

**Section 9.01.03.05 Notices and orders.** The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with these regulations.

**Section 9.01.03.06 Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 9.01.06 of these regulations for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**Section 9.01.03.07 Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 9.01.03.04 of these regulations;
2. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
3. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
4. Review required design certifications and documentation of elevations specified by these regulations and the *Florida Building Code* and these regulations to determine that such certifications and documentations are complete; and
5. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Frostproof are modified.

**Section 9.01.03.08 Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code

and these regulations; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City Clerk's Office at the City of Frostproof.

#### **Section 9.01.04 Permits**

**Section 9.01.04.01 Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of these regulations, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of these regulations and all other applicable codes and regulations has been satisfied.

**Section 9.01.04.02 Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to these regulations for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**Section 9.01.04.02.01 Buildings, structures and facilities exempt from the Florida Building Code.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of these regulations:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in section 604.50, F.S., including pole barns.
3. Temporary buildings or sheds used exclusively for construction purposes.
4. Mobile or modular structures used as temporary offices.
5. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
9. Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

**Section 9.01.04.03 Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in Section 9.01.05 of these regulations.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

**Section 9.01.04.04 Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to these regulations shall not be construed to be a permit for, or approval of, any violation of these regulations, the Florida Building Codes, or any other regulations of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**Section 9.01.04.05 Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**Section 9.01.04.06 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of these regulations or any other ordinance, regulation or requirement of this community.

**Section 9.01.04.07 Other permits required.** Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

1. The Southwest Florida Water Management District; section 373.036, F.S.



2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
4. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

#### **Section 9.01.05 Site Plans and Construction Documents**

**Section 9.01.05.01 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
2. Where flood hazard areas, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 9.01.05.02 of these regulations.
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 9.01.05.02(1) or (2) of these regulations.
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
7. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with these regulations.

**Section 9.01.05.02 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the

applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source; or

2. Where base flood elevation data and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
  - a. Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - b. Specify that the base flood elevation is three (3) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet.
3. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**Section 9.01.05.03 Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 9.01.05.04 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, a floodway encroachment analysis which demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 9.01.05.04 of these regulations.

**Section 9.01.05.04 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant. Development activities which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the developer or applicant first applies, with City Council approval, for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency.

#### **Section 9.01.06 Inspections**

**Section 9.01.06.01 General. Development for which a floodplain development permit or approval is required shall be subject to inspection.**

**Section 9.01.06.01.01 Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of these regulations and the conditions of issued floodplain development permits or approvals.

**Section 9.01.06.01.02 Buildings, structures and facilities exempt from the *Florida Building Code*.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of these regulations and the conditions of issued floodplain development permits or approvals.

**Section 9.01.06.01.02.01 Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 9.01.05.02(2)(b) of these regulations, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**Section 9.01.06.01.02.02 Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 9.01.06.01.02.01 of these regulations.

**Section 9.01.06.01.03 Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

## **Section 9.01.07 Variances and Appeals**

**Section 9.01.07.01 General.** The Board of Zoning Appeals shall hear and decide on requests for appeals and requests for variances from the strict application of these regulations. Pursuant to section 553.73(5), F.S., the Board of Zoning Appeals shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.

**Section 9.01.07.02 Appeals.** The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of these regulations. Any person aggrieved by the decision of Board of Zoning Appeals may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**Section 9.01.07.03 Limitations on authority to grant variances.** The Board of Zoning Appeals shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 9.01.07.06 of these regulations, the conditions of issuance set forth in Section 9.01.07.07 of these regulations, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Zoning Appeals has the right to attach such conditions as it deems necessary to further the purposes and objectives of these regulations.

**Section 9.01.07.03.01 Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 9.01.05.03 of these regulations.

**Section 9.01.07.04 Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

**Section 9.01.07.05 Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in these regulations, provided the variance meets the requirements of Section 9.01.07.03.01, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of

methods and materials that minimize flood damage during occurrence of the base flood.

**Section 9.01.07.06 Considerations for issuance of variances.** In reviewing requests for variances, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, these regulations, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development to the community;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges;
11. The necessity of a facility to a waterfront location, in the case of a functionally dependent facility; and
12. The request for variance is not an after-the-fact request.

**Section 9.01.07.07 Conditions for issuance of variances. Variances shall be issued only upon:**

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of these regulations or the required elevation standards;
2. Determination by the Board of Zoning Appeals that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor

create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and regulations; and

- c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land;
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property; and
5. The applicant shall enter into an agreement with the City, holding the City and its employees and agents, harmless from any damage that may occur to the subject property as a result of a flood. This agreement shall be recorded in the public records of Polk County and shall be binding to all successors and assigns.

## **Section 9.01.08 Violations**

**Section 9.01.08.01 Violations.** Any development that is not within the scope of the Florida Building Code but that is regulated by these regulations is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by these regulations or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

**Section 9.01.08.02 Authority.** For development that is not within the scope of the Florida Building Code but that is regulated by these regulations and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

**Section 9.01.08.03 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as provided in Section 9.01.08.04.

**Section 9.01.08.04 Penalties.** Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days, or both, at the discretion of the Court, and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation.

## Section 9.01.09 Definitions

**Section 9.01.09.01 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of floodplain management regulation, have the meanings shown in this section.

**Section 9.01.09.02 Terms defined in the *Florida Building Code*.** Where terms are not defined in these regulations and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

**Section 9.01.09.03 Terms not defined.** Where terms are not defined in these regulations or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

### Section 9.01.09.04 Definitions.

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

**ASCE 24.** A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

**Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

**Benchmark.** A permanently affixed mark on a stone post or other permanent object, at a point whose exact elevation and position is known, which is used as a standard measurement reference point in surveying site elevations.

**Critical facility.** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, water treatment plants, pump stations and wells, wastewater treatment plants and pump stations, installations which produce, use or store hazardous materials or hazardous waste. The term includes facilities that are assigned Risk Category III and Risk Category IV pursuant to the Florida Building Code, Building.

**Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Design flood elevation.** The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

**Encroachment.** The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before May 1, 1980. [Also defined in FBC, B, Section 1612.2.]

**Existing manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 1, 1980.

**Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section



1612.2.]

**Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of these regulations (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with these regulations.

**Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

**Floodway encroachment analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**Florida Building Code.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

**Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

**Letter of Map Amendment (LOMA):** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

**Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

**Letter of Map Revision Based on Fill (LOMR-F):** A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

**Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

**Lowest floor.** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

**Manufactured home.** A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value.** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**Mean Sea Level.** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of these regulations, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

**National Geodetic Vertical Datum of 1929 (NGVD or NGVD29).** A vertical control used as a reference for establishing varying elevations within the floodplain.

**New construction.** For the purposes of administration of these regulations and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “start of construction” commenced on or after May 1, 1980, and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after May 1, 1980.

**North American Vertical Datum of 1988 (NAVD or NAVD88).** A vertical control used as a reference for establishing varying elevations within the floodplain.

**Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in 15C-1.0101, F.A.C.]

**Recreational vehicle.** A vehicle, including a park trailer, which is: [Defined in section 320.01(b), F.S.]

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area (SFHA).** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown

on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

**Start of construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

**Variance.** A grant of relief from the requirements of these regulations, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by these regulations or the *Florida Building Code*.

**Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

## **Section 9.01.10 Flood Resistant Development**

### **Section 9.01.10.01 Buildings and Structures**

**Section 9.01.10.01.01 Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to Section 9.01.04.02.01 of these regulations, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and

facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 9.01.10.08 of these regulations.

**Section 9.01.10.01.02 Existing buildings in flood hazard areas.** All alteration, repair, additions, or improvements to structures that are in compliance with the provisions of this Article and previous editions of this Article shall meet the requirements for "new construction."

#### **Section 9.01.10.02 Residential Development**

**Section 9.01.10.02.01 Avoidance.** Residential site planning shall locate new residential structures on individual lots outside of the special flood hazard area or, to the greatest extent possible away from the special flood hazard area, while maintaining all other required setbacks and buffers.

**Section 9.01.10.02.02 Dwelling unit density in flood hazard areas.** Densities for all new residential construction located within special flood hazard areas shall be limited to 2.0 dwelling units per acre.

**Section 9.01.10.02.03 Foundation types.** New and substantially improved residential structures located in the special flood hazard area shall use open foundations to facilitate the unimpeded flow of water, including pilings, piers, posts or columns. Perimeter wall foundations shall be permitted if approved by the Floodplain Administrator.

**Section 9.01.10.02.04 Minimum elevation.** New and substantially improved residential structures shall meet the elevation requirements of the Florida Building Code, as modified by the City of Frostproof, or have the lowest floors elevated to or above the crown of the adjoining road, whichever is greater. The crown of road requirement may be waived by the City Engineer based on final site grading plans that show the lowest floor of such structures would not be flooded during occurrence of the base flood.

#### **Section 9.01.10.03 Subdivisions**

**Section 9.01.10.03.01 Minimum requirements.** Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage;
3. A temporary benchmark is established on site by a Florida licensed professional surveyor, indicating the elevation above the datum specified on the Flood Insurance Rate Map (FIRM); the temporary benchmark shall remain on the site until the final Certificate of Occupancy has been issued; and
4. Adequate drainage is provided to reduce exposure to flood hazards; in

Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**Section 9.01.10.03.02 Subdivision plats.** Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;
2. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 9.01.05.02(1) or (2) of these regulations; and
3. Compliance with the site improvement and utilities requirements of Section 9.01.10.04 of these regulations.

#### **Section 9.01.10.04 Site Improvements, Utilities and Limitations**

**Section 9.01.10.04.01 Minimum requirements.** All proposed new development shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage;
3. A temporary benchmark is established on site by a Florida licensed professional surveyor, indicating the elevation above the datum specified on the Flood Insurance Rate Map (FIRM); the temporary benchmark shall remain on the site until the final Certificate of Occupancy has been issued; and
4. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**Section 9.01.10.04.02 Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**Section 9.01.10.04.03 Water supply facilities.** All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**Section 9.01.10.04.04 Limitations on sites in regulatory floodways.** No development, including but not limited to site improvements, and land disturbing activity involving fill or

regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 9.01.05.03(1) of these regulations demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**Section 9.01.10.04.05 Limitations on placement of fill.** Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

#### **Section 9.01.10.05 Manufactured Homes**

**Section 9.01.10.05.01 General.** All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of these regulations.

**Section 9.01.10.05.02 Foundations.** All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and these regulations.

**Section 9.01.10.05.03 Anchoring.** All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

**Section 9.01.10.05.04 Elevation.** Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 9.01.10.05.04.01 or 9.01.10.05.04.02 of these regulations, as applicable.

**Section 9.01.10.05.04.01 General elevation requirement.** Unless subject to the requirements of Section 9.01.10.05.04.02 of these regulations, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the base flood elevation plus one (1) foot.

**Section 9.01.10.05.04.02 Elevation requirement for certain existing manufactured home parks and subdivisions.** Manufactured homes that are not subject to Section 9.01.10.05.04.01 of these regulations, including manufactured homes that are placed, replaced, or

substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

1. Bottom of the frame of the manufactured home is at or above the base flood elevation plus one (1) foot; or
2. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

**Section 9.01.10.05.05 Enclosures.** Fully enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.

**Section 9.01.10.05.06 Utility equipment.** Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

#### **Section 9.01.10.06 Recreational Vehicles and Park Trailers**

**Section 9.01.10.06.01 Temporary placement.** Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**Section 9.01.10.06.02 Permanent placement.** Recreational vehicles and park trailers that do not meet the limitations in Section 9.01.10.06.01 of these regulations for temporary placement shall meet the requirements of Section 9.01.10.05 of these regulations for manufactured homes.

#### **Section 9.01.10.07 Tanks**

**Section 9.01.10.07.01 Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**Section 9.01.10.07.02 Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 9.01.10.07.03 of these regulations shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.



**Section 9.01.10.07.03 Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

**Section 9.01.10.07.04 Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

#### **Section 9.01.10.08 Other Development**

**Section 9.01.10.08.01 General requirements for other development.** All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Florida Building Code, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the limitations of Section 9.01.10.04.04 of these regulations if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**Section 9.01.10.08.02 Fences in regulated floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 303.4 of these regulations.

**Section 9.01.10.08.03 Retaining walls, sidewalks and driveways in regulated floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 303.4 of these regulations.

**Section 9.01.10.08.04 Roads and watercourse crossings in regulated floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 9.01.10.04.04 of

these regulations. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 9.01.05.03(3) of these regulations.

#### **Section 9.01.10.09 Critical Facilities**

**Section 9.01.10.09.01 General.** New critical facilities shall, to the extent feasible, be located outside of the special flood hazard area and outside of the 0.2% annual chance flood hazard area (500-year floodplain). If documentation is provided that feasible sites outside of the special flood hazard are not available that satisfy the objectives of a proposed critical facility, then the critical facility shall have access routes that are elevated to or above the base flood elevation.

Critical facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet or more above the level of the base flood elevation at the site. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

#### **Section 9.02.00. Wetlands Preservation.**

##### **PART A. Findings of Fact, Purpose and Intent.**

##### **Section 9.02.01. Findings of Fact.**

Wetlands contiguous to "waters of the state," and noncontiguous and isolated wetlands serve the following important functions in the hydrologic cycle and ecological system:

- A. Riverine wetlands and adjacent floodplain lands provide natural storage and conveyance of flood waters.
- B. The wetlands adjoining the City's lakes act as barriers to waves and erosion.
- C. Wetlands provide linkages between aquatic systems (lakes, rivers, etc.).
- D. Inland wetlands provide temporary storage of surface waters during times of flood, thereby regulating flood elevations and the timing, velocity, and rate of flood discharges.
- E. Wetlands temporarily store flood flows and reduce the velocity of flood waters, reducing erosion and facilitating the settling of suspended sediment. Wetland vegetation filters and detains sediment which would otherwise enter lakes and streams.
- F. Wetlands may protect water bodies by providing settling suspended sediments, assimilation of nutrients, and up-take of other natural and man-made pollutants.
- G. Wetlands vegetation filters sediment, organic matter and chemicals. Microorganisms utilize dissolved nutrients and break down organic matter.
- H. Wetlands adjacent to the City's streams and lakes are important to freshwater fisheries as spawning grounds.

- I. Wetlands adjacent to the City's streams and lakes provide essential breeding and predator escape habitats for many forms of mammals, birds, reptiles, amphibians, fish and invertebrates.
- J. Wetlands can provide essential habitat for many rare, endangered, and threatened species.
- K. Wetlands provide excellent recreational opportunities including but not limited to fishing, hunting, camping, photography, boating and nature observation.
- L. Wetlands, especially those in karst terrain, do contribute to surface water storage and many contribute to groundwater recharge.

#### **Section 9.02.02. Purpose and Intent.**

It is the purpose and intent of this Article to provide for the protection, maintenance, enhancement and utilization of wetlands within the City of Frostproof, in accordance with applicable Federal and State laws and regulations, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of the City of Frostproof and their associated wetland ecosystems. It is the policy of the City of Frostproof to minimize the disturbance of wetlands in the City and to encourage their use only for the purposes which are compatible with their natural functions and environmental benefits. Specific goals include:

- A. Protect the quantity and quality of all waters.
- B. Achieve no net loss in the biological diversity of wetlands and associated buffer.
- C. Avoid activities that destroy or diminish the quantity, quality and biological diversity of wetlands and adjacent buffers.
- D. Reduce the expense to the City for flooded roads, sewer, water, and for disaster and flood assistance.
- E. Provide an ecologically sound transition between wetland and uplands areas.
- F. Replace wetland and buffer functions, values and acreage where avoidance of activities is not practical and all practical measures have been taken to reduce impacts.
- G. Minimize impacts to existing land uses and lots by preventing increases in flood, erosion, and other natural hazards due to destruction of wetland and buffer areas.
- H. Achieve no net loss of wetlands functions, quantity and quality.

#### **PART B. Definitions.**

#### **Section 9.02.03. Definition of Terms.**

**ALTERATION:** Any activity resulting in substantial expansion or change of a surface water management system that will increase or decrease the design discharge of the system, increase pollutant loading, change the point or points of discharge, or intrude into or otherwise adversely impact wetlands by rim ditching, draining, filling or excavation. Routine custodial maintenance and repairs shall not constitute alterations. (FAC 40D-4.021).

**ALTERED WETLAND:** Wetlands which have been substantially affected but which continue to be dominated by wetland or transitional vegetation.

**BUFFER:** The area surrounding a wetland that helps maintain the wetland's functional integrity and furnishes protection to the wetlands and wetland species from the detrimental impacts of development or alteration. The buffer shall include canopy, understory and groundcover which consist of preserved, existing non-invasive vegetation or planted native species.

**CLEARING:** The removal of trees or brush from the land, but shall not include mowing or grubbing, except as provided in this Ordinance.

**DREDGING:** The excavation by any means, in surface waters or wetlands. It also means the excavation or creation of a water body which is, or will be, connected to any surface waters or wetlands, directly or via excavated water bodies or a series of excavated water bodies. (Section 373.403, Florida Statutes).

**FDEP or DEP:** Florida Department of Environmental Protection.

**FILLING:** The deposition, by any means, of materials in surface waters or wetlands. (FS 373.403).

**HYDROPERIOD:** A measure of time (usually in days per year) that water is at or above soil surface under normal hydrologic conditions.

**INVASIVE PLANT:** A non-native, or alien, plant species to the ecosystem under consideration that has escaped cultivation, is spreading on its own, and causing environmental or economic harm. Invasive non-native plants can outgrow, replace, and otherwise destroy native plants because non-native plants usually do not have their natural enemies -- the diseases, insects and other environmental stresses -- that keep them in check in their native ranges. Usually refers to plants from other countries, regions or continents and also referred to as "exotic."

**ISOLATED WETLANDS:** Wetlands that have no hydrological or vegetative connections with "waters of the state" as defined in Section 373.019, Florida Statutes (2009).

**REGULATED ACTIVITIES:** All activities in wetlands and associated buffer areas, which involve filling, excavation, dredging, clear-cutting, dumping, changing of drainage, grading, placing of objects in water, or any other alteration or use which will damage or destroy a wetland or associated buffer area.

**RESTORATION:** Manipulating the physical, chemical or biological characteristics of a site to achieve a former condition with improved wetland functions, values and acreage.

**SWFWMD:** Southwest Florida Water Management District.

**UPLAND:** Generally a terrestrial ecosystem, which is distinguished from an aquatic ecosystem by the lower availability of water. Uplands do not include wetlands or natural or manmade bodies of water such as lakes, streams, rivers, bays, borrow pits which contain water, canals, and channels. Uplands typically consist of mesic habitats, which are characterized by dry to moderately moist conditions, and xeric habitats, which are characterized by very dry conditions, deficient in available moisture.

**USACOE:** United States Army Corps of Engineers.

**WETLAND MITIGATION:** Actions, including but not limited to restoration, enhancement, or creation of wetlands, required to be taken by a person to offset environmental impacts of permitted activities.

**WETLANDS:** Pursuant to FAC 62-340.200, wetlands are defined as lands which are identified by being inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in specific saturated soil types and conditions. Wetlands include but are not limited to swamp hammocks, hardwood hydric hammocks, riverine cypress, cypress ponds, bayheads, bogs, wet prairies, freshwater marshes, mangrove swamps, and marine meadows. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The method for determining the limits of wetlands is provided in FAC 62-340.300.

## **PART C. General Provisions.**

### **Section 9.02.04. Applicability.**

All wetlands within the boundaries of the City of Frostproof are subject to regulation by this Article.

## **PART D. Permitting.**

### **Section 9.02.05. Agency Jurisdiction.**

The requirements of this Section shall apply to all wetlands under the jurisdiction of one of the following:

- A. The U.S. Army Corps of Engineers (USACOE).
- B. The Florida Department of Environmental Protection (FDEP).
- C. The Southwest Florida Water Management District (SWFWMD).

### **Section 9.02.06. Agency Issued Permits and Exemptions.**

- A. No disturbance of wetlands, alteration of surface water flows, or activity which contributes to water pollution, shall be allowed unless authorized or exempted from regulation by the Florida Department of Environmental Protection, the U.S. Army Corps of Engineers, and/or the Water Management District.
- B. The SWFWMD and the FDEP have an operating agreement that identifies which agency will process permits for different types of projects. The FDEP generally processes applications for power plants, wastewater treatment plants,

communication cables and lines, power plants and electrical distribution and transmission lines, and private single-family residences on land of five (5) or fewer acres. The SWFWMD is generally responsible for reviewing and taking action on all other applications, as provided in FAC 40D-4 and 40D-40.

- C. Certain activities have been exempted by Statute and Rule from the need for regulatory permits under state law or by agency rule. The SWFWMD, pursuant to Section 373.406, F.S., may exempt from regulation, activities which the District determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the District. 40D-4.051, Florida Administrative Code (FAC) and Section 404 (f) of the Clean Water Act, identify activities which are exempt from permitting requirements.
- D. If regulated by one of the agencies listed in Section 9.02.05, proof of the appropriate permit or exemption shall be required prior to the issuance of a City building or development permit.

## **PART E. Development Requirements.**

### **Section 9.02.07. Wetland Identification.**

- A. Wetlands are defined in Section 9.02.03 and described in the Conservation Element of the City's Comprehensive Plan. In circumstances where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear. All site plans for new development shall identify the location and extent of all wetlands on the property.
- B. If the proposed project requires multiple permits from federal, state, or regional agencies, the most restrictive wetland boundary, as determined by the other permitting agencies, shall be accepted by the City.

### **Section 9.02.08. Density Transfers.**

All development in an upland zone shall be in accordance with the future land use map of the Comprehensive Plan and the zoning classification, and shall be designed, constructed and maintained to avoid significant adverse effects on the adjacent wetland. Where a development site lies partly within the wetland zone and partly within the upland zone, and it is determined that development within a wetland is unavoidable, wetland residential densities may be transferred from the wetland areas to contiguous non-wetland areas within the same development under the same ownership as follows:

- A. On any project of one (1) acre or less, the Building Official may approve a transfer of density from that part of the site containing either wetland vegetation or the required upland buffer for the wetland, to that part of the property void of these uses. The allowable density for the property shall be based on the site in its entirety. All other site development regulations, zoning and buffer requirements must still be met.
- B. On any project of more than one (1) acre, density transfers must be approved by the Planning and Zoning Commission. Such density transfers cannot be greater than that equal to the amount of dwelling units that would be permitted if the project site was void of all wetlands. All other site development regulations, zoning and buffer requirements must still be met.

- C. The Planning and Zoning Commission may require other reasonable protective measures to be undertaken within the upland zone as necessary to prevent significant adverse effects on a wetland. Protective measures may include, but are not limited to:
  - 1. Maintaining natural drainage patterns.
  - 2. Limiting the removal of vegetation.
  - 3. Minimizing the amount of fill used in the development activity.
  - 4. Prohibiting or limiting the use of septic tanks.
- D. Portions of lots may be platted into wetland areas and shall not be construed as having disturbed wetland for this density transfer provision so long as that portion of the lot does not include any fill, construction, improvements, or other development, and a restriction is placed upon the plat to prohibit such future actions within wetland areas.
- E. All such transfers of density shall only be permitted within a subdivision platted and developed in accordance with the requirements of this Code, and shall be noted on the face of the final plat as a restrictive covenant enforceable by the City of Frostproof.
- F. The developer shall completely restore any portion of a wetland zone damaged as a result of construction activity in the upland zone.
- G. The preservation or mitigation of existing wetlands shall count towards open space requirements and also buffer yard requirements if the existing wetlands are within an appropriate location for use as a landscape buffer. When the use of wetlands as part of a stormwater management system is allowed, the area involved will count towards meeting open space requirements by only 75%.

#### **Section 9.02.09. Buffer and Mitigation Requirements.**

- A. Buffer Requirements.
  - 1. At minimum, an undisturbed twenty-five (25) foot wide vegetative buffer shall be established adjacent to and surrounding all wetlands that are retained. This buffer shall be measured perpendicularly from the ordinary high water line or the jurisdictional wetland line, whichever is greater. Wetland buffers greater than twenty (25) feet in width may be required if the upland activity adversely impacts the wetlands beneficial functions. The buffer may coincide with the required landscape buffer.
  - 2. Development activities or construction which does not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer. Proposed activities within the buffer must be permitted in accordance with the requirements of this Article. The activities which may be allowed include, but are not limited to, pruning, planting of suitable native vegetation, removal of exotic and invasive plant species, and the creation and maintenance of walking trails.
- B. Mitigation Requirements.

State and Federal agencies may require mitigation of adverse impacts or payment in lieu of mitigation on wetlands as a condition of development approval if it finds that such impacts are unavoidable. A mitigation plan approved by a federal, state, or regional agency shall be presumed to be acceptable to the City; however, if no such mitigation plan is required by the approved permit from the federal, state or regional agency, then the City may at its option adopt a mitigation plan which complies with this Section. In such cases, action shall be taken during or after development to reduce or counteract damage to wetlands areas, and the plan shall include, but shall not be limited to, the following actions:

1. Preservation and maintenance regulations to reduce or eliminate the impact over time.
2. Compensation for the impact through enhancement or preservation of existing wetlands, reestablishment of wetlands that are no longer functioning, or the creation of new wetlands. Mitigation should take place on site, or in close proximity thereto, or in areas designated on the City of Frostproof Conservation Element Map as provided within the most recent Comprehensive Plan.
3. Repair, rehabilitation, or restoration of the wetland.
4. Specific design requirements based upon conditions of the site and the type of wetland to be created or restored.
5. Periodic monitoring to remove and control exotic or nuisance vegetation.
6. Preservation or creation of an appropriate habitat in an adjacent wetland zone. A developer of a compensatory mitigation plan shall grant a conservation easement in accordance with Section 704.06, F.S., and in accordance with the most restrictive landward boundary identified in Section 9.02.07 B. of this Article, on the newly purchased, created, enhanced or restored environmentally sensitive lands to protect them from future development. A legal mechanism other than a conservation easement may be considered, if appropriate, to carry out the purpose of this subsection.
7. An acceptable mitigation plan shall be reasonable and technically feasible.
8. Mitigation through restoration of other degraded wetlands is preferred over wetland creation.
9. Mitigation shall not contribute to the production of mosquitoes by creating mosquito larval habitat or by eliminating habitat for predatory fish.
10. Mitigation should take place on-site, or in close proximity thereto, or in areas designated in the City of Frostproof Conservation Element.

C. Mitigation Ratios.

In determining the replacement acreage ratios for restored or created wetlands, the City shall consider but not be limited to the following criteria:

1. The length of time that can be expected to elapse before the functions of the impacted wetland functions have been restored or offset.



2. Any special designation or classification of the water body, including but not limited to Outstanding Florida Waters and Aquatic Preserves.
  3. The type of wetland to be created and the likelihood of successfully creating that type of wetland.
  4. Whether or not the affected wetland is functioning as a natural, healthy wetland of that type.
  5. Whether the wetland is unique for that watershed.
  6. The presence or absence of exotic or invasive plants within the wetland and the adverse effects those plants have on the wetland's beneficial functions.
  7. Whether the proposed project eliminates or changes the wetland from one type to another.
  8. The amount and quality of upland habitat preserved as conservation areas or buffer.
- D. Off-Site Mitigation.
9. The City of Frostproof shall allow for the purchase or other acquisition of lands within the City which are suitable for the creation or restoration of wetlands or wetland habitat systems, including adjacent upland habitat. The purpose of such designation is to provide areas suitable for the off-site mitigation of the impacts of wetland alteration.
  10. For those projects which require off-site mitigation, the mitigation shall be performed to the standards referenced in item B, above, Mitigation Requirements.
  11. The off-site mitigation areas may be developed with the intention of utilizing the areas for passive recreational parks, provided the wetlands beneficial functions are not adversely impacted.
  12. Developers of off-site mitigation areas shall be required to provide conservation easements for the impacted area. The City's Comprehensive Plan shall be amended to designate these areas as "wetlands" in either the Conservation or Recreational Future Land Use categories.

#### **Section 9.02.10. Prohibited Activities.**

The following standards apply to post-development activities taking place within any wetland or upland zone which directly abuts a wetland.

- A. Without an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.
- B. Fertilizers, herbicides, or pesticides shall not be applied in a wetland, except for projects conducted under the authority of Chapter 373, F.S. (Sections 373.451-373.4595) the "Surface Water Improvement and Management Act", and governmentally authorized mosquito control programs.

## **PART F. Severability.**

### **Section 9.02.11. Severability.**

Should any Section or provision of this Article, or application of any provision of this Article, be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the remainder of this Article and Code.

### **Section 9.03.00. Wellhead Protection.**

#### **Section 9.03.01. Legislative Intent and Purpose.**

The intent and purpose of this Section is to safeguard the public health, safety, and welfare of the people of the City of Frostproof, Florida, and the water service area, by providing for regulation of the storage, handling, use, or production of hazardous substances within zones of protection surrounding potable water supply wells, thereby protecting the potable water supply from contamination.

#### **Section 9.03.02. Designation of Enforcing Official and Powers and Duties.**

The City Manager, or his or her designee, shall administer this Section. Administrative duties shall include but not be limited to enforcement, granting of modifications, issuance of permits, inspection and record keeping.

#### **Section 9.03.03. Definitions.**

**CFR:** Code of Federal Regulations.

**EPA:** United States Environmental Protection Agency.

**F.A.C. or FAC:** Florida Administrative Code.

**FDEP:** The Florida Department of Environmental Protection.

**GROUND WATER TRAVEL TIME:** The time required for ground water to move from a specific point to a well, determined by analytical or numerical modeling.

**HAZARDOUS SUBSTANCES:** A substance that has one or more of the following characteristics: ignitability, corrosiveness, reactivity, or toxicity as defined in 40 CFR Part 261 (as amended), bio-accumulative effect, or persistence in nature. (This definition is distinct from Regulated Substances, which will usually include, but not be limited to, Hazardous Substances).

**NON-RESIDENTIAL ACTIVITY:** Any activity occurring on any described parcel of land, whether or not within a structure, with the exception of residential activity as defined herein.

**POTABLE WATER:** Water that is satisfactory for drinking, culinary, and domestic purposes, meeting current State and Federal drinking water standards.

**POTABLE WATER SUPPLY WELL:** A potable water well to supply water which has been permitted for consumptive use by the Southwest Florida Water Management District, the casing diameter of which is six (6) inches or-greater.

**PRIMARY CONTAINMENT:** The first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous substance being contained.

**PRIMARY WELLHEAD PROTECTION ZONE:** The innermost protective zone around a well. For purposes of these regulations, the primary protection zone shall meet the definition of "Wellhead Protection Area" as provided in this Code.

**PRODUCT-TIGHT:** Impervious to the hazardous substance which is or could be contained to prevent the seepage of the hazardous substance from the containment system. To be product-tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the hazardous substance being contained.

**PUBLIC WATER SYSTEM (PWS):** A water system that provides water for human consumption (ingested, or absorbed into the body by dermal contact or through inhalation) through pipes or other constructed conveyances, which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. (FAC, Chapter 62-550).

**REGULATED BUSINESS:** Any publicly or privately-owned operation that produces, uses, stores, or disposes of a Regulated Substance, unless specifically exempted.

**REGULATED SUBSTANCES:** Any substance, hazardous or not, which is regulated under this Ordinance as described in Section 9.03.12, which, due to its chemical characteristics and behavior, may cause ground water contamination.

**RESIDENTIAL ACTIVITY:** Any building or structure or portion thereof that is designed for or used for residential purposes, and any activity involving the use or occupancy of a lot for residential purposes. Residential activity shall include those customary and accessory residential activities associated with the principal permitted use of a lot for residential purposes as set out in the Unified Land Development Code.

**SECONDARY CONTAINMENT:** The level of product-tight containment external to and separate from the primary containment.

**SECONDARY WELLHEAD PROTECTION ZONE:** The land area within a one thousand (1,000) foot radius, plus a five (5) year ground water travel time, of any potable water supply well.

**SPILL:** The release or escape of a hazardous substance, directly or indirectly, to soils, surface waters, or groundwaters.

**STORAGE SYSTEM:** Any one or combination of tanks, sumps, wet floors, waste treatment facilities, pipes, vaults, or other portable or fixed containers used, or designed to be used, for the storage of hazardous substances at a facility.

**WELL:** Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater, but does not include any well for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying, for inserting media to dispose of oil brines or to re-pressure oil bearing or natural gas-bearing formations, or for storing petroleum or natural gas or other projects, or for temporary dewatering, or subsurface formations for mining, quarrying, or construction purposes.

**WELLFIELD:** An area of land which contains or is designated for future use for one or more potable water supply wells.

**WELLHEAD PROTECTION AREA:** An area designated by the FDEP consisting of a five hundred (500) foot radial setback distance around a potable water well where ground water is provided the most stringent protection measures to protect the ground water source for a potable water well and includes the surface and subsurface area surrounding the well. (FAC 62-521.200). This is consistent with the requirement for the Primary Wellhead Protection Zone.

**WELLHEAD PROTECTION ZONE PERMIT:** That permit issued by the City of Frostproof authorizing activities within the Wellhead Protection Zone.

#### **Section 9.03.04. Applicability.**

The regulations within this Section, under this Article, provide special requirements for the development of land that impacts, or puts at risk, any potable water wells located within the City of Frostproof. The following are regulated activities within the Wellhead Protection Areas which require compliance under these regulations:

- A. Any new or expanded facility that uses, handles, stores, generates, or disposes of a Regulated Substance (see Section 9.03.12) in a Wellhead Protection Area.
- B. Any expansion or modification to an existing use/activity, or any other improvement made to an existing non-conforming prohibited activity or facility which will extend the useful life of the activity or facility.
- C. Any future potable water wells shall become effective upon approval of the revised Wellhead Protection Area Maps. The applicant requesting approval for the public water well/system shall provide the required data to determine, by radii or through modeling depending on the size of the well, the proposed wellhead protection area and to demonstrate that it will be located outside the area of influence of any existing use that would be prohibited under Section 9.03.09.

#### **Section 9.03.05. Conflicts.**

In the event of a conflict between the standards contained herein and rules and regulations of the state, the more restrictive requirement governs.

#### **Section 9.03.06. Burden of Proof.**

An applicant seeking approval of a development within a wellhead protection area must demonstrate that the development complies with the requirements contained herein and with all applicable state and federal requirements. A professional engineer or geologist registered in the State of Florida and knowledgeable in groundwater supply development and protection must certify the plans or plat as complete and accurate and in compliance with these Wellhead Protection requirements.

#### **Section 9.03.07. Establishment of Wellhead Protection Zones.**

The City hereby adopts Primary and Secondary Wellhead Protection Zones as follows:

- A. **Primary Zone:** The land area within a five hundred (500) foot radius of any potable water supply well.

- B. **Secondary Zone:** The land area within a one thousand (1,000) foot radius of any potable water supply well, plus a five (5) year ground water travel time area, where applicable.
- C. These Zones, and the regulations that follow, are established to protect the potable water supply from possible contamination. A permit is required for any development or occupational use within the wellhead protection zone.
- D. These Zones are shown on the Wellhead Protection and Source Water Assessment and Protection Program (SWAPP) Areas Map, included within this Article, and as now or hereafter updated and supplemented.

**Section 9.03.08. Determination of Location of Properties and Buildings in Protection Zones.**

To determine the location of properties and buildings within the Primary or Secondary Wellhead Protection Zones, the following rules shall apply:

- A. Properties located wholly within one (1) Protection Zone shall be governed by the restrictions applicable to that zone.
- B. Properties having parts lying within more than one (1) zone shall be governed by the restrictions applicable to the Protection Zone in which each part of the property is located.
- C. Where the boundary between two (2) Protection Zones passes through a building, the entire building shall be considered to be in the more restrictive zone.
- D. Where the building or portion thereof is overlapped by Protection Zones of different wells, the most restrictive regulations shall apply.
- E. Where the property or portion thereof is overlapped by Protection Zones of different wells or well fields, the most restrictive of the regulations shall prevail over the overlapped area.

**Section 9.03.09. Restrictions within Protection Zones.**

- A. Primary Wellhead Protection Zone.

Except as otherwise provided herein, and pursuant to FAC 62-521.400, any new permanent or temporary non-residential use, handling, production, or storage of hazardous substances shall be prohibited in the Primary Wellhead Protection Zone, including:

- 1. Industrial activity, as regulated by the FAC, Chapter 62-730, including hazardous waste treatment, storage, or disposal facilities, which in its operation handles, utilizes, generates, or disposes of Regulated Substances;
- 2. Domestic, commercial and industrial wastewater treatment plants, or septic systems serving industrial activities;
- 3. New animal feed lots and commercial dairy operations;
- 4. Livestock waste storage, treatment and disposal operations;

5. Underground storage tanks;
  6. Sanitary landfills including, but not limited to, disposal of solid waste as permitted under the FAC, Chapter 62-701.
- B. Secondary Wellhead Protection Zone.

Except as otherwise provided herein, any new non-residential use involved in the handling, production, or storage of hazardous substances shall be permitted in the Secondary Wellhead Protection Zone only upon issuance of a Wellhead Protection Permit certifying compliance with the standards of this Article. Prohibited activities in the Secondary Wellhead Protection Zone include any new:

7. Sanitary landfills including, but not limited to, disposal of solid waste as permitted under Chapter 62-701, FAC.;
2. Land applications of wastewater residuals, including sludge, septage or industrial wastes which require a permit;
3. Hazardous waste treatment, storage or transfer facilities, as regulated by Chapter 62-730, FAC;
4. Injection wells.

#### **Section 9.03.10. Exemptions.**

The following activities or uses are exempt from the provisions of these regulations:

- A. The transportation of any hazardous substance through either both the Primary or Secondary Wellhead Protection zones, providing the transporting vehicle is in continuous transit.
- B. The application of pesticides, herbicides, fungicides, and rodenticides in pest control, and aquatic weed control activities provided that:
  1. Application of substances is in strict conformity with the use requirements as set forth in the EPA registries for those substances and as indicated on the containers in which the substances are sold; and
  2. The application is in strict conformity with the requirements as set forth in Chapters 482 and 487, F.S.; and
  3. The use of these substances within protection areas shall be under the supervision of a certified applicator. The certified applicator shall keep records, for a minimum of two (2) years, of the date and amount of the substances applied at each location and said records shall be available for inspection by the City.
- C. The use of fertilizers containing nitrogen for agricultural purposes, non-residential landscape areas, and golf courses shall be generally exempt from the provisions of these regulations to the extent that they are applied in levels not exceeding application rates recommended by the Institute of Food and Agricultural Science (I.F.A.S.), of the University of Florida. The applicator shall keep records for a minimum of two (2) years, of the date and amount of the substances applied at

each location, and said records shall be available for inspection by the City.

- D. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
- E. Fire, police, emergency medical services, emergency management center facilities, and public utilities, except for landfills.
- F. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
- G. Office uses, except for the storage, handling, or use of hazardous substances as provided for in applicable administrative codes.
- H. Repairing or maintaining any existing facility or improvement on lands within the Primary or Secondary Wellhead Protection Zone, provided that all contractors, subcontractors, laborers, material men and their employees, when using, handling, storing, or producing Regulated Substances, use the applicable Best Management Practices.
- I. Geotechnical Borings.
- J. Residential Activities; the use of Regulated Substances for cleaning, maintaining, pest control, or any other use by households that are not regulated entities or businesses.

#### **Section 9.03.11. Modifications of Requirements.**

Any person affected by these regulations may petition for an administrative decision for modification from the requirements of these regulations. The applicant shall demonstrate by a preponderance of competent, substantial evidence that special or unusual circumstances apply and adequate technology exists to isolate the facility or activity from the potable water supply in the event of a spill. In granting or denying modification, the following criteria shall be considered:

- A. Hazardous substances inventory;
- B. Containment;
- C. Emergency collection devices;
- D. Emergency plan;
- E. Daily monitoring;
- F. Equipment maintenance;
- G. Reporting of spills;
- H. Potable water well monitoring;
- I. Groundwater monitoring;
- J. Alterations/expansions;

- K. Reconstruction after catastrophe (fire, vandalism, flood, explosion, collapse, wind, war, or other); and
- L. Other criteria, as applicable to groundwater protection issues. The City Manager, or his or her designee, may attach any appropriate conditions and safeguards which are necessary to protect the wellhead pursuant to such modified requirements.

#### **Section 9.03.12. Regulated Substances.**

Regulated Substances shall include the following:

- A. Substances, including degradation and interaction products, which because of quality, concentration, or physical/chemical characteristics (including ignitability, corrosivity, reactivity and toxicity, radioactivity, mutagenicity, bioaccumulative effect, or persistence in nature) may cause a violation of Florida Department of Environmental Protection (FDEP) ground water standards pursuant to Chapter 62-520, F.A.C.
- B. Those substances set forth in this list, as amended from time to time, entitled:
  - 1. Title 40 of the Code of Federal Regulations Part 261 ("Lists of Hazardous Waste", subpart D).
  - 2. Title 40 of the Code of Federal Regulations Part 261 ("Hazardous Constituents-Appendix VIII,").
  - 3. Title 40 of the Code of Federal Regulations Part 302.4, Table 302.4 (List of Hazardous Substances and Reportable Quantities).
  - 4. Title 40 of the Code of Federal Regulations Part 355, Appendix A and B (List of Extremely Hazardous Substances).
  - 5. By-products, reaction products, and waste products generated from the use, handling, storage, or production of these items.

#### **Section 9.03.13. Wellhead Protection Zone Permits.**

- A. Permit Applicability.
  - 1. Except as otherwise provided herein, no person shall operate, construct, modify, install, or replace a hazardous substance storage system or component thereof within the Primary or Secondary Potable Wellhead Protection Zone without first obtaining a permit.
  - 2. No person shall allow the discharge of a hazardous substance into the soils, groundwater, or surface water within said zones. A Wellhead Protection Permit is required for any activity that has the potential to discharge a hazardous substance into the soils, groundwater, or surface water within the Secondary Wellhead Protection Zone.
- B. General Permit Requirements.
  - 1. At the time of application submittal, the City Manager, or his/her designee,



shall determine if a proposed development is within a wellhead protection area as established by these regulations and will notify the applicant if additional information is required in order to comply with the requirements herein.

2. Application for a Wellhead Protection Permit shall be made and completed in the manner and on the forms prescribed by the City. The application shall be completed with all requested information and shall be signed by the owner or operator, as applicable. The completed application shall be submitted with a non-refundable permit fee, as established by resolution by the City Council.
3. The City Manager, or his/her designee, which may include outside consultants, shall review the application for sufficiency and compliance with local, state, and federal standards regarding the protection of potable water wells. The City shall issue the permit upon the applicant's demonstration that all standards required by these regulations and other applicable regulations have been met, and upon receipt of the appropriate fee.
4. The permit, when issued, shall be in the name of the owner or operator, as applicable, which name may be that of an individual, firm, association, joint venture, corporation, partnership, governmental entity, or other legal entity. A permit shall specify the regulated facility covered by the permit. The permit may cover one (1) or more hazardous substance storage systems located at the same facility and may provide conditions necessary to ensure that the provisions under this Article are met. Commencement of construction of a regulated facility and issuance of a Wellhead Protection Permit shall be deemed acceptance of all conditions specified in the permit.
5. Each permittee shall submit an annual fee, as established by resolution by the City Council, payable by December 15th of each year, in order to maintain the permit.

C. Documents.

When a Wellhead Protection Permit is required, the following information and documentation shall be submitted with the completed application:

1. Construction plans and specifications for the hazardous substance storage system, including but not limited to details of tanks, conveyance and pumping systems, secondary containment, leak detection, overfill protection, and access.
2. Any other information necessary to determine compliance with the requirements of this Section.

D. Conformance with Permit.

Prior to any person causing, allowing, permitting, or suffering the placement of any hazardous substance in a storage system covered by a Wellhead Protection Permit, the owner or operator must demonstrate that the system has been constructed in substantial conformity with the permit.

E. Denial, Suspension, or Revocation of Permits.

The City may revoke any permit issued pursuant to this Ordinance on a finding that the permittee or an agent:

1. Knowingly submitted false or inaccurate information in the application or operation reports.
2. Violated these Wellhead Protection provisions, or the permit conditions.
3. Refused a lawful inspection as required under the Wellhead Protection provisions of this Article.
4. Non-payment of the annual fee.

#### **Section 9.03.14. Containment Standards.**

Except as otherwise provided, no person, firm, or corporation shall construct or install any storage system for hazardous substances within the Secondary Wellhead Protection Zone until an approved permit has been issued. Hazardous substances are not permitted within the Primary Wellhead Protection Zone.

##### **A. Monitoring Capacity.**

Except as otherwise provided, all storage systems intended for the storage of hazardous substances shall be designed with the capability of detecting that the hazardous substance stored in the primary containment has entered the secondary containment. Visual inspection of the primary containment is the preferred method; however, other means of monitoring may be required when determined necessary to ensure effectiveness.

##### **B. Containment Requirements.**

Primary and secondary levels of containment shall be required for all storage systems intended for the storage of hazardous substances, except as otherwise provided.

1. Primary Containment: All primary containment shall be product-tight.
2. Secondary Containment: All secondary containment shall be constructed of materials of sufficient thickness, density and composition so as not to be structurally weakened as a result of contact with the discharged hazardous substances. Leak-proof trays under containers, floor curbing, or other containment systems to provide secondary liquid containment shall be installed. The secondary containment shall be of adequate size to handle one hundred ten percent (110%) of the volume of the largest container in order to contain all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any hazardous substance loss to the external environment. Secondary containment systems shall be sheltered so that the intrusion of precipitation is inhibited. These requirements shall apply to all areas of use, production, and handling, to all storage areas, and to aboveground and underground storage areas.
3. Controlling and Collecting Hazardous Substances: Vacuum suction devices, absorbent scavenger materials, or other devices approved by the City, shall be present on-site or available within a reasonable time. Devices or materials shall be available in sufficient magnitude to control and collect the total

quantity of hazardous substances. To the degree feasible, emergency containers shall be present and of sufficient capacity to hold the total quantity of hazardous substances plus absorbent material.

4. Inspection and Maintenance: Procedures shall be established for periodic in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be in writing. A regular checklist and schedule of maintenance shall be established and a log shall be kept of inspections and maintenance. Such logs and records shall be kept on-site for inspection by the City.
5. Out of Service Storage System:
  - (a) Storage systems which are temporarily out of service and are intended to be returned to use shall continue to be monitored and inspected.
  - (b) Any storage system which is out of service and not being monitored and inspected shall be enclosed or removed in a manner approved by the City.
  - (c) Whenever an abandoned storage system is located, a plan for the closing or removing or upgrading and permitting of such storage system shall be filed with the City within sixty (60) days of notification. (*See Section 9.03.17*).
6. Maintenance, Repair, or Replacement:
  - (a) Any substantial modification or repair of a storage system, other than minor repairs or emergency repairs, shall be in accordance with plans to be submitted to the City and approved prior to the initiation of such work.
  - (b) A facility owner or operator may make emergency repairs to a storage system in advance of seeking approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment. The City shall be notified as soon as possible, and as built plans shall be submitted after completion of the repairs.
  - (c) Replacement of any existing storage system for hazardous substances must be in accordance with the new installation standards.

#### **Section 9.03.15. Hazardous Substance Inspection Program.**

- A. The City shall inspect facilities as necessary to determine compliance with the provisions of these regulations.
- B. The City of Frostproof shall assist Polk County in their program(s) to administer a hazardous substance inspection and clean up program for the incorporated and unincorporated areas of the County. Said inspection program shall ensure compliance with 40 CFR Parts 260-265. This regulatory program will be in addition to the requirements contained herein.

#### **Section 9.03.16. Reporting Spills and Unauthorized Discharges.**

- A. Any discharge of a Regulated Substance that requires reporting under state or federal guidelines shall also be reported to the City within the same time frame as State or Federal notification requirements.

- B. An unauthorized discharge of any quantity of a Regulated Substance must be remediated in such a way that contamination of soils, surface water, or groundwater is minimized.
- C. Clean-up activities shall begin concurrent with or immediately following emergency response activities. A full written report including the steps taken to contain and clean-up the spill shall be submitted to the City within five (5) days of the discovery of the spill.

**Section 9.03.17. Notification and Plan Requirements for Closing a Facility.**

Upon closure of a hazardous substance facility or storage system, the facility owner or operator shall notify the City prior to its closure and a plan for such closing shall be filed with the City within sixty (60) days of notification. The following information shall be provided:

- A. A schedule of events to complete the closure to facilitate inspections and coordination with other agencies.
- B. The proposed disposition of all Regulated Substances and contaminated containers.
- C. Certification by a professional registered engineer or a geologist certified in the State of Florida that disposal and cleanup have been completed in a technically acceptable manner that meet all Local, State and Federal rules and regulations as specified by law, and which preclude leaching of unacceptable levels or residual Regulated Substances into the Floridian Aquifer.

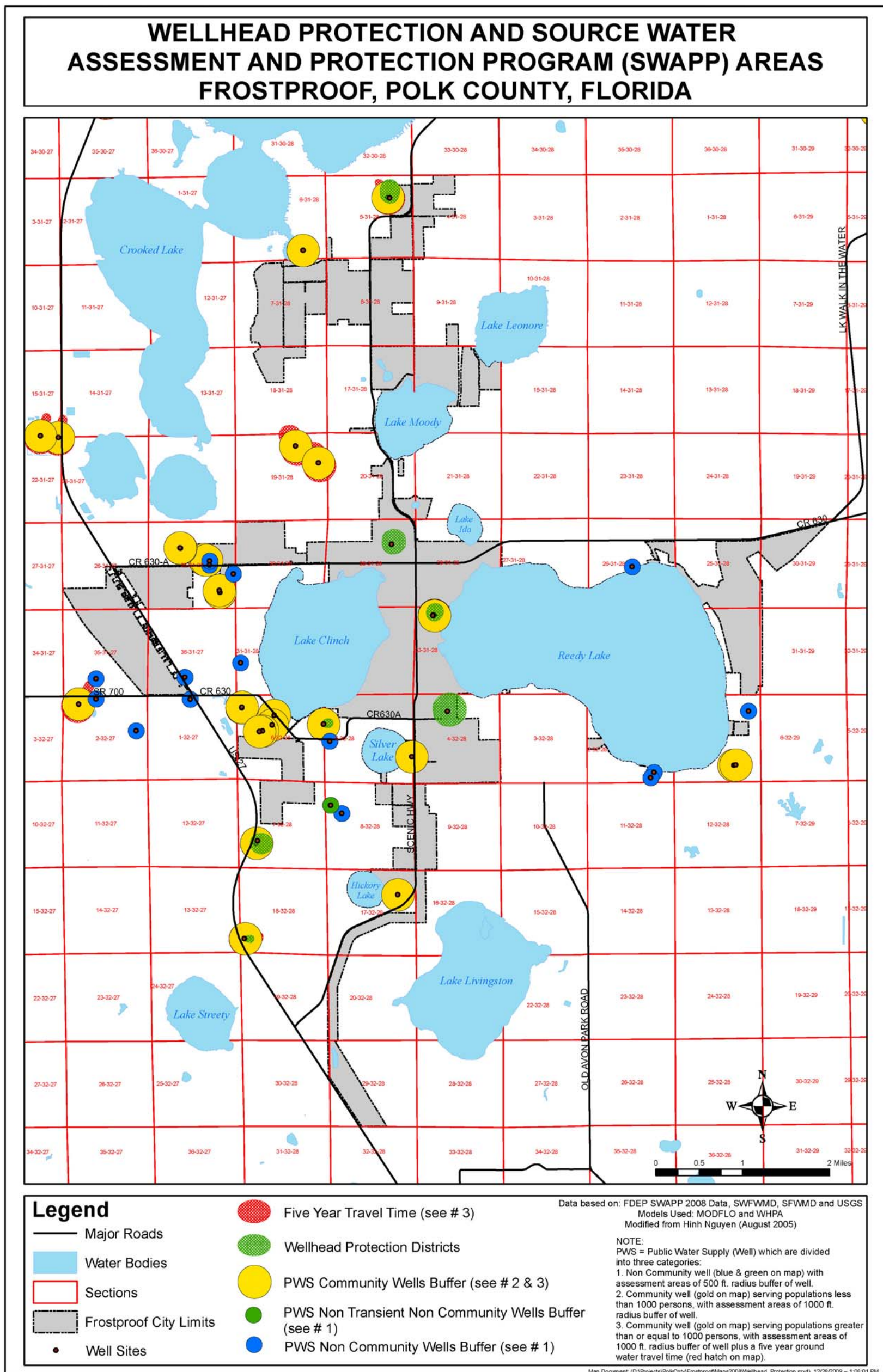
**Section 9.03.18. Reporting of Sinkholes.**

Sinkholes shall be reported to the City and the Southwest Florida Water Management District prior to backfilling. Backfilling material shall be uncontaminated and of lower permeability than the surrounding soil.

**Section 9.03.19. Penalties.**

No building permit or new business/occupational license shall be issued for a site at which a violation of these regulations exists on the site. Any person violating any of these Wellhead Protection provisions may be punished as provided in City Code. Alternatively, the Planning and Zoning Commission shall have jurisdiction to enforce these regulations pursuant to City Code and any person shall be subject to any penalties imposed thereby. The Building Official may issue a STOP WORK ORDER for a violation of the provisions contained herein.

**Figure 9.03.20. Wellhead Protection and Source Water.**



# *City of Frostproof*



Unified Land Development Code

## Article 10

## ARTICLE 10.

### DEVELOPMENT PLANS AND SUBDIVISION PLAT REQUIREMENTS

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## **ARTICLE 10.**

### **DEVELOPMENT PLANS AND SUBDIVISION PLAT REQUIREMENTS**

#### **Section 10.01.00. Purpose of Development Plan Requirements.**

The purpose of this Article is to provide requirements for preparing site plans, stormwater management plans, landscape plans, traffic study reports, planned development plans, personal wireless facility plans, and subdivision plats so that land development and/or subdivision proposals may be reviewed for compliance with City Land Development Code requirements. The procedures for plan and plat submission and review are contained in Article 11 of this Code.

#### **Section 10.01.01. Development Review Committee.**

The Development Review Committee (DRC), comprised of the City Manager, City Planner, City Engineer, Fire Chief, City Building Official, or designees of these persons, shall be responsible for reviewing Development Review Applications, site plans, and subdivision plats. The DRC shall review such information and provide written comment to the applicant. The City Building Official or his or her designee shall be charged with coordinating the activities of this Committee.

The number of copies of each application and site plan required throughout this Article shall be the minimum number required; additional copies may be necessary depending on the nature of the request and the number of people and/or agencies required to review the request. Fees for site plan review are established by resolution by the City Council.

#### **Section 10.01.02. Pre-Application Conference.**

A pre-application conference with the DRC shall be held for each new site plan and subdivision plat submitted to the City for review. For purposes of the pre-application conference, the applicant shall present a concept plan in conformance with Section 10.01.03 of this Article.

#### **Section 10.01.03. Concept Plan.**

The developer shall present five (5) copies of a concept plan, drawn to an appropriate scale, to the Office of the Building Department for distribution to the DRC. The process and time frames in which Concept Plans are reviewed are provided in Section 11.07.02 of this Code. At a minimum, the plan shall show the following:

- A. Total acreage;
- B. Future Land Use and zoning designations of the proposed project and abutting properties;
- C. Proposed use(s) and their general location(s) on the site;
- D. Basic street and lot layout, as applicable;
- E. Typical lot sizes;

- F. Density, as applicable;
- G. Project boundaries;
- H. Significant physical conditions (e.g., wetlands, lakes, etc.).
- I. Conceptual lighting plan.

The DRC shall meet with the applicant at a pre-application conference and shall provide information and comments to assist the applicant in the preparation of site plans, landscape plans, subdivision plats, and other such plans, consistent with City Code requirements.

#### **Section 10.01.04. Development Review Application.**

A Development Review Application shall accompany all plans subject to this Article, and all subdivision plats, which are submitted to the City for review. Applicants shall submit five (5) copies of the application, all required exhibits and applicable fees, in the amount established by resolution by the City Council, to the Office of the Building Department. Applications shall, at a minimum, include the following information:

- A. The property owner's name, address, telephone number and email address, if available;
- B. The name, address, telephone number and email address, if available, of the designated applicant or project representative if other than the property owner. If the property involved is owned by a corporation or company, the name, address, telephone number and email address, if available, of its president and secretary, and state of incorporation shall be provided;
- C. Party having interest in the property (owner, buyer, etc.).
- D. The engineer's or landscape architect's name, address, telephone number and registration number;
- E. Property location, either physical street address, or if vacant, general location description;
- F. Legal description and property tax identification number;
- G. Purpose of application;
- H. Future Land Use classification and Zoning District assigned to the property that is the subject of the site plan or subdivision plat and the designations assigned to contiguous properties;
- I. Total property acreage.

#### **Section 10.02.00. Site Plan Requirements.**

For purposes of general site plan review, the developer shall present five (5) copies of the plan to the Office of the Building Department for distribution to the DRC. The process and time frames in which Site Plans are reviewed are provided in Section 11.07.02 of this Code. All

required plans and drawings for a project, such as but not limited to, architectural, landscaping and engineering plans, shall be consistent with each other with regard to the layout of the site elements both on the horizontal and vertical planes. Architectural, utility and engineering plans shall not conflict with landscape requirements.

**Section 10.02.01. Required Site Plan Information.**

Site plans shall contain the following information, as applicable:

- A. Plans shall be drawn to a minimum scale of one inch equals 100 feet on an overall sheet size not to exceed twenty-four (24) by thirty-six (36) inches;
- B. When more than one sheet is required, an index sheet of the same size shall be included showing the entire parcel with individual sheet numbers referenced thereon;
- C. Site plan name;
- D. North arrow, scale and date prepared;
- E. A certified boundary survey of the tract prepared by a surveyor registered with the State of Florida showing the location and type of boundary evidence related to the State Plane Coordinate System, if available, and the accurate legal description of the property with a computation of the total acreage of the tract to the nearest tenth of an acre. The survey shall have been prepared within one (1) year prior to filing the site plan;
- F. A survey showing existing topographical features, including contours at one (1) foot intervals as well as spot elevations arranged in a grid system with thirty-five (35) foot spacing;
- G. Spot elevations along the tract boundary and twenty-five (25) feet outside thereof (closer where necessary to depict irregularities in the elevations of the property or adjacent property);
- H. Identification of natural features including watercourses, swales, catch basins, ditches, and significant stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas;
- I. Delineation of all environmentally sensitive areas as determined by the appropriate agency;
- J. Identification of all wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA);
- K. Location of open space and recreation areas;
- L. Location and dimensions of on-site parking, loading and unloading spaces;
- M. Location and dimensions for traffic circulation, designated with arrows, all public and private streets, site access and driveways, pedestrian walks and utility easements within and adjacent to the site;

- N. The footprint of all proposed buildings and structures on the site, including setbacks;
- O. Sign locations and setbacks;
- P. Fence and wall locations and heights;
- Q. Phase lines, if the development is constructed in phases;
- R. All existing and proposed utilities and utility tie-in locations, including but not limited to:
  - 1. Water and wastewater pipe sizes, rim and invert elevations, direction of flow and top and bottom elevations and fire hydrant locations and flows.
  - 2. Telephone, electric, gas and other utilities.
  - 3. Fire hydrants.
- S. Location of major solid waste receptacles;
- T. Tabulations of the following, as applicable:
  - 1. Total square footage or acreage of project site;
  - 2. Total number of lots and average size;
  - 3. Number of units proposed, if any, and resulting gross density;
  - 4. Acreage of each type of land use and its percentage of total acreage;
  - 5. Total square footage of buildings and structures;
  - 6. Total floor area, in square feet, of residential and non-residential uses;
  - 7. Total number of required and proposed on-site parking spaces;
  - 8. Total square footage of building lot coverage and percentage of the overall site;
  - 9. Total square footage of vehicular use areas (parking, sidewalks, etc.);
  - 10. Square footage of open space and recreation areas and percentage of the overall site.

Sketch plans and drawings submitted with a variance, or Conditional Use Approval or other zoning-related application shall not be accepted for review as a site plan unless prepared in accordance with the guidelines of this Article. In all cases, engineering plans addressing stormwater management, road construction and other technical aspects of development design shall be sealed by a civil engineer registered in the State of Florida.

#### **Section 10.02.02. Site Plans Requiring a Public Hearing.**

The following developments are considered to be of such magnitude as to significantly impact the community and require site plan approval by the Planning and Zoning Commission:

- A. All new developments proposing to establish fourteen thousand (14,000) square feet or more of gross floor area;
- B. All expansions of existing developments which increase the gross floor area by fourteen thousand (14,000) square feet or more of gross floor area;

The applicant shall be required to submit a Development Review Application as required by Section 10.01.04 and prepare site plans in accordance with Section 10.02.01. The process by which such site plans shall be reviewed for Planning and Zoning Commission action is provided in Section 11.04.08 of this Code.

#### **Section 10.02.02.01. Modification of Site Plans Approved by the Planning and Zoning Commission.**

Any modification, variation or adjustment of a stamped approved site plan shall require a site plan amendment approval. The Building Official shall determine whether a proposed site plan modification is a major or a minor modification. The determination shall be based on, but shall not be limited to the following:

- A. Major Modification includes any substantial change, including an increase in density, a change in permitted uses, a change in stormwater runoff characteristics, a change in traffic patterns and trip generation, or other similar changes;
- B. Minor Modification includes any proposed minor changes in configuration or similar changes.

The applicant shall submit five (5) copies of the site plan modification request to the Office of the Building Department for distribution to the DRC. The DRC may approve minor modifications. However if the proposed change or amendment is determined to be a major modification, the Building Official shall forward the site plan revisions to the DRC and any other appropriate members of City staff and outside consultants. The City Manager, or his or her designee, shall schedule a major modification request for a hearing before the Planning and Zoning Commission consistent with the procedures and time frames set forth in Article 11.04.08, in its entirety.

#### **Section 10.02.03. Effect of Site Plan Approval.**

A building permit shall be obtained within twelve (12) months of the approval date of a site plan or the plan shall become invalid. In the case of site plans approved by the Planning and Zoning Commission, the site plan shall be valid for a period of one (1) calendar year from the date of approval, unless an extension is granted pursuant to Section 11.04.08.02 of this Code.

Upon site plan approval, and consistent with Section 10.08.02 of this Article regarding construction plans, the applicant may proceed with developing detailed construction plans as required for the issuance of a site development and/or building permit. Such plans shall include, but shall not be limited to, building plans, drainage and stormwater management facility plans, and road and driveway construction specifications. Nothing contained herein shall preclude the City from accepting building construction plans, related to structural, mechanical, electrical and plumbing systems, for review and processing prior to stamped approval of a site plan, subject to such conditions as may be established by the City relative to pre-plan certification processing. In such instances, no building permit shall be issued until the site plan has been stamped approved and is on file in the Office of the Building Department. All building and construction permits issued for any project requiring site plan review shall be consistent with the stamped approved site plan and any stipulated conditions that are part of the approval. The approval of a site plan shall not, under any circumstance, be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials. Whenever a conflict between the site plan and such construction details occurs, the more restrictive, or that requiring the higher standard, shall prevail.

The City Clerk shall retain one (1) copy of the site plan to constitute a permanent record of said plan. A minimum of three (3) copies of the plan shall be reserved for the applicant, two (2) copies of which shall accompany the application for a building permit, and one (1) copy which shall be available for inspection at the job site.

#### **Section 10.02.04. Development Phasing, Variances and Conditional Uses.**

Any development involving the following provisions shall be coordinated as set forth below:

A. Development Built in Phases.

Development that is built in phases or stages must clearly show the various phases or stages of the proposed development on the site plan and on all subsequent site plans. Any amenity or stormwater management system proposed in any future phase shall be constructed in the first phase of development. A site plan must be submitted for each successive phase of the development.

B. Variances.

Those developments requiring a variance, consistent with Section 11.06.00 of this Code, shall be reviewed and acted upon by the Board of Zoning Appeals. This shall include existing development sites proposed for expansion or reconfiguration, which are non-conforming to any type of dimensional requirements as provided in Section 11.06.00. The site plan may be reviewed concurrently with review and action on the variance request, but the site plan shall not be approved until the variance has been approved.

C. Conditional Use Approval.

Requests for developments requiring Conditional Use Approval shall be submitted to the Planning and Zoning Commission and the request shall be approved prior to final approval of a site plan. However, a site plan and a Conditional Use Approval request may be processed concurrently.

#### **Section 10.02.05. Non-Compliance.**

Failure to comply with a stamped approved site plan or any of the conditions upon which such approval was contingent, including time limits for performance, shall be cause to deny issuance of a building permit or, where a permit has been issued pursuant to a stamped approved site plan, to render such building permit invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Code shall constitute a violation of this Code and may be subject to a stop-work order.

#### **Section 10.03.00. Stormwater Management Plans.**

Any person proposing development or redevelopment in the City shall submit five (5) copies of a Stormwater Management Plan to the Office of the Building Department, as part of, or attached to, site plans for the proposed development. The plan shall demonstrate the measures to be implemented for controlling runoff as required under the provisions of Section 6.07.00 of this Code and shall include information necessary to illustrate the means by which compliance with applicable control standards will be achieved. Approval of the Stormwater Management Plan shall be a condition prior to the issuance of a building permit. A Stormwater Management Plan shall be reviewed and its approval documented by all other governmental authorities having jurisdiction. A Stormwater Management Plan review fee, as established by resolution by the City Council, shall be paid at the time the plan is submitted for review. A building permit shall be obtained within twelve (12) months of the approval date of a Stormwater Management Plan or the plan shall become invalid. Any development activity for which a permit is issued under this Section which has not commenced within one (1) year from the date of permit issuance and/or has not been completed within two (2) years from the date of permit issuance shall automatically be null and void unless otherwise extended by the Building Official, subject to a new plan review fee.

The process and time frames in which Stormwater Management Plans are reviewed are provided in Section 11.07.02 of this Code.

The Stormwater Management Plan shall include the following information:

- A. A detailed site plan, including a general location map showing the location of all existing and proposed pavement and structures;
- B. Topographic maps of the site before and after the proposed alterations;
- C. Information regarding the types of soils, soil moisture conditions, and groundwater conditions existing on the site;
- D. General vegetation maps of the site before development and a plan showing the landscaping to be performed as part of the project;
- E. The location of all bodies of water and jurisdictional wetlands indicated upon the topographic map required within Chapter 40D, FAC;
- F. All required information pursuant to the performance criteria outlined in Section 6.07.05 of this Code, including runoff computations.
- G. All required information pursuant to the system design standards of Section 6.07.06 of this Code.

- H. Any additional stormwater related information that the city's engineer finds necessary for the proper review of the proposed activity; and
- I. Certification that the plan was prepared by a professional engineer registered in the State of Florida.
- J. If the development activity is regulated by the SWFWMD, subject to Rule 40D-4.041 or Rule 40D-4.051, Florida Administrative Code (FAC), or the FDEP, the person proposing development or redevelopment in the City shall submit to the City, the stormwater management plan/permit or permit exemption as part of, or attached to, the site plans for the proposed development;

#### **Section 10.04.00. Landscape Plans.**

Any person proposing development or redevelopment in the City, which is subject to landscape provisions, shall submit five (5) copies of a landscape plan to the Office of the Building Department, as part of, or attached to, site plans for the proposed development. The following information shall be provided on the Landscape Plan:

- A. The plan shall be drawn at a scale no greater than one (1) inch equals fifty (50) feet;
- B. Project name;
- C. Graphic scale, north arrow and date of plan;
- D. General property location vicinity map;
- E. Site layout and all site improvements with dimensions, including but not limited to buildings and other structures, parking spaces, wheel stops, driving aisles, driveways, sidewalks, stormwater retention areas, signs, walls and fences and on-site and abutting streets;
- F. Location and width of utility easements and location of overhead powerlines;
- G. Identification of Future Land Use and Zoning District designations of abutting land uses;
- H. Graphic measurement identifying the width of landscape buffer yards;
- I. Graphic portrayal, identification/name and location of all landscape plant material and quantities of each type of plant provided;
- J. Location, name and crown diameter of preserved trees;
- K. Graphic measurement identifying the crown diameter of canopy and understory trees providing canopy coverage over on-site sidewalks and vehicular use areas;
- L. Tabulations of the following:
  - 1. Required and proposed number of parking spaces;
  - 2. Square footage of on-site sidewalks and vehicular use areas;
  - 3. Square footage of tree canopy area required;



4. Square footage of tree canopy area provided;
  5. Identification of type or class of buffer yard required (e.g., Type A);
  6. Required number of buffer yard plantings;
  7. Number of buffer yard plantings provided;
- M. If the property is to be developed in phases, each phase and all improvements for each phase shall be clearly shown;
- N. An irrigation plan and specifications shall be provided which show the layout and describe a workable underground irrigation system as a complete unit providing full coverage of all landscaped areas and including such information as piping circuits, pipe sizes, heads, valves, controls, pumps, power source, and all other associated accessories and fixtures.

A building permit shall be obtained within twelve (12) months of the approval date of the approved landscape plan or the landscape plan shall become invalid. The Building Official, or his or her designee, shall inspect the landscaping installation to ensure that it is in conformance with the requirements set forth in this Land Development Code and with the approved landscape plans. Plant material substitutions may be approved by the Building Official so long as the intent and requirements of this Code are met. The process and time frames in which Landscape Plans are reviewed are provided in Section 11.07.02 of this Code.

#### **Section 10.05.00. Planned Unit Development (PUD).**

The process and time frames in which PUD's are reviewed are provided within all the Sections pertaining to zoning amendments located within and under Section 11.04.02. A PUD plan shall be prepared to include the following information:

- A. Development Review Application consistent with Section 10.01.04 of this Article.
- B. Evidence of unified control of the entire site;
- C. Agreements, contracts, covenants, deed restrictions, and other instruments which bind the controlling entity and all existing and successive holders of title of the subject property to full compliance with the zoning district;
- D. A map showing dimensioned boundaries of the subject parcel or parcels, all existing streets, buildings, watercourses, wetlands, and other relevant existing physical features in and adjoining the project;
- E. An overall concept plan showing the location and arrangement of all proposed land uses, including the number of acres in each land use, residential densities, and density and intensity factors for nonresidential development (i.e., commercial or industrial centers, hotel/motel, mixed use, etc.);
- F. A statement by the applicant including, but not limited to, projected population, time schedule for completion of the development as a single phase operation or in a programmed series of development phases, proposed ownership and forms of organization to maintain common open space and facilities;
- G. The location and size of thoroughfares and other vehicular and pedestrian circulation facilities serving, or to be located in, the development;

- H. The location and size of main wastewater, water, electrical, and other utility lines to serve the development;
- I. Legal description and total acreage of the subject parcel or parcels;
- J. Any additional development details or other documentation as may be deemed necessary by the City to determine compliance with all requirements of this Code. Such additional development details may include, but are not limited to, property surveys, subdivision plats, utility plans, building elevations and building floor plans.
- K. Submission of site plans (Sections 10.02.00 and 10.02.01), and attachments as required, including Stormwater Management Plans (Section 10.03.00), Landscape Plans (Section 10.04.00) and Construction Plans (Section 10.08.02).
- L. PUD's shall also comply with Section 7.01.00 of this Code.

**Section 10.06.00. Personal Wireless Service (PWS) Facilities (Cell Phone Towers).**

**A. Administrative Review.**

The process and time frames in which PWS Facility Plans are administratively reviewed are provided in Section 11.07.02 of this Code. An applicant shall submit five (5) copies of the following information to the Office of the Building Department, for distribution to the DRC, in addition to the information required for building permits:

1. Development Review Application consistent with Section 10.01.04 of this Article.
2. Legal description including parent tract and any leased parcel;
3. The site plan, showing a North arrow, scale and date prepared, shall indicate the location, type, height and setbacks of the proposed facility including mounts, foundations, equipment shelters, cable runs, security barriers, access points, buffers and landscaping, property lines and easements, environmentally sensitive areas as determined by the appropriate agency, existing structures, fences and walls, and any on-site vehicular use areas . Also, separation distances from residential uses, arterial streets and highways and collector streets, and existing ground-mounted PWS facilities for new ground-mounted facilities;
4. The Future Land Use classification and zoning designation of the site and abutting properties;
5. Identification of abutting land uses and structures on abutting lands;
6. Front and side elevations indicating color and finish of exposed parts, visual screens or enclosures, buffer treatments and lighting. Also, the color, finish and material of the building or structure on which the facility is mounted for structure-mounted facilities;
7. Existing Structures Report (for new ground-mounted facilities only). A report inventorying the availability of existing structures, including utility poles, within the applicant's search area which may serve as alternatives to the proposed ground-mounted facility. The report shall evaluate why the proposed facility cannot reasonably be accommodated on such existing structures;

8. Co-Location Statement. A statement of intent that co-locators will be permitted in cases where facilities are required or proposed to accommodate more than one provider. The positions of anticipated co-locator antennas on the mount and the space provided for co-locator equipment shelters shall be shown on all site plans and elevations.

B. PWS Facilities Requiring Conditional Use Approval.

Conditional Use Approval shall be required when a proposed PWS Facility does not comply with the standards and placement requirements provided within the Sections contained under Section 6.12.00 of this Code. Specifically, the Conditional Use procedure may be considered for the following:

1. Requests for ground-mounted PWS facilities proposed to be located in residential zoning districts as specified in Section 6.12.05.01 (b) and within two thousand (2000) feet of lakes as specified in Section 6.12.05.06.
2. Requests for exceptions to specific standards established in this Article for maximum height; horizontal separation; separation from residential districts, limited-access highways (including frontage roads), arterial streets and highways and collector streets; and alternatives to the monopole type mount.

If Conditional Use Approval is required, the applicant shall submit the information required by Part A, above, and shall comply with the Conditional Use Approval procedural and submission requirements contained within the Sections under Section 11.05.05 of this Code.

**Section 10.07.00. Traffic Study Requirements.**

A. Minor Traffic Study.

A Minor Traffic Study shall be required for developments generating more than fifty (50) and less than or equal to seven hundred fifty (750) average daily trips. The review process and Minor Traffic Study submission requirements are contained within Section 11.07.02 of this Code. Traffic studies shall be performed at the developer's expense. Five (5) copies of a Minor Traffic Study shall be submitted to the Office of the Building Department and shall include the following information:

1. Development Review Application consistent with Section 10.01.04 of this Article.
2. A description of the proposed project;
3. Each land use category and zoning classification proposed;
4. The number of units proposed;
5. An estimate of the number of daily and peak hour trips generated, by direction, for the directly accessed segment;
6. The percent of capacity consumed by the project traffic;
7. The number of net external peak hour trips that will impact each directly accessed segment for both the peak and off-peak directions (e.g., after internal capture and adjacent street capture is considered);

8. The analysis of intersections, as necessary to ensure acceptable operating conditions at major intersections in the project vicinity.

The impact of project traffic on the first directly accessed segment, as well as specified intersections, shall be evaluated relative to its adopted Level-of-Service. Additional impacted segments may be added when it would be in the best interest of the City to do so in order to maintain the adopted Level-of-Service standards. A determination shall be made by the City's engineer whether or not the road facilities are adequate to maintain adopted service levels upon build-out of the proposed development.

If the information submitted indicates the Level-of-Service will fall below the adopted standard, then the applicant may undertake a more detailed evaluation of future roadway operating conditions to demonstrate acceptable operating conditions or the applicant may propose roadway improvements to restore acceptable conditions.

B. Major Traffic Study.

A Major Traffic Study shall be required for all developments generating more than seven hundred fifty (750) average daily trips. A Major Traffic Study which indicates total daily traffic greater than one thousand (1,000) trips must be prepared and submitted by a registered professional engineer, whose area of practice is transportation engineering. Traffic studies shall be performed at the developer's expense.

Prior to conducting a major traffic study, the applicant, or his or her engineer, shall participate in a pre-application conference with the City's engineer to discuss the traffic study requirements as it pertains to his or her specific development. The applicant, or his or her engineer, shall provide a diagram depicting site access at the pre-application conference. This diagram shall provide sufficient detail to adequately depict existing and proposed ingress/egress to the site (pavement width, median cuts, opposite driveway cuts and intersecting streets, acceleration/deceleration lanes, and left turn storage). Site access for a proposed development shall be consistent with the requirements of the City and other jurisdictions, as applicable.

Five (5) copies of a Development Review Application, consistent with Section 10.01.04 of this Article, and two (2) copies of a completed Major Traffic Study shall be submitted to the Office of the Building Department. The Building Official shall forward the copies to the City's engineer who shall determine if all required data has been submitted and is sufficient and acceptable. This determination, as well as a determination that additional data is necessary, shall be made within ten (10) working days of receipt of the Major Traffic Study. Following this determination, the City's engineer shall have thirty (30) days to evaluate and determine if roadway capacity is available on each segment as presented in the traffic impact study and prepare a concurrency recommendation.

Each Major Traffic Study shall contain the following information:

1. Title page;
2. Table of Contents;
3. List of Figures;
4. List of Tables;

5. An introduction which includes a description of the project, project location, size of the project and summary of methodologies agreed to in the pre-application conference;
6. Identification of existing conditions for the peak season/peak hour to include existing traffic volumes and roadway characteristics for all segments within the study area; and
7. Identification of future conditions for the peak season/peak hour to include background traffic, project traffic, and total traffic for all segments within the study area. In order to accomplish this, the applicant shall include the following:
  - (a) Trip generation estimates;
  - (b) Percent of new trips and internal capture estimates;
  - (c) Traffic distribution and assignment methodology;
  - (d) Area of influence (determination of road segments to be included in study network);
  - (e) Impacted segments traffic volumes (peak and off-peak directions);
  - (f) Intersection analyses, as required;
  - (g) Roadway needs (identification of proposed improvements and cost);
  - (h) Internal site circulation and access needs;
  - (i) Appendix (as applicable to the specific traffic impact study);
  - (j) Traffic count data;
  - (k) Trip generation, internal and adjacent street capture worksheets;
  - (l) Trip distribution and assignment worksheets;
  - (m) Intersection capacity analysis worksheets using the Highway Capacity Manual latest edition;
  - (n) Link capacity analyses;
  - (o) Computerized modeling documentation (if performed); and
  - (p) Other analysis worksheets.

#### **Section 10.08.00. Subdivision Platting Requirements.**

Whenever any subdivision of land is proposed, and prior to any site improvements, including the installation of public or private utilities, stormwater management facilities, building construction, or paving, the developer, or his or her authorized agent, shall apply for and secure approval of the proposed subdivision through submission of the following documents:

- A. Concept Plan;
- B. Preliminary Subdivision Plat;
- C. Construction Plan;
- D. Final Subdivision Plat.

**Section 10.08.01. Preliminary Subdivision Plat.**

The purpose of the preliminary subdivision plat is to provide sufficient information to enable the City to evaluate the proposed subdivision as it relates to the Comprehensive Plan and the Unified Land Development Code. The developer may present a preliminary subdivision plat at any time after receiving the comments of the DRC in response to the submission of a concept plan pursuant to Section 10.01.03. The preliminary subdivision plat shall demonstrate that comments from the concept plan review have been incorporated into the plat.

Submission of a preliminary subdivision plat shall require a Development Review Application, consistent with Section 10.01.04, an application fee, in an amount established by resolution by the City Council, and a preliminary plat consistent with the information required below.

**Section 10.08.01.01. Preliminary Plat Preparation.**

- A. Required Information for Preliminary Plat Preparation.
  - 1. Black or blue line prints of the proposed subdivision, prepared in accordance with design standards that are consistent with City Code. The number of copies to be provided is contained within Section 11.04.05 of this Code;
  - 2. Any exhibits that may be required. The number of copies to be provided are contained with Section 11.04.05 of this Code;
  - 3. The plat shall be drawn at a scale of one hundred (100) feet to one (1) inch by a registered surveyor;
  - 4. Subdivision title, north arrow, scale, legend and date prepared;
  - 5. Range, township, section;
  - 6. Names of adjoining subdivisions and/or property owners;
  - 7. Boundary of tract to be subdivided with bearings, distances, closures and bulkhead lines;
  - 8. Proposed and existing lot lines, lot and block numbers and appropriate dimensions;
  - 9. Abutting street locations and names;

10. Dimensions and purpose of proposed and existing rights-of-way, access points, easements, and waterways on the land to be subdivided, and on the land adjoining for at least one hundred fifty (150) feet;
11. Approximate radii of all curves;
12. Approximate street elevations;
13. Typical cross-section of proposed roadways, sidewalks, bicycle paths and other such areas;
14. The projected Average Daily Traffic (ADT) from the proposed development based upon trip generation rates contained in the most recent edition of the Institute of Transportation Engineers (ITE) Manual, unless other standards are justified and approved.
15. Existing and proposed contours based on U.S. Coast and Geodetic datum with a vertical interval of not more than one (1) foot for the project site and adjoining land within one hundred fifty (150) feet of the boundary of the proposed development;
16. Existing and proposed parks, school sites, or other public open spaces, and all other land uses on-site and within one hundred fifty (150) feet of the boundary of the proposed development;
17. Building setback lines along the perimeter of the proposed development;
18. Location and setbacks of all structures on the land to be subdivided and on the land within ten (10) feet of the boundary of the proposed development;
19. Preliminary layout of water distribution, wastewater and stormwater systems, and other proposed utilities showing connections to existing systems;
20. Location of existing and proposed cable, electric and telephone lines, and drain pipes on-site and on land within one hundred fifty (150) feet of the boundary of the proposed development. (All proposed electric and communication utility lines shall be placed underground consistent with Section 6.06.01 (D) of this Code; however upon written application of the owner or subdivider, the City Council may, by resolution, waive or modify any provisions for underground requirements);
21. Preliminary lighting layout plan;
22. Identification of natural features including watercourses, swales, catch basins, culverts, ditches, and significant stands of mature trees and understory vegetation;
23. Width dimensions of project perimeter landscape buffer yards;

24. Delineation of all environmentally sensitive areas as determined by the appropriate agency;
25. Identification of all wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA);
26. Approximate phasing of project, if applicable;
27. Project vicinity location map, at a scale no smaller than five hundred (500) feet to one (1) inch and with a north arrow, showing the property's relation to other properties in the general area, the zoning and future land use designations of both the land to be developed and adjoining lands and the city limits, if abutting city limit boundaries;

**B. Approval of Preliminary Plat.**

The preliminary plat review process shall be consistent with all the Sections contained under Section 11.04.05 of this Code. Approval of the preliminary plat shall authorize the developer to prepare construction plans for public infrastructure improvements. Preliminary subdivision plats shall remain valid for one (1) year from the date of approval unless a time extension is granted consistent with Section 11.04.05.05 of this Code.

**Section 10.08.02. Construction Plans.**

The purpose of the construction plan review process is to allow the DRC to review and approve all proposed subdivision site and infrastructure improvements prior to construction. The construction plans shall consist of complete working drawings and design specifications, and shall be the basis for evaluating the quality and completeness of the proposed engineering design, compliance with all applicable regulations, establishment of a construction schedule, and site improvement permitting. Approval of the construction plans by the DRC may be subject to any conditions, restrictions, and/or time schedules as may be deemed necessary in the public interest.

Construction Plan review shall be initiated when the following information has been provided to the Office of the Building Department:

- A. Complete application forms, including a Development Review Application, pursuant to Section 10.01.04, with all necessary attachments;
- B. The applicable review fee, as established by resolution by the City Council;
- C. Five (5) complete sets of construction plans, prepared by a civil engineer registered in the state of Florida.

**Section 10.08.02.01. Construction Plan Preparation.**

Construction plans shall be submitted on twenty-four (24) by thirty-six (36) inch sheets drawn to a scale of not less than one (1) inch equals forty (40) feet and shall show, in addition to the data provided on the preliminary subdivision plat, the following information:



- A. Name, address, telephone number and email address, if available, and seal of registered engineer and surveyor responsible for the plan and data;
- B. Final alignments, dimensions, grades and profiles of proposed streets, sidewalks, bicycle paths, utilities, stormwater management and other improvements to be constructed consistent with the City of Frostproof's engineering standards;
- C. Calculations, computations and details as may be necessary to determine the limits of wetlands, groundwater table characteristics, off-site impacts of the proposed development, and other technical matters that may be specified by the City or any consultant under contract to do work for the City.
- D. Any permits from agencies approving access to state or county roadways.
- E. Any permits from agencies approving the proposed stormwater management system;
- F. Any permits from agencies approving the utilities plan;
- G. Any permits from environmental agencies having jurisdiction;
- H. Three (3) copies of estimates of quantities, unit prices and estimated costs for streets, stormwater management and storm wastewaters, water distribution systems, and wastewater systems;

#### **Section 10.08.02.02. Record Drawings.**

Five (5) sets of engineering as-built drawings and one (1) electronic copy, or an equivalent, of the drawings shall be submitted to the Office of the Building Department for distribution to the appropriate city officials prior to the issuance of a certificate of completion for the subdivision, or any portion thereof. The engineering as-built drawings shall be consistent with engineering standards adopted by the City of Frostproof. All as-built drawings shall contain a certification by a professional engineer and registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.

#### **Section 10.08.02.03. Maintenance Guarantee.**

The developer shall enter into a written agreement with the City guaranteeing the materials and workmanship of pavement, curb and gutter, sidewalks, water system, wastewater system and the stormwater management system in the subdivision for a period of five (5) years after final acceptance by the City's engineer. A bond shall be required for the maintenance and repair requirements to cover faulty plans, materials or workmanship. The bond shall be effective for a period of five (5) years after the issuance of a certificate of completion by the City and shall be in an amount equal to twenty-five percent (25%) of the cost of all required improvements.

### **Section 10.08.03. Final Subdivision Plat.**

Upon completion of all subdivision infrastructure improvements, or guarantee thereof, the developer or authorized agent shall submit a final subdivision plat before any contract is made for the sale of any part thereof, and before street dedications are accepted and building permits are requested to build structures on the newly created lots.

#### **Section 10.08.03.01. Purpose of Final Plat.**

The purpose of the final plat is to establish a legal record of the subdivision. The final plat may not be approved unless it is in strict conformance with details of the preliminary subdivision plat and any changes required by, and approved by the City.

#### **Section 10.08.03.02. Final Plat Preparation.**

##### **A. General Information.**

Final plats shall be prepared by a land surveyor registered in the state of Florida. Final plat review shall be initiated when the following information has been provided to the Office of the Building Department:

1. Complete application forms, including a Development Review Application, consistent with Section 10.01.04 of this Article, and all necessary attachments;
2. The applicable review fee, as established by resolution by the City Council;
3. The number of copies of the final plat as required under Section 11.04.06 of this Code.

##### **B. Required Format to Record Final Plat.**

Although it may constitute only that portion of the preliminary subdivision plat which the developer proposes to record and develop at the time, the final plat for recording shall be prepared in conformance with the requirements specified herein. The final plat shall show, in addition to the data provided on the preliminary subdivision plat, the following information:

The final plat for recording shall conform to all requirements set forth in Florida Statutes, Chapter 177, including dedications and reservations executed by the developer and certification by a registered land surveyor.

1. The final plat shall be drawn on mylar, twenty-four (24) inches wide by thirty-six (36) inches long. The preferred scale of the final plat is one (1) inch equals one hundred (100) feet. If a different scale is used for the recorded plat, a facsimile scaled to no less than one (1) inch equals forty (40) feet on stable base film shall be provided to the Office of the Building Department.

2. The name of the plat, which was approved by the Planning and Zoning Commission, on every sheet.
  3. All required final permits and approvals issued by agencies and governing bodies having jurisdiction over properties being subdivided shall be furnished to the Office of the Building Department. The final plat shall not be approved by the City without proper submission of the final permits and approvals.
  4. A statement shall be included on the final plat indicating the final length of roads, water and wastewater lines installed.
  5. In the event the plat includes open space, clubhouses, playgrounds or other amenities to be owned and used in common by residents of the development, a plat note shall be added requiring the creation of a homeowners or property owners association that shall be responsible for such facilities.
  6. Any existing or proposed private restrictions and trusteeships, and their periods of existence, shall be filed as a separate instrument and reference to such instrument shall be noted on the Final Plat.
  7. City signature spaces for the Mayor, City Manager, City Clerk, City Attorney, and the City's engineer and reviewing surveyor shall be provided.
  8. A signature space for the Clerk of the Circuit Court of Polk County shall be provided.
  9. Impressed thereon, and affixed thereto, shall be the personal seal and signature of the registered land surveyor by whom, or under whose authority and direction, the plat was prepared. The surveyor shall certify that the plat is a true and correct representation of the land surveyed and that the survey data complies with all of the requirements of Chapter 177, Florida Statutes, and as may be amended.
- C. Final Plat Documentation Required.

The following documentation shall accompany the final plat:

1. A title opinion by an Attorney at Law, licensed in Florida, or a certification by an abstractor or title company stating that the court records identify that the title of the land as described and shown on the plat is in the name of the person or persons or corporation executing the dedication. In addition, a document entitled, "Consent to Platting of Lands and Partial Release of Mortgage," shall be filed together with the final plat for each person or corporation holding a mortgage on all land included on the plat, where such person or corporation has not signed the final plat.

2. Certification that all real estate taxes have been paid.
3. Five (5) copies the of homeowner's association covenants or deed restrictions.

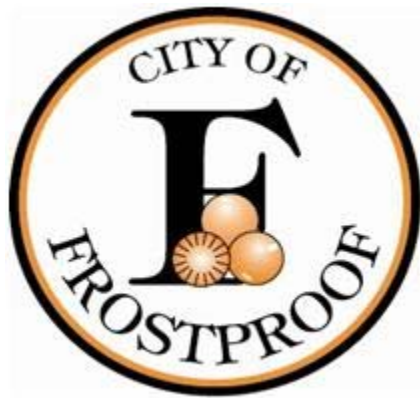
#### **Section 10.08.04. Minor Subdivisions.**

The intent of this Section is to provide for administrative review for small scale development and land subdivision and re-subdivision. The DRC may administratively approve a minor subdivision if the approval does not result in the creation of more than four (4) new lots, does not require new public streets to serve the property, and does not require the extension of a public water, wastewater system or stormwater management facility. The process for reviewing minor subdivision requests and the number of copies required for submission is contained in Section 11.08.00 of this Code.

In requesting administrative approval of a minor subdivision, the applicant shall provide five (5) copies of the following information to the Office of the Building Department:

- A. The deed to the property. If the applicant does not own the property, he or she must obtain written permission from the owner, including a notarized signature, authorizing him or her to make the application.
- B. The official property appraiser's map indicating the subject property and all other properties within two hundred (200) feet.
- C. Certified survey.
- D. A boundary survey of the platted lands (F.S. 177.041).
- E. A title opinion prepared by an attorney at law licensed in Florida; or, certification by an abstractor or title company (F.S. 177.041).
- F. An application fee as established by resolution by the City Council.

# *City of Frostproof*



Unified Land Development Code

## Article 11

## ARTICLE 11.

### DEVELOPMENT REVIEW PROCESS

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## **ARTICLE 11.**

### **DEVELOPMENT REVIEW PROCESS**

#### **Section 11.01.00. Development Review Committee (DRC) Responsibilities.**

The Development Review Committee (DRC), comprised of the City Manager, City Planner, City Engineer, Fire Chief, City Building Official, or designees of these persons, shall be responsible for reviewing Development Review Applications, site development plans, and subdivision plats. The City Building Official, or his or her designee, shall be charged with coordinating the activities of this Committee.

#### **Section 11.01.01. Development Review.**

Development requests requiring action by the Planning and Zoning Commission, Board of Zoning Appeals and/or City Council shall first be reviewed by the Development Review Committee (DRC). The number of copies of each application, plans and exhibits required throughout this Code shall be the minimum number required; additional copies may be necessary depending on the nature of the request and the number of people and/or agencies required to review the request.

The DRC shall review development requests in relation to their conformance to the Comprehensive Plan, zoning and other applicable land development regulations and shall identify matters of development policy concern to which the applicant shall address particular attention. Within fifteen (15) working days of a submittal, DRC review shall be completed and a letter shall be sent to the applicant detailing any issues identified during the review. The applicant shall be permitted to respond to staff comments at this stage of review.

Upon agreement by the applicant to incorporate Committee review comments into the development plan, the applicant shall submit the revised application and applicable exhibits to the Building Official. When the Building Official determines that all comments have been adequately addressed and the requirements of all applicable city, state and federal regulations have been met, a development permit may be issued; *or* if Planning and Zoning Commission, City Council and/or Board of Zoning Appeals action is required, the Building Official shall inform the City Manager, or his or her designee, who shall place the request on a meeting agenda of the appropriate hearing body. Upon a hearing, any party may appear in person, by agent, or by attorney.

Upon written notice to the Building Official, any application/request may be withdrawn at any time at the discretion of the person or agency initiating such request.

#### **Section 11.02.00. Staff Report.**

The City Manager, or his or her designee, shall prepare written reports to the Planning and Zoning Commission, Board of Zoning Appeals and City Council, which provide data and analysis specific to the request to be heard at a public meeting or hearing, in relation to City goals, objectives, policies, and zoning and land development requirements.

### **Section 11.03.00. Due Public Notice.**

Pursuant to Section 286.011, F.S., Board, Commission or Council meetings, at which official acts are to be taken, are declared public meetings, open to the public at all times, and shall be given due public notice.

Board, Commission and Council hearings and/or meetings to consider the ordinances and resolutions, which are the subject of this Article, are open to the public, and shall require due public notice for public meetings as provided herein. F.S., Chapter 166.041 contains the procedures for adopting ordinances and resolutions and should be referred to before any advertising is undertaken. At minimum, the City shall notice these public meetings as follows:

- A. Notice of meetings shall be displayed prominently at City Hall.
- B. Whenever a request involves changing the zoning designation or future land use classification of a property, a conditional use or a variance, a sign of no less than eighteen (18) inches by twenty-four (24) inches, which shall contain information as to the request and the date and time of the public hearing, shall be posted on the property at least ten (10) days prior to the meeting. In addition, a notice shall be mailed as a courtesy to all property owners of record within a radius of 300 feet of the affected property; provided, however, that failure to receive such notice shall not invalidate any action or proceedings taken at the public hearing.
- C. Pursuant to F.S., Chapter 166.041, all ordinances acted on by the City shall be read on at least two (2) separate days and shall be noticed once in a newspaper of general circulation in the City at least ten (10) days prior to adoption. The notice shall include the date, time and place of the meeting, the subject of the request, the title or titles of proposed ordinance(s), and the place or places within the City where the proposed ordinance may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The newspaper advertisement shall meet the size and placement requirements of said Chapter 166.041.
- D. To vacate streets and other rights-of-way, a legal advertisement shall be placed in a newspaper of general circulation in the City at least two (2) weeks prior to the date stated for the hearing. Approval shall be by resolution and notice of the adoption of such resolution by the City Council shall be published one time, within 30 days following its adoption, in one issue of a newspaper of general circulation published in the City. The proof of publication of notice of public hearing, the resolution as adopted, and the proof of publication of the notice of the adoption of such resolution shall be recorded in the deed records of Polk County.
- E. To vacate subdivision plats, the applicant shall comply with the legal advertisement requirements of Section 177.101, F.S.
- F. F.S, Chapter 163.3184 provides additional public notice requirements for Comprehensive Plan amendments; see the Comprehensive Plans Section of this Article.

### **Section 11.03.01. Ordinances and Resolutions.**

Pursuant to F.S., Chapter 166.041, an "Ordinance" is an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law. "Resolution" is defined as expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

### **Section 11.04.00. Planning and Zoning Commission.**

The Planning and Zoning Commission shall consider applications for Comprehensive Plan amendments, zoning amendments, Developments of Regional Impact (DRI), Conditional Use Approval, preliminary and final subdivision plats, appeals or variances from interpretations of the subdivision regulations of this Code, site plans consistent with Section 10.02.02 of this Code, and landscape plan modifications and waivers consistent with all the provisions contained under Section 11.04.09 and Section 6.04.06.01 (D) of this Code. Applications requiring Planning and Zoning Commission action shall be submitted no later than thirty (38) days prior to a regularly scheduled meeting.

### **Section 11.04.01. Comprehensive Plan Amendments.**

An amendment to the Comprehensive Plan may either be a text amendment, which is a change to the goals, objectives and policies of the Comprehensive Plan, or a map amendment, which changes a land use classification shown on the Future Land Use map. A map amendment may be a major map amendment or a small scale map amendment. Large scale plan amendments are subject to review by the DCA under Chapter 163, F.S.; small scale plan amendment criteria are provided in Section 11.04.01.04 of this Article. The City may submit large scale plan amendments to DCA no more than twice yearly for review according to the procedures established in Chapter 163 F.S. A plan amendment may be initiated by the City, by a property owner or agent of a property owner, or by citizens or interested parties who have established standing to bring amendments to the City for consideration.

#### **Section 11.04.01.01. Application for Plan Amendments.**

All requests for plan amendments shall be submitted in writing in the form of five (5) copies of an application to the Office of the Building Department, together with all required attachments and the applicable fee, as established by resolution of the City Council. The Building Official, or his or her designee, shall distribute the application to the DRC, which shall have fifteen (15) working days to review and provide comments to the applicant. The application shall contain the following items, as applicable:

- A. Owner's name, address, phone number, email address if available; agent/applicants name, address and phone number, email address if available; proof of ownership;
- B. Whether the amendment is a map change or a text change with an explanation and/or description of the amendment;

- C. A location map, with the parcel marked, and the Property Appraiser's parcel identification number;
- D. If the proposed amendment is a map amendment, the applicant shall provide a map or drawing showing the site and the adopted land use designation; the proposed land use designation; the size of the site in acres; the current Future Land Use maximum allowable density; and the maximum allowable density for the proposed Future Land Use classification;
- E. The location of existing sewer and potable water facilities to the development site.

**Section 11.04.01.02. Public Hearing and Notification Requirements for a Large Scale Plan Amendment.**

Public hearing procedures and notification requirements for a large scale plan amendment are provided in F.S., Chapter 163.3184.

**Section 11.04.01.03. Planning and Zoning Commission and City Council Review of Large Scale Plan Amendments.**

Upon completion of DRC review, the City Manager, or his or her designee, shall forward seven (7) copies of the application to the Planning and Zoning Commission for their consideration at a regularly scheduled meeting. Public notice shall be provided, and the Planning and Zoning Commission shall hear the request and make a recommendation to the City Council. The City Manager, or his or her designee, shall forward Seven (7) copies of the application and Planning and Zoning Commission recommendation to the City Council. The City Council shall hold public hearings and provide notice of the meetings in compliance with F.S., Chapter 163.3184. Final adoption of a large scale amendment shall be in the form of an ordinance.

**Section 11.04.01.04. Small Scale Amendments.**

Small scale plan amendments, as defined in F.S., Chapter 163.3187, are exempt from the annual quota restrictions for plan amendments by DCA and do not require DCA review.

- A. The procedures and the process for small scale plan amendments are provided in F.S., Chapter 163.3187.
- B. The applicant shall comply with the application submission requirements provided in Section 11.04.01.01 of this Article.
- C. The process for review shall be consistent with Section 11.04.01.03 of this Article.

The Planning and Zoning Commission shall hear and make a recommendation to the City Council to approve or disapprove a small scale plan amendment. The amendment shall be heard at a regular meeting of the Planning and Zoning Commission, and at two (2) City Council meetings, which provides two (2) readings of the ordinance.

- D. Final adoption of a small scale amendment shall be in the form of an ordinance.

#### **Section 11.04.01.05. Basis for Review.**

The basis for review of a proposed plan amendment is the same as the basis for the adoption of the Comprehensive Plan. This entails a review of data and an analysis of the amendment on public facility levels of service, the capital improvements budget of the City, and the need for the proposed amendment, in relation to the existing structure of the City and the future, as delineated in the goals, objectives and policies of the Comprehensive Plan. A Comprehensive Plan or Future Land Use Map amendment shall be adopted by ordinance.

#### **Section 11.04.02. Zoning Amendments.**

A rezoning may be initiated by the City, or by a property owner or agent of a property owner. Zoning amendments are heard at a regular meeting of the Planning and Zoning Commission followed by two (2) readings of the ordinance by the City Council. A property owner shall not initiate action for a zoning amendment affecting the same property more often than once every twelve (12) months. Zoning amendments may be processed and heard concurrently with Future Land Use Map amendment requests. Approval of Future Land Use Map amendments and zoning amendments shall be provided by separate ordinances.

##### **Section 11.04.02.01. Contents of the Application and DRC Review.**

Five (5) copies of the rezoning request shall be submitted to the Office of the Building Department on an application form provided by the City, together with applicable fees, as established by resolution by the City Council. The Office of the Building Department shall distribute the application to the DRC, which shall have fifteen (15) working days to review the request and provide written comments to the applicant. The application shall contain, at a minimum, the following information:

- A. The property owner's name, address, telephone number and email address if available;
- B. Proof of ownership;
- C. The designated project applicant or representative if other than the property owner, a contact address, telephone number and email address if available;
- D. A legal description of the property and the size of the area in acres;
- E. The Future Land Use classification of the property;

- F. The current zoning designation of the property;
- G. The proposed zoning designation of the property;
- H. A description of the proposed use of the property;
- I. A location map, with the parcel marked, and the parcel identification number;
- J. The location of existing sewer service and potable water facilities in relation to the development site.
- K. Identify whether the property is vacant, or if and for how long the use has been discontinued.

**Section 11.04.02.02. Planning and Zoning Commission Findings and Recommendation.**

The DRC comments and seven (7) copies of the application shall be provided to the Planning and Zoning Commission by the City Manager, or his or her designee. Materials pertaining to the request shall be submitted no later than thirty-eight (38) days prior to a regular meeting of the Planning and Zoning Commission. The Planning and Zoning Commission shall recommend approval of an application for a rezoning when all of the following conditions are met:

- A. The proposed rezoning is consistent with the City of Frostproof Comprehensive Plan;
- B. The proposed rezoning will not degrade the level of service of one (1) or more public facilities and services, or the proposed rezoning contains commitments to make improvements to maintain levels of service established by the Comprehensive Plan, and
- C. The proposed rezoning and all permitted uses are compatible with development on surrounding property.

**Section 11.04.02.03. Decision by the City Council.**

- A. Following the Planning and Zoning Commission recommendation, and after due public notice, the City Council shall hold a public hearing to consider the rezoning request. The City Manager, or his or her designee, shall provide seven (7) copies of the request and the Planning and Zoning Commission recommendation to the City Council. The Council may accept, reject, modify, return, or continue and seek additional information on the recommendations of the Planning and Zoning Commission. No approval of an application for rezoning shall be granted unless approved by a majority of the Council members voting.

- B. No change or amendment relating to the boundaries of the various zoning districts and the regulations applicable thereto shall be made by the City Council unless the proposal or request for such change has been considered by the Planning and Zoning Commission and the City Council has received a recommendation thereon.
- C. A rezoning request is adopted by ordinance.

**Section 11.04.02.04. Procedures for Rezoning Property to a Planned Unit Development (PUD) or Overlay District.**

All requests for a PUD or Overlay District, such as the Equestrian Overlay District, shall be processed as a rezoning request and adopted by ordinance. The approved ordinance shall govern all development activities within the PUD or Overlay District. Following approval by the City Council, the PUD or Overlay District shall be designated on the official zoning map as "PUD" or "E" for Equestrian Overlay District, along with the governing ordinance number.

**Section 11.04.02.04.01. Amendment of a Planned Unit Development (PUD) or Overlay District.**

Amendments not altering the intent and purpose of the approved overall development plan may be approved by the DRC. The applicant shall submit five (5) copies of the plan amendment to the Office of the Building Department, which shall distribute the information to the DRC. The DRC shall have fifteen (15) working days to review and provide written comments to the applicant. Comments may include approval of the request, approval with conditions, or disapproval of the request. Approvals shall be in the form of a letter and site plan, which shall be kept perpetually on file in the Office of the Building Department.

In the event an applicant, developer, or owner deviates from a site plan and/or requirements contained in an approved PUD or Equestrian Overlay District ordinance, he or she shall submit an amended plan, which shall be processed in the same manner as the original PUD or Overlay, and adoption of the amendment shall be by ordinance.

**Section 11.04.03. Development of Regional Impact (DRI) Review.**

The DRI process, procedures and notification requirements are provided in F.S., Chapter 380.06. Adoption of a DRI shall be by ordinance.

**Section 11.04.04. Conditional Uses.**

Conditional Uses are generally considered to be appropriate for any zoning district that permits that particular use by Conditional Use approval; however such uses by their nature may need to be more closely examined for compatibility at a particular location.

- A. Conditional Use Approval runs with the use of the property. Ownership may change, but so long as the character and conditions of the Conditional Use do not change, the Conditional Use Approval remains in effect.
- B. Should the use change to a use permitted in the zoning district that is not the use approved as the Conditional Use Approval, and remain so for six (6) months or more, a new application will be required to reestablish any Conditional Use Approval use.
- C. The expansion or reconfiguration of any use or development that is subject to Conditional Use Approval shall require a new or amended Conditional Use Approval prior to the issuance of a building permit.

**Section 11.04.04.01. Conditional Use Approval Review.**

- A. The applicant shall submit five (5) copies of the Conditional Use Approval application and site plans, and the applicable review fee, as established by resolution by the City Council, to the Office of the Building Department for DRC distribution and review.
- B. The DRC shall review and provide written comments to the applicant within fifteen (15) working days of the receipt of a complete application and site plans.

**Section 11.04.04.02. Application.**

- A. When requesting Conditional Use Approval, the applicant shall furnish proof that the development site is unified by title, and not spatially divided by ownership.
- B. The application shall contain the following items, as applicable:
  - 1. The property owner's name, address, telephone number and email address if available;
  - 2. The designated project applicant or representative if other than the property owner, a contact address, telephone number and email address if available;
  - 3. A notarized authorization of the owner when the applicant is other than the owner, or is an attorney for the owner;
  - 4. The street address of the property;
  - 5. A legal description of the property;
  - 6. A copy of the Polk County Property Appraiser's plat map and the parcel identification number;
  - 7. The Future Land Use classification and zoning designation of the property;
  - 8. A site plan or sketch plan drawn to scale showing the dimensions of the property;



9. The existing and proposed location of structures on the property including signage;
10. Paved surfaces including sidewalks, vehicular accessways and circulation areas, off-street parking and loading areas, and refuse and service areas;
11. The number of required and provided off-street parking and loading spaces;
12. Required yards, and other open spaces, and landscape buffer yard areas;
13. The measurements of existing and proposed adjacent rights-of-way, building setbacks, distances between buildings, widths of accessways and driveways, and sidewalks;
14. A description of the proposed use of the property including conditions of the use, such as hours of operation, numbers of residents, numbers of employees, and other pertinent information;
15. Existing and proposed density;
16. Amount of existing and proposed commercial or industrial space;
17. Location of all public and private streets, existing and proposed utilities, driveways and utility easements, within and adjacent to the site;
18. Provisions for stormwater management and detention related to the proposed development;
19. Where applicable, delineation of all watercourses, wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the flood insurance rate maps (FIRM) published by the Federal Emergency Management Agency (FEMA);
20. Where applicable, the identification of significant stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas.

#### **Section 11.04.04.03. Lot and Building Requirements.**

Lot and building requirements shall comply with the lot and building requirements for the district in which the Conditional Use is to be located or with such requirements as may be imposed in the Conditional Use approval.

#### **Section 11.04.04.04. Planning and Zoning Commission Review, Public Hearing and Recommendation.**

The Planning and Zoning Commission shall hold a public hearing, after due public notice, to review Conditional Use requests and make a recommendation to the City Council to approve, approve with conditions, or disapprove any

Conditional Use. The DRC comments and seven (7) copies of the application and site plan shall be provided to the Planning and Zoning Commission by the City Manager, or his or her designee. Materials pertaining to the request shall be submitted no later than thirty-eight (38) days prior to a regular meeting of the Planning and Zoning Commission. The Planning and Zoning Commission shall review and evaluate the Conditional Use request with specific regard to the following:

- A. Adequate provision is made through setbacks, fences, etc., to protect adjacent properties from possible adverse influences of the proposed use such as noise, dust, vibration, glare, odor, electrical disturbances and similar factors;
- B. Vehicular traffic and pedestrian movement on adjacent streets will not be hindered or endangered;
- C. Off-street parking and loading, and the entrances to and exits from such parking and loading, will be adequate in terms of location, amount, and design to serve the uses;
- D. Public facilities and utilities are capable of adequately serving the proposed use, and;
- E. The proposed use will not adversely affect the level of property values or general character of the area.

Under no circumstances shall a Conditional Use request be approved if it is found to be inconsistent with any term contained in this Code, unless a variance has been granted in accordance with all the provisions contained under Section 11.06.00 of this Article.

#### **Section 11.04.04.05. City Council Review and Action.**

Following a Planning and Zoning Commission recommendation, the City Council shall hold a public hearing, after due public notice is given, on all recommendations associated with a Conditional Use from the Planning and Zoning Commission. Seven (7) copies of the application and site plan shall be provided to the City Council by the City Manager, or his or her designee.

The City Council may accept, reject or modify the original request; it may accept, reject or modify the recommendations of the Planning and Zoning Commission; it may continue and seek additional information concerning the recommendations of the Planning and Zoning Commission; or it may return the request to the Planning and Zoning Commission. The City Council may impose any conditions or safeguards found to be necessary to ensure the compatibility of the Conditional Use with surrounding properties or the community in general.

A Conditional Use shall be adopted by resolution. Any conditions adopted as a part of the approval shall be explicitly stated in the resolution, and shall be the basis for any subsequent development agreement or development order associated with the Conditional Use. In the instance of a denial, the written finding shall state the reason, or reasons, for the denial, in sufficient detail to

eliminate misunderstanding on the part of the applicant, any future applicant, and the officials of the City of Frostproof.

**Section 11.04.04.06. Effect of Conditional Use Approval.**

Conditional Use Approval shall remain valid if a building permit or business tax receipt is obtained within one (1) year of City Council approval. Extensions for approved uses may be granted by the City Manager, or his or her designee, for a single period up to one (1) year from the date when a Conditional Use Approval would otherwise expire. An extension may be granted if the City Manager, or his or her designee, concludes that the recipient of the Conditional Use Approval has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application. All such requests for extensions must be submitted in writing, not less than thirty (30) days before the expiration of the Conditional Use Approval stating the reason for the time extension request.

**Section 11.04.04.07. Non-Compliance.**

Failure to comply with a Conditional Use Approval resolution or any of the conditions upon which such approval was granted, including time limits for performance, shall be cause to deny issuance of a building permit or business tax receipt, or where a permit or business tax receipt has been issued, to render such permit or receipt invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Section shall constitute a violation of this Code and may be subject to a stop-work order.

**Section 11.04.04.08. Abandonment of a Conditional Use.**

Should an approved Conditional Use be discontinued for a period greater than one hundred eighty (180) days, the approved Conditional Use shall become invalid. Any reestablishment of an abandoned Conditional Use after one hundred eighty (180) days shall require a new application for Conditional Use Approval.

**Section 11.04.04.09. Appeal of Conditional Use Approval Decision.**

Any person or persons aggrieved by a Conditional Use Approval decision made by the City Council may, within thirty (30) days after the date of the public hearing at which the decision was rendered but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

**Section 11.04.05. Preliminary Subdivision Plat Review Process.**

- A. Prior to preparing a preliminary subdivision plat, a prospective applicant, or his or her agent, shall submit a concept plan to the Office of the Building Department and arrange for a pre-application conference with the DRC. This procedure shall not require an application review fee.
- B. A prospective applicant, or his or her agent, shall prepare a preliminary subdivision plat in accordance with the requirements of Section 10.08.01.01 of this Code. Five (5) copies of the preliminary subdivision plat and applicable review fees, as established by resolution by the City Council, shall be submitted to the

Office of the Building Department for DRC distribution and review. Additional copies may be required and shall be distributed to other municipal personnel, appropriate agencies, and appropriate persons under contract to the City as may be necessary.

- C. The DRC shall review the Preliminary Subdivision Plat to ensure the proposed development will not degrade the level of service of one (1) or more public facilities and services; in such cases, the developer may provide commitments through a developer's agreement to make the improvements to maintain the levels of service established by the Comprehensive Plan.

#### **Section 11.04.05.01. Preliminary Subdivision Plat Review Procedures.**

The DRC shall review and approve or disapprove the preliminary subdivision plat, and provide written comments to the applicant within fifteen (15) days of the receipt of a plat and complete Development Review Application consistent with Section 10.01.04 of this Code. To be approved, the preliminary subdivision plat shall conform to the provisions of this Code; the DRC may disapprove a preliminary subdivision plat if it does not conform, or if there is insufficient information to determine conformance. The City Manager, or his or her designee, shall communicate the finding in writing to the applicant. If the DRC disapproves the application, the written communication shall express the changes, if any, which could make the application approvable.

#### **Section 11.04.05.02. Planning and Zoning Commission and City Council Action.**

- A. To be considered by the Planning and Zoning Commission the applicant shall submit seven (7) copies of the DRC approved preliminary subdivision plat to the City Manager, or his or her designee, no later than thirty-eight (38) days prior to the regular meeting of the Commission. All notification requirements shall comply with Section 11.03.00 of this Article.
- B. The recommendation of the Planning and Zoning Commission, along with seven (7) copies of the plat shall be forwarded to the City Council.
- C. Approval of the preliminary subdivision plat by the City Council shall be by resolution.
- D. Upon approval by the Council, and prior to the review of the Final Subdivision Plat, the developer shall submit infrastructure/site construction plans for review and approval by the DRC.

#### **Section 11.04.05.03. Construction Plans.**

- A. The applicant shall submit five (5) copies of the construction plans to the Office of the Building Department for distribution to the appropriate reviewers. The review shall be completed within fifteen (15) working days of submission and shall ensure conformance with the approved preliminary subdivision plat. Approval may be subject to any conditions, restrictions, and/or time schedules as may be deemed necessary in the public interest.

- B. Construction plans shall be prepared by a civil engineer registered in the State of Florida.
- C. No construction shall commence based on preliminary plat approval. However, certain land clearing operations and survey activities may be authorized by the Director of Public Works, subject to the receipt of authorization to perform such activities from other regulatory agencies (SWFWMD, FDEP, etc.).
- D. Final Subdivision Plat approval shall be required prior to the start of any building construction.

**Section 11.04.05.04. Construction Inspection.**

The City's engineer, or designee, shall conduct periodic inspections of required infrastructure and site improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the developer shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications.

**Section 11.04.05.05. Expiration of Preliminary Subdivision Plat and Construction Plan.**

Approval of a preliminary subdivision plat and construction plan shall lapse and become void one (1) year after the date of the approval unless a Final Subdivision Plat, based thereon, is submitted to the City for review within that year, or unless a time extension is recommended by the Planning and Zoning Commission and approved by the City Council. Such extensions of time shall be made only upon receipt of a written request by the developer and for a single period up to one (1) year from the date the plan would otherwise expire. All such requests for extensions shall be submitted in writing not less than thirty (30) days before the expiration of the preliminary subdivision plat, stating the reason for the time extension request.

**Section 11.04.05.06. Record Drawings.**

Record drawings shall be provided consistent with Section 10.08.02.02 of this Code. Five (5) sets of engineering as-built drawings and a one (1) electronic copy, or an equivalent, of the drawings shall be submitted to the Office of the Building Department for distribution to the appropriate city officials prior to the issuance of a certificate of completion for the subdivision, or any portion thereof.

**Section 11.04.05.07. Maintenance Guarantee.**

Consistent with Section 10.08.02.03 of this Code, the developer shall enter into a written agreement with the City guaranteeing the materials and workmanship of the pavement, curb and gutter, sidewalks, water system, wastewater system and stormwater management system in the subdivision for a period of five (5) years after final acceptance by the City's engineer. A bond shall be required for the maintenance and repair requirements to cover faulty

plans, materials or workmanship. The bond shall be effective for a period of five (5) years after the issuance of a certificate of completion by the City and shall be in an amount equal to twenty-five percent (25%) of the cost of all required improvements.

#### **Section 11.04.06. Final Subdivision Plat Review.**

A minimum of seven (7) copies of the Final Subdivision Plat shall be submitted to the Office of the Building Department for distribution to the DRC and other reviewers. The DRC, surveyor and all other reviewers shall have fifteen (15) working days to review the Final Subdivision Plat and provide written comments to the applicant.

- A. A Final Subdivision Plat shall be prepared by a land surveyor registered in the State of Florida. The Final Subdivision Plat and construction plan shall conform to Section 10.08.03 in its entirety.
- B. The DRC, the City Attorney, and a professional surveyor, either employed by or under contract to the City, the costs of which shall be borne by the legal entity offering the plat for recording, shall review the Final Subdivision Plat to ensure conformance with City Codes and policies and the provisions of Chapter 177, Florida Statutes. The DRC shall approve the Final Subdivision Plat upon making a finding that the plat is in acceptable form for recording purposes.

#### **Section 11.04.06.01. Planning and Zoning Commission Action.**

- A. Seven (7) copies of the Final Subdivision Plat shall be submitted to the City Manager, or his or her designee, no later than thirty-eight (38) days prior to a regularly scheduled meeting of the Planning and Zoning Commission. Copies of the plat shall be distributed to the Planning and Zoning Commission.
- B. The Planning and Zoning Commission shall recommend approval of a Final Subdivision Plat if it finds the plat conforms to the provisions of this Code and F.S., Chapter 177. In arriving at a determination, the Commission shall consider the recommendation of the DRC, the City Surveyor and the City Attorney, who shall review the title opinion or title insurance policy, the dedication by the developer shown on the plat, and the agreement and surety guaranteeing improvements. The recommendation of the Planning and Zoning Commission shall be provided to the City Council for their review and action.

#### **Section 11.04.06.02. City Council Action.**

- A. Seven (7) copies of the Planning and Zoning Commission approved Final Subdivision Plat shall be submitted to the City Manager, or his or her designee, for distribution to the City Council.
- B. City Council approval of the plat and acceptance of public improvements and dedications shall be by resolution. Approval shall authorize the appropriate City officials to sign the plat.
- C. Upon approval by the City Council, the City Clerk shall file and record the Final Subdivision Plat with the Clerk of the Circuit Court for Polk County.

The developer shall be responsible for the payment of all fees related to the cost of recording the Final Subdivision Plat and producing copies. The developer shall provide two (2) mylar reproductions and one (1) electronic copy of the Final Subdivision Plat to the City for use by the City Clerk and Public Works Department. The Final Subdivision Plat shall be recorded prior to the issuance of any building permits within the subdivision.

#### **Section 11.04.06.03. Performance Bond.**

If at the time of application for Final Subdivision Plat approval all improvements are not satisfactorily installed, the subdivider shall post a bond in an amount estimated as sufficient to secure to the City the satisfactory construction, installation and dedication of all required improvements. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution. The period within which required improvements must be completed shall be specified by the City Council as part of the approval action on the Final Subdivision Plat and shall be incorporated in the bond and shall not in any event exceed five (5) years from the date of final City approval. The City Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the City Attorney.

#### **Section 11.04.07. Appeals and Variances from, and Interpretation of, Subdivision Regulations.**

The action of DRC members, either collectively or individually, to approve or disapprove a subdivision plat and/or construction plan may be appealed to the Planning and Zoning Commission. The basis of the appeal shall be that the action is based on an incorrect interpretation of the requirements of this Code. In the event of an appeal, the Commission shall take such action as it deems within the scope of these development regulations. The applicant shall submit the following information to the City Manager, or his or her designee:

- A. A letter stating the purpose or reason for the appeal;
- B. The decision made by the DRC;
- C. An explanation of why the DRC decision is an incorrect interpretation of the requirements of City Code.
- D. The action being requested;

The City Manager, or his or her designee, shall place the request on the agenda for a regularly scheduled meeting of the Planning and Zoning Commission. Approval shall be provided by a letter to the applicant and a copy shall be kept on file with the City Clerk.

#### **Section 11.04.08. Site Plan Review Requiring Planning and Zoning Commission Approval.**

The following developments are considered to be of such magnitude as to significantly impact the community and require site plan approval by the Planning and Zoning Commission:

- A. All new developments proposing to establish fourteen thousand (14,000) square feet or more of gross floor area;
- B. All expansions of existing developments which increase the gross floor area by fourteen thousand (14,000) square feet or more of gross floor area;

The applicant shall prepare site plans in accordance with Section 10.02.01 and shall submit five (5) copies of the plan to the Office of the Building Department. The plans shall be distributed to the DRC and the Building Official shall schedule it for DRC review. The DRC shall have fifteen (15) working days to review the site plan and provide written comments to the applicant. Plans shall be approved, approved with conditions, or disapproved by the DRC based on consistency with City Codes and policies. The applicant shall be permitted to respond to staff comments at this stage of review.

The applicant shall submit seven (7) copies of the DRC approved site plan, a Development Review Application and the applicable review fee, as established by resolution by the City Council, to the City Manager, or his or her designee, no later than thirty-eight (38) days prior to a regularly scheduled meeting of the Planning and Zoning Commission. The Planning and Zoning Commission's action shall be deemed a final administrative action and shall be by resolution.

#### **Section 11.04.08.01. Standards for Review.**

The DRC and the Planning and Zoning Commission shall be guided in their review by the following standards and shall indicate in its record that each was considered where applicable.

- A. **Conformance to City Codes.** Only code conforming plans can be approved by the Planning and Zoning Commission.
- B. **Impact.** The relationship the proposed development would have to adjacent properties, the impact the development would have on the immediate neighborhood and the compatibility of the proposed development with the City's Comprehensive Plan.
- C. **Ingress and Egress to the Site.** Compatibility with road improvement plans, automotive and pedestrian safety, traffic flow and control on public streets, maneuverability of vehicles, conflict points, provisions for service drives, loading areas, servicing or utility areas by vehicles, access by emergency vehicles and cross visibility.
- D. **Manner of Storm Drainage on the Property.** The effect proposed site alterations would have on drainage to adjacent properties, public drainage systems, the retention of storm water, drainage to landscaped areas, alterations to the water table, the pollution of water bodies and the relationship of flood hazard areas.
- E. **Landscaping.** Attention to the City's landscape requirements, the effort to retain as many healthy trees as possible, the location and quality of landscaped and open areas, and the preservation or installation of buffer and screening areas.



- F. **Recreation and Open Space.** Efforts to provide recreational facilities for residents of the development, where appropriate, and the provision of open green areas and the siting of such facilities and spaces.
- G. **Utilities.** The impact on the City's treatment capabilities, supply capabilities, pressure capacities, and the necessity and location of fire hydrants on or off-site with reference to tie-in locations, existing water and sewer facilities, and off-site utility improvements.
- H. **Internal Pedestrian and vehicular Circulation and Parking.** With reference to pedestrian and vehicular safety; maneuverability of vehicular conflict, wheel chair ramps, striping of drives and parking bays, cross visibility, drop-off points, adequate parking count, parking spaces for the handicapped and accessibility of fire fighting equipment and personnel.
- I. **Compatibility.** With reference to compatibility with properties in the general area; will not cause substantial depreciation of property values.

**Section 11.04.08.02. Site Development Plan Approval and Time Extensions.**

Site plans shall be valid for a period of one (1) calendar year from the date of approval, however the Planning and Zoning Commission may grant extensions for approval. All such requests for extensions shall be submitted in writing, to the Building Official not less than thirty (30) days before the expiration of the approved site development plan and no later than thirty-eight (38) days prior to a scheduled meeting of the Planning and Zoning Commission stating the reason for the time extension request. Within ten (10) working days, written approval of a time extension shall be provided to the applicant in the form of a letter signed by the Chairperson of the Planning and Zoning Commission. The letter shall be kept in the file of the original site development plan approval.

Site plans subject to Board of Zoning Appeals, Planning and Zoning Commission or City Council approval may be approved with conditions and it shall be the applicant's responsibility to provide the DRC with applicable letters or resolutions of approval and revised exhibits addressing all conditions of approval within thirty (30) days of Board, Commission or Council action. Revised plans submitted after this thirty (30) day period, or those which significantly vary from the approval and any of its stipulated conditions, shall be considered a new application for site plan review and shall require payment of new review fees. Upon site plan approval, the applicant may prepare detailed construction plans required for building permit issuance.

**Section 11.04.09. Landscape Plan Modifications or Waivers.**

- A. In instances where proposed innovative designs, landscaping techniques, and site amenities are believed to fulfill the intent of the City's landscape requirements, the strict requirements may be modified or waived by the Planning and Zoning Commission upon a recommendation of the City Manager, or his or her designee.
- B. Areas used for Parking and Maneuvering Large Trucks, Storing Products, and Open Lot Sales for Vehicles.

The City Council may reduce tree canopy requirements over vehicular use areas which are exclusively used for parking and maneuvering large trucks, and/or storing materials or products outdoors, and car/vehicle sales lots. A site plan shall first be reviewed by the Planning and Zoning Commission, which may recommend necessary modifications and related conditions of approval after determining that such action upholds the public interest. The effect of the reduction shall not nullify the purposes and intent of the City Code or be contrary to the City's Comprehensive Plan.

**Section 11.04.09.01. Landscape Plan Modifications or Waivers Review Process.**

- A. The applicant shall submit five (5) copies of a Development Review Application, as required by Article 10.01.04, an explanation of the modification or waiver, the reason for the request, and the landscape plan to the Office of the Building Department. The information shall be distributed to the DRC and the Building Official shall schedule it for DRC review. The DRC shall have fifteen (15) working days to review the request and provide written comments to the applicant. Plans shall be approved, approved with conditions, or disapproved by the DRC based on consistency with City Codes and policies.
- B. Upon DRC approval, the applicant shall submit seven (7) copies of the landscape plan, a Development Review Application, as required by Article 10.01.04, an explanation of the modification or waiver, the reason for the request, and the applicable review fee, as established by resolution by the City Council, to the City Manager, or his or her designee, no later than thirty-eight (38) days prior to a scheduled meeting of the Planning and Zoning Commission. The Planning and Zoning Commission's action shall be deemed a final administrative action and shall be by resolution.

**Section 11.05.00. City Council.**

In addition to deciding Comprehensive Plan and zoning amendments, DRI requests, Conditional Use requests, preliminary and final subdivision plat requests, the City Council shall also decide the following:

**Section 11.05.01. Voluntary Annexation Review.**

The owner or owners of real property in an unincorporated area of the county, which is contiguous to the City and reasonably compact, may petition the City to annex said property into the municipality.

The City Manager, or his or her designee, shall determine whether a petition bears the signatures of all owners of property in the area proposed to be annexed. Upon such determination the City Manager, or his or her designee, shall schedule the annexation request for City Council consideration, which shall require two (2) meetings to provide two (2) readings of the ordinance. Notice of the annexation shall be provided in compliance with F.S., Chapter 171.044. The City Council may approve the request and adopt an ordinance to annex the property and redefine the boundary lines of the municipality to include said property. The ordinance shall include a map which clearly shows the annexed area and a complete metes and bounds legal description of the area.

**Section 11.05.01.01. Annexation and Future Land Use and Zoning Amendments.**

- A. Upon completion of the annexation process, a Comprehensive Plan amendment shall be processed pursuant to the requirements contained under Section 11.04.01, and its subsections, as applicable, for each parcel or contiguous group of parcels included in the annexation ordinance.
- B. Upon completion of the Comprehensive Plan amendment process, the subject parcels shall be rezoned pursuant to all the requirements contained under Section 11.04.02 of this Article.
- C. If the Planning and Zoning Commission recommends approval of a Comprehensive Plan and zoning amendment to land prior to the submission of an annexation application, but to land which shall be the subject of annexation, the City Council may consider the Planning and Zoning Commission's recommendation for a Comprehensive Plan amendment and zoning amendment simultaneously with the annexation request. However, the Comprehensive Plan amendment shall not become effective until the annexation process is completed and the rezoning shall not become effective until the Comprehensive Plan amendment process is complete.
- D. Pursuant to the requirements of Chapter 171, Chapter 163 and Chapter 166, F.S., separate ordinances shall be required for the annexation action, the Future Land Use amendment action and the zoning action.

**Section 11.05.02. Vacating Plats and Replats.**

The owner of any land subdivided into lots may petition the City pursuant to the provisions of Section 177.101, Florida Statutes, to remove (vacate and annul) an existing plat, or portion thereof, from the official records of the City of Frostproof. The applicant vacating a plat, or a part thereof, shall file five (5) copies of the vacation petition, proof of publication of notice of intent, certificate of title, and a statement that all state, county and municipal taxes have been paid, with the Office of the Building Department, and shall pay the appropriate filing fee as established by resolution of the City Council. The Office of the Building Department shall distribute the copies to the DRC, which shall have fifteen (15) working days to review the request and provide written comments to the applicant.

Following review by the DRC, the petition shall be acted on by the City Council. Seven (7) copies of the request shall be provided to the City Manager, or his or her designee, and the vacation request shall be placed on the agenda of a regularly scheduled meeting of the City Council. Approval shall be by resolution. Every such resolution shall have the effect of vacating all streets and alleys which have not become highways necessary for use by the traveling public.

The applicant shall be responsible for recording a certified copy of the resolution vacating the plat, providing a copy to the City Clerk of Frostproof, and providing proof of publication with the Clerk of the Circuit Court for Polk County, thereby completing the vacation process.

### **Section 11.05.03. Vacating Streets and Other Rights-of-Way.**

The City Council may consider requests to redirect traffic and to close, abandon, or vacate alleys, streets, and other recorded rights-of-way. When a right-of-way is vacated, it is returned to private ownership. Generally, when a right-of-way is vacated, the abutting property owners will become the owners of the property that was vacated. For instance, if a 50 foot right-of-way were vacated, 25 feet would go to the property owners on one side of the right-of-way and 25 feet would go to the owners on the other side.

The City may allow landowners to eliminate or “*vacate*” rights-of-way when it is determined that the right-of-way is not being used, and there is no apparent use for the right-of-way in the future.

#### **Section 11.05.03.01. Application.**

Five (5) copies of the following shall be submitted to the Office of the Building Department, along with the appropriate filing fee as established by resolution by the City Council:

- A. A Development Review Application consistent with Section 10.01.04 of this Code.
- B. Identification of the right-of-way affected with a statement of the nature and purpose of the request.
- C. A signed authorization form from abutting property owners.
- D. A survey or plat containing a description of all land uses abutting the affected right-of-way.
- E. Written review responses from each franchise utility provider (i.e., electric, gas, water, sewer, telephone, cable television).
- F. Schematic drawing(s) showing the location of all utilities utilizing the subject right-of-way, as provided by each utility provider (i.e., electricity, gas, sewer, water, telephone, drainage, sanitation, or underground television cable).
- G. Any additional documentation, i.e. traffic studies, etc., as may be required to review the request.

#### **Section 11.05.03.02. Review.**

The Office of the Building Department shall distribute the application and accompanying documents to the DRC, which shall have fifteen (15) working days to review the request and provide written comments to the applicant.

#### **Section 11.05.03.03. City Council Action.**

Upon completion of review by the DRC, the City Manager, or his or her designee, shall forward seven (7) copies of the application, as provided in Section 11.05.03.01, to the City Council. Public notice shall be provided

consistent with Section 11.03.00 of this Article. The City Council shall approve right-of-way vacation applications as a resolution through a majority vote at City Council meetings, which are open to the public. To obtain approval an applicant shall demonstrate and identify the following:

- A. There are no known City plans for the use of the subject right-of-way, street or alley;
- B. Abutting property owners will not be adversely affected by the proposed request;
- C. Any impacts, including relocation and relocation costs, the request will have on short-range and long-range public and private utilities;
- D. Any impacts the request will have on short-range and long-range ingress and egress by private and public vehicles.

If the right-of-way vacation is approved at the City Council meeting, the City Clerk shall have the resolution recorded with the Polk County Clerk's office. If approved, a copy of the recorded resolution vacating the right-of-way shall be provided to the applicant thereby completing the right-of-way vacation process.

#### **Section 11.05.04. Appeal of an Administrative Decision.**

An appeal may be taken to the City Council by any person aggrieved or affected by any decision or determination of the Building Official or other Administrative Official, where it is alleged there is an error in any order or requirements in the enforcement of this Code. Such appeal shall be taken within thirty (30) calendar days by filing a written notice with the City Manager specifying the grounds for the appeal. All papers constituting the record of the action being appealed shall be transmitted to the Council. In exercising these powers, the City Council may, in conformity with the provisions of this Code, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of the Administrative Official and to that end shall have all the powers of the Administrative Official and may issue or direct issuance of a permit. Approval shall be in the form of a letter signed by the Mayor, and one copy of the letter shall be provided to the applicant and one shall be kept on file with the City Clerk.

##### **Section 11.05.04.01. Stay of Proceedings.**

An appeal shall stay or suspend all legal proceedings in the matter being appealed, unless the City Manager certifies to the City Council, after the notice of appeal has been filed, that by reason of facts, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order granted by the City Council, or by a court of record. The City Council shall fix a time for hearing the appeal and give notice thereof to the parties in interest and notice to the public, at minimum, as specified in Section 11.03.00 (1) of this Article.

**Section 11.05.05. Public Wireless Service (PWS) Facility as a Conditional Use.**

This Section provides standards for review, approval, approval with conditions, or disapproval, of exceptions to the placement or construction of PWS facilities as permitted by right and the regulations which control the placement or construction of such facilities as contained in this Article. These standards are instituted to provide an opportunity to place or construct a PWS facility, which under usual circumstances, could be detrimental to other land uses and normally could not be permitted. A Conditional Use Approval may allow a PWS Facility under circumstances particular to the proposed location and subject to conditions which provide protection to adjacent land uses, protect the attractiveness, health, safety and property values of the community, avoid the proliferation of visually obtrusive structures, and which promotes the development of an advanced wireless communication infrastructure.

Exceptions to the standards for the placement or construction of PWS facilities shall be considered as Conditional Uses. The conditional use procedure may be considered for the following:

- A. Requests for ground-mounted PWS facilities proposed to be located in residential zoning districts as specified in Section 6.12.05.01 B. and within two thousand (2000) feet of lakes as specified in Section 6.12.05.06.
- B. Requests for exceptions to specific standards established in this Article for maximum height; horizontal separation; separation from residential districts, limited-access highways (including frontage roads), arterial streets and highways and collector streets; and alternatives to the monopole type mount.

**Section 11.05.05.01. Application and Site Plan.**

**A. Application.**

The following information shall be required as part of the submittal package:

- 1. Development Review Application consistent with Section 10.01.04 of this Article.
- 2. Legal description including parent tract and any leased parcel;
- 3. Front and side elevations indicating color and finish of exposed parts, visual screens or enclosures, buffer treatments and lighting. Also, the color, finish and material of the building or structure on which the facility is mounted for structure-mounted facilities;
- 4. Existing Structures Report (for new ground-mounted facilities only). A report inventorying the availability of existing structures, including utility poles, within the applicant's search area which may serve as alternatives to the proposed ground-mounted facility. The report shall evaluate why the proposed facility cannot reasonably be accommodated on such existing structures;

5. Co-Location Statement. A statement of intent that co-locators will be permitted in cases where facilities are required or proposed to accommodate more than one provider. The positions of anticipated co-locator antennas on the mount and the space provided for co-locator equipment shelters shall be shown on all site plans and elevations.

B. Site Plan.

Plans shall be drawn to a minimum scale of one inch equals 100 feet on an overall sheet size not to exceed twenty-four (24) by thirty-six (36) inches. The following information shall be included on a Conditional Use Approval plan for a PWS Facility:

1. North arrow, scale and date prepared;
2. The site plan shall indicate the location, type, height and setbacks of the proposed facility including mounts, foundations, equipment shelters, cable runs, security barriers, access points, buffers and landscaping, property lines and easements, existing structures, fences and walls, and any on-site vehicular use areas . Also, separation distances from residential uses, arterial streets and highways and collector streets, and existing ground-mounted PWS facilities for new ground-mounted facilities;
3. A survey showing existing topographical features, to depict irregularities in the elevations of the property or adjacent property;
4. Identification of natural features including watercourses, swales, catch basins, ditches, and significant stands of mature trees and understory vegetation or other environmentally unique areas;
5. Delineation of all environmentally sensitive areas as determined by the appropriate agency;
6. Identification of all wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA);
7. The Future Land Use classification and zoning designation of the site and abutting properties;
8. Identification of abutting land uses and structures on abutting lands;

**Section 11.05.05.02. Staff Review.**

The applicant shall submit five (5) copies of the application submittal package as detailed in Section 11.05.05.01, Part A above, the site plan, and the applicable review fee, as established by resolution by the City Council, to the Office of the Building Department for DRC distribution and review.

The DRC shall review and provide written comments to the applicant within fifteen (15) working days of the receipt of a complete application package and site plans.

### **Section 11.05.05.03. City Council Review and Action.**

Upon DRC review, the City Manager, or his or her designee, shall schedule the request for City Council review and action. The City Council shall hold a public hearing, after due public notice is given consistent with Section 11.03.00 of this Article. Seven (7) copies of the application and site plan shall be provided to the City Council by the City Manager, or his or her designee.

Prior to approving any PWS facility as a conditional use, the City Council shall find, based on competent and substantial evidence, that the proposed facility is located, sited and designed to be compatible with the character of the general area in which it is located, avoids the proliferation of visually obtrusive structures, and promotes the development of an advanced wireless communication infrastructure.

- A. In determining whether to grant a conditional use pursuant to this Section, the City Council shall consider the following factors:
  - 1. The height and visual obtrusiveness of the facility;
  - 2. The degree of visibility from the public view;
  - 3. The proximity of the facility to residential structures and residential district boundaries;
  - 4. The character of the uses and structures on adjacent and nearby properties;
  - 5. The character of the land, including topography and tree coverage;
  - 6. The design of the facility with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - 7. The degree to which the facility reduces the proliferation of visually obtrusive structures through co-location; and
  - 8. Competent evidence that reasonable alternatives to the proposed conditional use do not exist.
- B. In addition to the information required on an application for approval of a PWS facility as a conditional use, an applicant may be required to submit information sufficient to evaluate the visual impact of the proposed facility. This may include, but shall not necessarily be limited to photo simulations, photo montage or other techniques to illustrate how the facility will appear from public view.
- C. The Conditional Use shall be adopted by resolution. Any conditions adopted as a part of the approval shall be explicitly stated in the resolution, and shall be the basis for any subsequent development agreement or development order associated with the Conditional Use. In the instance of a denial, the written finding shall state the reason, or reasons, for the denial, in sufficient detail to eliminate misunderstanding



on the part of the applicant, any future applicant, and the officials of the City of Frostproof.

**Section 11.05.05.04. Non-Compliance.**

Failure to comply with a Conditional Use Approval resolution or any of the conditions upon which such approval was granted, including time limits for performance, shall be cause to deny issuance of a building permit, or where a permit has been issued, to render such permit invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Section shall constitute a violation of this Code and may be subject to a stop-work order.

**Section 11.05.05.05. Appeal of Conditional Use Approval Decision.**

Any person or persons aggrieved by a Conditional Use Approval decision made by the City Council may, within thirty (30) days after the date of the public hearing at which the decision was rendered but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

**Section 11.06.00. Board of Zoning Appeals.**

The Board of Zoning Appeals, herein referred to as the "Board" shall hear and decide requests for variances. A variance shall only be granted for height, area, size of structure or size of yards and open spaces, or other dimensional requirements. A variance shall not be granted to permit a use of land, buildings, or structures which is not permitted by right in the zoning district involved, or by Conditional Use Approval.

Once granted, a variance runs with the land in perpetuity, even if the land changes ownership. If approved, the Board may impose any reasonable conditions or restrictions in granting a variance and the variance shall be adopted by resolution and recorded in the public records of Polk County. The City shall keep a file in perpetuity on all variances approved by the Board.

**Section 11.06.01. Procedures for Requesting a Variance.**

Applications requiring Board of Zoning Appeals action shall be submitted no later than thirty-eight (38) days prior to a meeting. Five (5) copies of the variance application form, as provided by the City, shall be filed with the Office of the Building Department, along with accompanying site plans and the review fee as established by resolution by the City Council. The Office of the Building Department shall distribute the information to DRC members who shall have fifteen (15) working days to review the material and provide written comments to the applicant. The applicant shall address staff comments at this stage of review.

Upon completion of DRC review, seven (7) copies of the variance application form and the accompanying site plan shall be submitted to the City Manager, or his or her designee, who shall distribute the information to members of the Board of Zoning Appeals. The request shall be scheduled for a Board of Zoning Appeals meeting and public notice shall be provided in accordance with Section 11.03.00.

#### **Section 11.06.01.01. Criteria for Granting a Variance.**

Variance requests shall not be contrary to the public interest. In granting a variance, the spirit of the Code shall be observed and the public safety and welfare secured. Variances may be granted in instances where owing to special conditions, a literal enforcement of the provisions of this Code will, in an individual case, result in an unnecessary hardship. Under no circumstance shall a variance be granted for a use of land or premises. Such a change in land use must come as a result of official rezoning action by the City Council. The Board shall not hear an application for a variance regarding the same improvement previously denied by the Board within the past six (6) month period.

A variance may be granted in such individual case of practical difficulty or unnecessary hardship only upon a finding by the Board of Zoning Appeals that all the following conditions exist:

- A. There are extraordinary and exceptional conditions pertaining to the land, structure, or building involved and that such conditions are particular to the piece of land concerned;
- B. The application of the Code to this particular piece of property would create an unnecessary hardship;
- C. The special conditions and circumstances surrounding the request for a variance are not the result of acts by the applicant;
- D. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Code;
- E. Denying the variance will deprive the owner of rights commonly enjoyed by other land owners;
- F. Granting the variance will not bestow on the owner rights not generally enjoyed by other similar property owners in that zoning district;
- G. The existence of non-conforming land, structures and buildings in other districts shall not be considered as a basis on which to grant other variances;
- H. The variance granted is the minimum variance which will permit reasonable use of the land;
- I. That the granting of the variance will be in harmony with the general intent and purpose of this Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest; and
- J. The variance is not a request to permit a use of land, buildings or structures which is not permitted by right or Conditional Use in the zoning district involved.

If approved the variance request is approved at the Board of Zoning Appeals meeting, the City Clerk shall have the resolution recorded with the Polk County Clerk's office. A copy of the recorded resolution shall be provided to the applicant and one shall be kept on file with the City, thereby completing the variance process.

#### **Section 11.07.00. Administrative Reviews.**

The following types of development and development plans require an administrative level of review. Typically, these do not necessitate review through the public hearing process.

##### **Section 11.07.01. Community Residential Homes.**

The process for reviewing and approving community residential homes is provided in F.S., Section 419.001.

##### **Section 11.07.02. Concept Plans, Construction Plans, Landscape Plans, Personal Wireless Service (PWS) Facility Plans, Site Plans, Stormwater Management Plans, and Traffic Studies.**

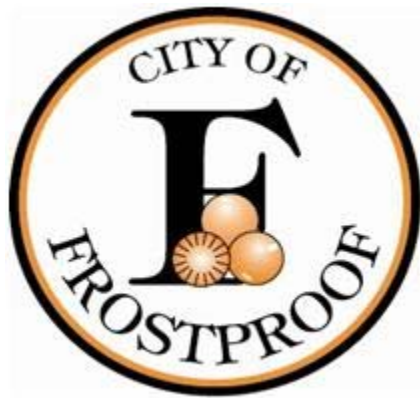
- A. An applicant shall submit five (5) copies of any of the plans which are the subject of this Section, to the Office of the Building Department. Such plans shall be prepared consistent with all applicable requirements of Article 10 of this Code. The Office of the Building Department shall distribute the materials to the DRC, which shall have fifteen (15) working days to review and provide written comments to the applicant. Any required revisions to the original submittal package shall be redrawn and resubmitted with the revisions and dates noted on the drawings.
- B. Traffic studies shall be submitted to the Office of the Building Department consistent with Section 10.07.00 of this Code and the Office of the Building Department shall distribute the materials to the City's Engineer. The Engineer shall have fifteen (15) working days to review Minor Traffic Studies and provide written comments to the applicant. The Engineer shall have up to ten (10) working days to review a Major Traffic Study for sufficiency and up to thirty (30) days to review and evaluate said study and provide written comments to the applicant.
- C. Personal Wireless Service (PWS) Facilities are subject to the design standards contained in Section 6.12.00, in its entirety, and the application and plan preparation requirements provided in Section 10.06.00 of this Code. If Conditional Use Approval is required for a Personal Wireless Service (PWS) Facility, the applicant shall be required to comply with Section 11.05.05 of this Article.
- D. A building permit shall be obtained within twelve (12) months of the approval date of an approved plan or the plan shall become invalid. The Building Official shall inspect the premises to ensure that development conforms to the requirements set forth in this Land Development Code and the approved plan. Plant material substitutions may be approved by the City Building Official so long as the intent and requirements of this Code are met.

#### **Section 11.08.00. Minor Subdivisions.**

The intent of this Section is to provide requirements for administrative review for small scale land subdivision and re-subdivision. The DRC may administratively approve a minor subdivision if the approval does not result in the creation of more than four (4) new lots, does not require new public streets to serve the property, and does not require the extension of a public water, wastewater system or stormwater management facility.

- A. The applicant shall provide five (5) copies of the minor subdivision, which shall include all the information required by Section 10.08.04 of this Code, to the Office of the Building Department for distribution to the DRC.
- B. The DRC shall have five (5) working days after the submittal of plans for a building or land development permit, to review and determine if minor subdivision approval is applicable. Within the five (5) working days, the DRC shall provide comments to the applicant, stating any requirements or conditions in a letter or memorandum, which shall be attached to the permit application.
- C. In granting approval, the DRC may impose such conditions, safeguards and requirements as deemed necessary to implement the intent and purpose of Section 10.08.04. The DRC may require any division or combination of previously platted property to comply with the complete platting process as set forth in this Article.
- D. The minor subdivision plat for recording shall be prepared in conformance with all requirements set forth in F.S., Chapter 177.
- E. The developer shall submit seven (7) copies of the minor subdivision to the City Manager, or his or her designee, within thirty (30) calendar days of the approval by the DRC. Failure to submit a minor subdivision within the time frame established will cause the minor subdivision approval to become null and void. The City Manager, or his or her designee, shall be responsible for placing the minor subdivision on the City Council agenda for final review and approval or denial.
- F. Upon approval by the City Council, the City Clerk shall file and record the minor subdivision with the Clerk of the Circuit Court for Polk County. The developer shall be responsible for the payment of all fees related to the cost of recording the plat and producing copies. The developer shall provide two (2) mylar reproductions and one (1) electronic copy of the plat to the City for use by the City Clerk and Public Works Department. The minor subdivision shall be recorded prior to the issuance of any building permits or Certificates of Occupancy.

# *City of Frostproof*



Unified Land Development Code

## Article 12

## ARTICLE 12.

### ADMINISTRATION AND ENFORCEMENT

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## **ARTICLE 12.**

### **ADMINISTRATION AND ENFORCEMENT**

#### **Section 12.01.00. Office of the Building Department and Responsibilities of the Building Official.**

The Office of the Building Department shall be responsible for issuing building permits, issuing permits for signs and temporary uses, such as tents, and inspecting construction sites and buildings under construction.

The Building Official shall be responsible for overseeing the operation of the Office of the Building Department, and shall review building construction plans, issue Certificates of Occupancy, assure that all buildings and uses are in accordance with the requirements of this Code, and coordinate the activities of the Development Review Committee (DRC).

The Building Official shall have a working knowledge of the applicable laws, rules and regulations established by the State of Florida, Polk County, and the local codes adopted by the City of Frostproof, relating to contracting, permitting, zoning and all others that have a direct bearing on building construction. The Building Official shall be licensed as required under Chapter 468, Florida Statutes. Alternatively, the City may retain a licensed professional contractor/builder on a part-time basis to perform technical review of building activities.

#### **Section 12.01.01. Building Permits.**

Building permits shall be issued in accordance with the following provisions:

- A. It shall be unlawful to commence construction, moving or alteration of any building, or to commence the development of land for a use not requiring a building, until the Building Official, or his or her designee, has issued a building permit for such work.
- B. In applying for a building permit, the applicant shall submit two (2) copies of a dimensional sketch or a to-scale plan signed by the owner or his or her authorized agent indicating the following:
  - The shape, size and location of the lot to be built upon;
  - The shape, size, height, use and location of the building to be erected, demolished, altered, or moved;
  - Any building already on the lot;
  - The number of dwelling units the building is designed to accommodate, if any;
  - The setback lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Code are being observed.
- C. If the proposed excavation, filling, construction, or movement set forth in the sketch or plan are in conformity with the provisions of this Code and other Codes of the City then in force, the Building Official, or his or her designee, shall sign and return one copy of the sketch plan to the applicant and shall issue a building permit upon payment of any required fee. The Office of the Building Department shall retain one (1) copy of the building permit and one (1) copy of the sketch or plan.

- D. If the sketch or plan submitted describes work which does not conform to City Codes adopted by the City of Frostproof, the Building Official, or his or her designee, shall not issue a building permit but shall return one (1) copy of the sketch or plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons therefore and shall cite the portions of City Code with which the submitted sketch or plan does not comply. The Office of the Building Department shall retain one (1) copy of the sketch or plan and two (2) copies of the refusal.
- E. Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year.

#### **Section 12.01.02. Certificate of Occupancy.**

Certificates of Occupancy shall be issued by the Building Official in accordance with the following provisions:

- A. A Certificate of Occupancy is required in advance of occupancy or use of:
  - 1. A building hereafter erected;
  - 2. A building hereafter altered so as to affect the height, side, front or rear yards;
  - 3. A change of type of occupancy or use of any building or premises;
  - 4. A nonconforming use created by the passage of subsequent amendments to City Code.
- B. Upon payment of any required fees, the Building Official shall sign and issue a Certificate of Occupancy if the proposed use of land or building as stated on the Certificate of Occupancy and signed thereto by the owner or his or her appointed agent is found to conform to the applicable provisions of this Code and if the building, as finally constructed, complies with the sketch or plan submitted for the building permit. One copy of the issued Certificate of Occupancy, which shall contain a statement of the intended use of the applicable property and the signature of the owner or his or her agent, shall be kept on file in the Office of the Building Department. Copies shall be furnished on request to any person, at said person's expense.
- C. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of City Code or unless the building, as finally constructed, complies with the sketch or plan for which the building permit was issued.

#### **Section 12.01.03. Records.**

It shall be the duty of the Building Official and the Office of the Building Department to keep a record of all building permits and Certificates of Occupancy issued with annotation of all special conditions involved. Copies of all sketches and plans submitted shall be filed and safely kept, and the same shall form a part of the records of the Office of the Building Department. Said records shall be available for the use of the City Council, Board of Zoning Appeals, Planning and Zoning Commission, City Officials and the public.



#### **Section 12.01.04. Remedies.**

In case any building is erected, constructed, reconstructed, altered, converted, or maintained, or any building or land is used in violation of City Code, the Building Official, or any other appropriate authority of the City, or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation in the case of each such building or use of land

#### **Section 12.02.00. Development Review Committee.**

The Development Review Committee (DRC) shall be comprised of the City Manager, City Planner, City Engineer, Fire Chief, City Building Official, or designees of these persons. The DRC shall be responsible for reviewing development applications, site plans, landscape plans, subdivision plats, minor subdivision plats, and applications requiring Planning and Zoning Commission, Board of Zoning Appeals and City Commission action. The City Building Official, or his or her designee, shall be charged with coordinating the activities of this Committee.

#### **Section 12.03.00. Planning and Zoning Commission Duties and Responsibilities.**

- A. The Planning and Zoning Commission shall act as the local planning agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes, and perform all functions and duties prescribed in the Statute.
- B. The Planning and Zoning Commission shall have the power to review and recommend Conditional Use requests in order to allow uses that are specifically designated as a "C" in the Table of Land Uses, Article 4, Table 4.10.01, of this Code. The procedure for filing an application for a review is found in Article 11, Section 11.04.04 "Conditional Uses."
- C. The Planning and Zoning Commission shall study and review the zoning map and the zoning provisions of this Code and, from time to time, propose and recommend to the City Council changes, modifications or amendments thereto.
- D. The Planning and Zoning Commission shall consider applications for a change in zoning and make a recommendation to the City Council.
- E. The Planning and Zoning Commission shall consider applications for developments of regional impact (DRI) and make a recommendation to the City Council.
- F. The Planning and Zoning Commission shall make recommendations to the City Council on the merits of holding a public hearing on applications for a change in zoning previously denied by the Commission.
- G. The Planning and Zoning Commission shall consider applications for preliminary and final subdivision plats and make recommendations to the City Council to either approve or deny said subdivision plats.
- H. The Planning and Zoning Commission shall hear and decide appeals or variances from, and interpretations of, the subdivision regulation provisions of this Code.

- I. The Planning and Zoning Commission shall hear and decide site plan requests for new developments proposing to establish fourteen thousand (14,000) square feet or more of gross floor area, for expansions of existing developments which increase the gross floor area by fourteen thousand (14,000) square feet or more, and for major modifications to such approved site plans.
- J. The Planning and Zoning Commission shall hear and decide variances to landscape provisions, excluding size of yards and open space requirements, which are heard by the Board of Zoning Appeals.

Organization requirements and rules of the Planning and Zoning Commission are contained in Chapter 15 of the City Code of Municipal Ordinances.

#### **Section 12.04.00. Board of Zoning Appeals Duties and Responsibilities.**

The Board of Zoning Appeals shall have the authority to authorize, upon appeal in specific individual cases, variances for height, size of structure or size of yards and open spaces, or other dimensional requirements of this Code when there are special conditions whereby literal enforcement of the provisions of this Code will result in unnecessary hardship. Approval of a variance shall not be contrary to the public interest, safety and welfare, or the spirit of this Code. The criteria and process for hearing a variance request are provided in Section 11.06.00 of this Code.

##### **Section 12.04.01. Appointment of Members.**

The Board of Zoning Appeals shall consist of seven (7) members appointed by the City Council for overlapping terms of three (3) years. In making appointments, the City Council may appoint any or all of the members of the Planning and Zoning Commission to serve as members of the Board of Zoning Appeals, and to serve jointly in the two capacities. Initial appointment shall be as follows: Three (3) members for one (1) year, three (3) members for two (2) years and one (1) member for three (3) years. Each successive appointment shall be for three (3) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the appointment authority upon written charges and after a public hearing. The Board of Zoning Appeals shall elect one (1) of its members as Chairperson who shall serve for one (1) year or until he or she is re-elected or his or her successor is elected; and the Board shall appoint a Secretary. The Board of Zoning Appeals shall adopt rules in accordance with the provisions of this Code for the conduct of its affairs.

##### **Section 12.04.02. Meetings.**

Meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and as such other times as the Board may determine. The Chairperson or, in his or her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public.

The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicting such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

**Section 12.05.00. Duties of the City Council Related to Planning.**

- A. The City Council shall make final decisions to adopt and amend the Comprehensive Plan.
- B. The City Council shall make final decisions to adopt and amend the Unified Land Development Code.
- C. The City Council shall make final decisions on requested changes to the zoning map.
- D. The City Council shall make final decisions on Developments of Regional Impact (DRI).
- E. The City Council shall hear and decide Conditional Use requests, which have first been considered by the Planning and Zoning Commission, in order to allow uses that are specifically designated as a "C" in the Table of Land Uses, Article 4, Table 4.10.01, of this Code.
- F. The City Council shall consider and decide Conditional Use requests for Public Wireless Service (PWS) facilities.
- G. The City Council shall make final decisions on preliminary and final subdivision plats and acceptance of public improvements constructed pursuant to the approved subdivision plat.
- H. The City Council shall consider and decide voluntary annexation requests.
- I. The City Council shall consider and decide requests to redirect traffic and to close, abandon, or vacate alleys, streets, and other recorded rights-of-way.
- J. The City Council shall consider and decide requests to vacate plats and replats.
- K. The City Council shall consider and decide appeals of administrative decisions.
- L. The City Council shall appoint members of the Planning and Zoning Commission and Board of Zoning Appeals.
- M. The City Council shall determine the need for and appoint members of additional boards, committees and subcommittees to investigate and make decisions on various land use and development issues.

**Section 12.06.00. Administrative Fees.**

The City Council may adopt, by resolution, administrative fees necessary to implement this Code. Such fees may be adjusted on an annual basis, or as necessary, and may include, but are not limited to, application fees, advertising fees, review fees, inspection fees, and appeal fees.